



CITY OF POMONA SUCCESSOR AGENCY REPORT

March 20, 2017

To: Honorable Mayor and Members of the City Council, Sitting as the Successor Agency to the Redevelopment Agency

From: Linda C. Lowry, City Manager

Submitted By: Kirk Pelsner, Deputy City Manager

Subject: **Adoption of a Resolution Approving a Second Amendment to Agreement of Purchase and Sale with LVD Rio Rancho III, LLC for the Sale of Successor Agency Property Known as Lot 8 of the Former Pomona Auto Center, Pomona, California (APNs 8344-024-935 and 8344-024-938) to Allow for Pay-off of an Existing Assessment**

OVERVIEW

Recommendation – That the City Council, sitting as the Successor Agency to the former Redevelopment Agency, adopt the attached Resolution:

- 1) Approving a Second Amendment to Agreement of Purchase and Sale with LVD Rio Rancho III, LLC (the “Buyer”) for the sale of Successor Agency Property known as Lot 8 of the former Pomona Auto Center, Pomona, California (APNs 8344-024-935 and 8344-024-938) **to Allow for Pay-off of an Existing Assessment;**
- 2) Contingent upon the Pomona Oversight Board approving the Second Amendment, authorize the City Manager to execute the Second Amendment to Agreement of Purchase and Sale, in substantially the form submitted, and all related documents to complete the property sale transaction.

Fiscal Impact – Proceeds from the sale will be \$12,220,000, less closing costs and payoff of the Assessment. The approved Long Range Property Management Plan (the LRPMP) allows the proceeds from the sale of this Successor Agency property to be distributed to several taxing entities, including the City of Pomona. The proposed Second Amendment does alter the Fiscal Impact as a result of the need to pay off the balance of an assessment district at the close of escrow. Escrow is anticipated to close in April 2018, after the Buyer has obtained all their necessary entitlements, including certification of an EIR. The assessment district pay off balance is projected to be approximately \$450,000 at the close of escrow. The net impact to the City/SA is estimated to be limited to \$90,000, because the City receives 20% of the sale proceeds and balance goes into the taxing entity distribution as part of the RDA dissolution

legislation. The Buyer will cooperate with the City to enter into a separate Development Agreement that will result in the City receiving a direct payment of \$110,000 to offset the loss of the above described \$90,000 at close of escrow.

Previous Action – In November 2016, the Oversight Board adopted a resolution approving a First Amendment to the Agreement of Purchase & Sale with LVD Rio Rancho III, LLC for the sale of the property.

On October 17, 2016, the Successor Agency adopted a resolution approving a First Amendment to the Agreement of Purchase & Sale with LVD Rio Rancho III, LLC for the sale of the property.

On September 15, 2016, the Oversight Board adopted a resolution approving the Agreement of Purchase and Sale with Rio Ranch III, LLC. The Purchase Agreement was subsequently assigned to LVD Rio Rancho III, LLC as allowed by the Purchase Agreement

On August 1, 2016, the Successor Agency adopted a resolution approving the Agreement of Purchase and Sale.

On May 2, 2016, the Successor Agency gave staff direction to negotiate a Purchase and Sales Agreement with Lewis Management Corp.

On March 21, 2016, the Successor Agency reviewed seven (7) development proposals and elected to: 1) eliminate three (3) of the firms from the process who put forth multifamily rental product proposals and; 2) seek refined proposals from the remaining four (4) firms in order to optimize the product and sales price.

Environmental Review - Pursuant to section 15061(b)(3) of the CEQA Guidelines it can be seen with certainty that there is no possibility that the sale of the subject Site will have a significant effect on the environment and, therefore, approval of the Second Amendment to Agreement of Purchase and Sale is not subject to CEQA.

EXECUTIVE SUMMARY

The Successor Agency will consider a resolution approving the Second Amendment to Agreement of Purchase and Sale (the “Amended PSA”) with LVD Rio Rancho III, LLC (an entity controlled by Lewis Management Corp.) for sale of property known as Lot 8 of the Former Pomona Auto Center, Pomona, California (APNs 8344-024-935 and 8344-024-938) for the Purchase Price of \$12,220,000. The proposed Amended PSA is consistent with the Successor Agency’s approved Long Range Property Management Plan. The purpose of Second Amendment is to address the payoff of an assessment district affecting the property, which was not identified in the preliminary title report that the City provided to the Buyer and other bidders

in the RFP selection process. The proposed Second Amendment calls for the assessment district balance to be paid from the Successor Agency's gross sales proceeds at the close of escrow. Escrow is anticipated to close in April 2018, after the Buyer has obtained all their necessary entitlements. The assessment district pay off balance is projected to be approximately \$450,000 at the close of escrow. The net impact to the City/SA is estimated to be limited to \$90,000 because the City receives 20% of the sale proceeds and balance goes into the taxing entity distribution as part of the RDA dissolution legislation. The Buyer will cooperate with the City to enter into a separate Development Agreement that will result in the City receiving a direct payment of \$110,000 to offset the loss of the above described \$90,000 at close of escrow.

BACKGROUND

The dissolution law that eliminated all redevelopment agencies in the State requires the sale of all assets of the former Redevelopment Agency, following the California Department of Finance's ("Finance") approval of the Long Range Property Management Plan (LRPMP). On October 7, 2014, the Successor Agency received Department of Finance (DOF) approval of the LRPMP.

Staff has since been working with prospective buyers for the sale of Successor Agency properties, including the sale of the Lot 8 properties. Disposition of the Lot 8 properties was discussed several times during the summer and fall of 2015, and the Council/Successor Agency was asked to respond to a number of unsolicited proposal and multiple offers. Ultimately, staff was directed to prepare a Request for Proposals (RFP) to formalize and guide the purchaser selection process. The RFP was issued on November 30, 2015, and proposals were due January 28, 2016. The RFP process yielded seven (7) proposals, all of which were for residential development projects. After reviewing the initial proposals and directing staff to further negotiate with four (4) of the developers to obtain more refined proposals and optimum sales price, the Successor Agency gave direction to negotiate a Purchase and Sales Agreement with the Buyer (Lewis Management Corp).

DISCUSSION

Negotiations with the Buyer for development of the Site resulted in a proposed purchase price of \$12,220,000 for the Lot 8 property, and a proposed development plan for up to 110 single family homes (subject to discretionary environmental review and entitlement approvals by the City Council). The resulting Amended Agreement of Purchase and Sale includes the following major deal-points:

- Purchase Price - \$12,220,000
- Purchase Price Deposit - \$610,000
- Term of Escrow Period – anticipated to close late April 2018 (time needed for project entitlements/CEQA)
- A \$150,000 Purchase Price Deposit is non-refundable if the Buyer terminates escrow.

The proposed Second Amendment will result in the assessment district payoff occurring at the close of escrow. During the Buyer's escrow and title review process, it has come to light that the title report provided by the City with the RFP for all bidders omitted reference to an existing assessment district. The Buyer expects to close escrow in April 2018, after obtaining all necessary project entitlements and CEQA certification. At that time, the assessment district will have a remaining balance of approximately \$450,000. The Buyer is not willing to increase their offer price for the land to offset that amount. Staff supports the Buyer's position in this matter because the Buyer, and all of the bidders for this land, relied on a City provided preliminary title report when making their offers to purchase the land. It was that title report that unfortunately omitted reference to the assessment district.

Staff is recommending that the City/SA pay off the remaining \$450,000 balance from the \$12,220,000 sale proceeds at close of escrow. However, the net impact to the City/SA is estimated to be limited to approximately \$90,000, because the City receives 20% of the sale proceeds and the balance goes into the taxing entity distribution as part of the RDA dissolution legislation. The Buyer is willing to cooperate to make the City whole by entering into a separate development agreement to lock in the zoning entitlements in exchange for a payment of \$110,000 to the City, thereby offsetting the \$90,000 impact.

CONCLUSION

The proposed Second Amendment to Agreement of Purchase and Sale meets all of the requirements of the LRPMP and the dissolution law for the disposal of Successor Agency properties. Furthermore, the proposed Amended Agreement meets the desire of the Successor Agency to sell the Lot 8 Property to a buyer who is proposing to develop a quality single family home project on the site, while achieving fair market value for the Site. Staff recommends that the Successor Agency adopt the attached resolution approving the Second Amendment to Agreement of Purchase and Sale with LVD Rio Rancho III, LLC.

Once approved by the Successor Agency, staff will prepare a report to present to the Oversight Board for approval. Because the sale is consistent with the LRPMP approved by DOF, additional DOF review and approval of the transaction is not required. (See Health & Safety Code Section 34191.5(f) ["Actions to implement the disposition of property pursuant to an approved long-range property management plan shall not require review by the department."].) However, if requested / required by the developer and/or the title company, the Oversight Board's approval will be submitted for DOF review and approval.

Attachment: 1) Resolution

Exhibit A, Second Amendment to Agreement of Purchase and Sale