

HONORABLE MAYOR, CITY
COUNCIL, AND AGENCY
BOARD

SUSAN F. SHICK
EXECUTIVE DIRECTOR

SEE BELOW

OCTOBER 23, 2001

SUBJECT: DISPOSITION AND DEVELOPMENT AGREEMENT WITH
CIM CALIFORNIA URBAN REAL ESTATE FUND L.P. FOR
THE REHABILITATION OF THE TWOHY BUILDING TO
INCLUDE APPROXIMATELY 32 RESIDENTIAL
LIVE/WORK UNITS AND GROUND FLOOR RETAIL

RECOMMENDATION

The following actions by the City Council and Agency Board are recommended:

- (a) Adoption of a resolution by the City Council approving the disposition of the Twohy Building located at 210 S. First Street, between San Fernando and San Carlos Streets, to CIM California Urban Real Estate Fund L.P., accepting the 33433 Summary Report and Re-Use Appraisal (enclosed), and finding that the disposition of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the San Antonio Plaza Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA);
- (b) Adoption of a resolution by the Agency Board approving the addition of \$1.8 million to the Adopted FY 2001-2002 Capital Budget Twohy Building DDA project line in the San Antonio Redevelopment Area and amending the FY 2001-2002 Agency appropriation resolution, as detailed on Attachment A & B; and,
- (c) Approving the proposed FY 2001-02 capital rebudget for the San Antonio Plaza, Twohy Building (DDA) project, as detailed on Attachment B; and

- (d) Adoption of a resolution by the Agency Board approving the DDA and authorizing the Executive Director to execute ancillary documents contemplated by the DDA and to close escrow and convey the Property subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA as reasonably necessary to conform to lender requirements.

BACKGROUND

On December 19, 2000, the Redevelopment Agency Board approved the selection of CIM Group for an Exclusive Negotiations Agreement (ENA) for the development of the Twohy Building. The developer selection was the culmination of a competitive RFQ process that began in June 2000 and yielded seven responses. CIM Group was selected due to their solid experience, financial capacity, and responsiveness throughout the RFQ process.

At the time of the ENA approval on March 15, 2001, the Agency Board approved business terms that would guide the negotiations resulting in a DDA. Key business terms included: an Agency financial contribution of \$1 million to assist in the funding of the seismic retrofit, and potential participation in cash flow or sales proceeds above a negotiated developer return. This DDA with CIM includes additional Agency assistance in the amount of \$1.2 million for Historic Rehabilitation costs resulting from the diminished number of units achieved by conforming to the original historic floor plates, and the actual costs of the construction project determined by CIM, which were substantially higher than expected.

ANALYSIS

PROJECT DESCRIPTION:

The DDA for the Twohy Building requires the Developer to rehabilitate the structure to accommodate approximately 32 market rate residential live-work units with ground floor retail. The Twohy Building received official City Historic Landmark designation by the City Council on October 2, 2001. The Developer intends to utilize Historic tax credits to help finance the rehabilitation of the structure, and therefore the Twohy would be rehabilitated in accordance with the Secretary of the Interior's standards for Historic Rehabilitation. The seismic upgrades will not affect any historic fabric.

CIM's scope of historical work includes: full rehabilitation of the building core and shell, preservation of building façade, lobby, historic stairwells, windows and fenestration, and corridors as required. Some of the specific items that comprise this preservation and rehabilitation include:

- All existing historical fabric at the exterior elevations (Terra Cotta façade, windows, fire escape landings, storefront) would remain.
- The residential lobby storefront from the 1995 remodel would be removed due to seismic upgrades and would be replaced by new storefront in a similar profile, color and fenestration as the original 1916 drawings.
- Modern HVAC equipment, exhaust fans and exposed piping would be removed from the light well roof, and a single-ply roof would be installed.
- In the ground floor lobby, all historical materials; flooring, walls, molding, lighting, directory, mail chute, and radiator would be maintained.
- The marble stairway to the 2nd floor, along with skylight above would be maintained in their original configuration, cleaned and repaired.
- In the public corridors, the marble stairway, cast iron railings, tile floor, marble wainscoting, wood trim, doors, transoms, plaster and glass would be maintained in the original configuration, cleaned and repaired.
- Apartments would be accessed through existing doors. Any doors not needed for access would maintain their original appearance on the corridor side.
- The 2nd floor wood trim (currently painted) would be refinished to match existing stained wood trim on other floors.
- Carpet would be removed from existing tile floors that would then be cleaned and sealed.
- Historically appropriate light fixtures would be installed in corridors and stairway to increase illumination to current codes.
- Tile from the original multiple occupancy restroom would be re-used in apartment restrooms that occur in the same location.

The project would be designed and built to a standard of quality equal to, or exceeding, The Colfair Building in Pasadena, CA, and The Nesmith Greeley Building in San Diego, CA. These first-class residential mixed-use projects involved the rehabilitation of historic buildings and were developed, and are currently managed by, the CIM Group. The Agency shall review and approve submitted plans and documents, subject to the timeline in the Schedule of Performance in the Agreement.

THE DEVELOPER AND OPERATOR:

The Developer and Operator of this project is CIM California Urban Real Estate Fund L.P. CIM has successfully developed projects requiring the rehabilitation and adaptive re-use of historic landmarks, including six National Register eligible properties. Similar projects include the Colfair Building in the Old Town Historic District in Pasadena, CA, which features Pottery Barn on the first two floors and 13 live-work lofts on the upper floors, and the Nesmith Greeley Building in the Gas Lamp Quarter Historic District in San Diego, CA, which has ground floor retail with 12 loft style apartments above.

DEVELOPER OBLIGATIONS:

Before conveyance of the Site to the Developer, the standard conditions, such as obtainment of land use and zoning approvals, a site development permit, building permit, and a binding financing commitment, must be met. In addition, CIM would be required to submit a \$30,000 deposit to the Agency as security for the performance of the Developer obligations. If the Developer defaults prior to conveyance of the Site to the Developer, the deposit shall be liquidated damages.

AGENCY OBLIGATIONS:

Seismic Retrofit:

Under the DDA, the Agency would contribute no more than \$1,000,000 towards the seismic retrofit needed to bring the building into compliance with current building codes resulting from its change to a residential use. CIM has obtained three bids for this work, all of which exceed the Agency's contribution. Any excess amount would be funded by the Developer. The Agency's seismic assistance would be held in an account and would be disbursed monthly to pay for the seismic work as evidenced by receipts, invoices, and other documentation.

Historic Rehabilitation Assistance:

The Agency would also contribute \$1,200,000 in historic preservation-related improvements, which would help support the quality building rehabilitation of the project. The preservation efforts would be most prominent at the exterior elevations, in the ground floor lobby, in the public corridors and open stairway, and in apartment details. By keeping the original floor plan of the building, the project conforms to the Secretary of Interior's guidelines. However, the project loses significant potential rentable area. The Agency's historic assistance would also be held in an account and would be disbursed monthly as follows: fourteen percent (14%) of each request funded by the Agency and eighty six percent (86%) of each request funded by the Developer.

Other Agency Obligations:

One percent (1%) of the Twohy's development costs (approximately \$100,000) would be budgeted for a public art project along the Paseo de San Antonio. This art project would be a collaboration between the Agency, the Repertory Theater, and the Office of Cultural Affairs. The public art project may incorporate a temporary outdoor performance facility in the courtyard west of the Repertory Theater, as well as freestanding sculpture or other appropriate art.

The Agency would also assist the Developer in obtaining monthly parking at market rates in the publicly -owned Camera 3 garage for tenants of the Twohy Building. This agreement is being coordinated with the City's Department of Transportation. The Agency would also use good faith efforts to create a restaurant valet zone on South First Street for this and other establishments.

AGENCY PARTICIPATION AND REVENUE:

In consideration of the Agency's assistance, including the transfer of the site to the Developer, the Agency would participate annually in the revenue from the building. Under the terms of the Agreement, the Agency would receive 30% of all Net Operating Income above the Developer's non-cumulative 11.5% annual return until the Developer return reached 12%, then 50% of all Net Operating Income annually above a 12% non-cumulative return.

If the Developer refinances the Project, the Agency shall receive a percentage of the Developer's refinance proceeds after paying off any existing debt, repayment of any Developer equity and Developer financing, and funding for Capital Reserves.

Upon sale, the Agency shall receive 25% of the Net Sales Proceeds until the Agency has received a total of \$2.2 million. If there are Net Sales Proceeds in excess of \$8.8 million, the Agency will receive 50% of any additional proceeds.

The Agency's right to receive annual Revenue Sharing Payments and Agency Refinance Participation shall terminate upon a sale of the property or when the Agency has received payments totaling \$5.98 million. The \$5.98 million represents the total of the following items: Agency costs to acquire the Twohy Building (\$1,855,000); relocation and acquisition of the interests of existing tenants (\$1,921,000); and, the Agency's financial contribution to Developer (\$2,200,000).

PREVAILING WAGES:

The DDA requires that the project pay prevailing wages for the Project construction.

PUBLIC OUTREACH

The RFQ for the Twohy building was widely distributed and advertised as part of the developer selection process. The process included a tour that was very well attended, and ultimately resulted in seven responses. The DDA, Summary Report, and Reuse Agreement for this Project were made available for public inspection beginning on October 9, 2001. A notice of the public hearing and the availability of the documents was published in the San Jose Mercury News on October 9 and 16, 2001.

COORDINATION

This action has been coordinated with the Agency's General Counsel.

FISCAL IMPACT

Currently, there is \$1,500,000 in the FY 2001-2002 Capital Budget – San Antonio Plaza: Twohy Building DDA project line. Of this amount, \$1,350,000 will be used to fund relocation related expenditures. The \$150,000 balance, along with the proposed addition of \$1,800,000 (see enclosure), and the re-budget of \$549,397 (see enclosure), will provide the funding for the seismic, historic preservation, and public art contributions totaling approximately \$2,300,000.

CEQA

Resolution No. 68839

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Executive Director

Encl.