

CITY OF PALM DESERT AND PALM DESERT HOUSING AUTHORITY

STAFF REPORT

MEETING DATE: April 11, 2024

PREPARED BY: Jessica Gonzales, Housing Manager

REQUEST: SECOND AMENDED AND RESTATED DDLA, RELATED RESOLUTIONS, LOANS IN THE AMOUNT OF \$1,965,539 AND \$4,789,461 FROM THE AUTHORITY, AND ACTIONS RELATED TO THE CONVEYANCE OF THE PARCELS IDENTIFIED AS APN 694-120-028 AND A PORTION OF 694-120-029 FOR AFFORDABLE HOUS

RECOMMENDATION:

1. City Council: Adopt a Resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, APPROVING A SECOND "AMENDED AND RESTATED DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT" REGARDING "PALM VILLAS AT MILLENIUM" AMONG THE CITY, AS SELLER, THE PALM DESERT HOUSING AUTHORITY, AS LENDER, AND PALM COMMUNITIES, A CALIFORNIA LIMITED COMPANY, AS PURCHASER/ BORROWER/ DEVELOPER, IN CONNECTION WITH APPROXIMATELY 10.49 ACRES OF PROPERTY OWNED BY THE CITY, AND TAKING RELATED ACTIONS."
2. Housing Authority: Adopt a Resolution entitled, "A RESOLUTION OF THE PALM DESERT HOUSING AUTHORITY APPROVING A SECOND "AMENDED AND RESTATED DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT" REGARDING "PALM VILLAS AT MILLENIUM" AMONG THE AUTHORITY, AS LENDER, THE CITY OF PALM DESERT, AS SELLER, AND PALM COMMUNITIES, A CALIFORNIA LIMITED COMPANY, AS PURCHASER/ BORROWER/ DEVELOPER, IN CONNECTION WITH APPROXIMATELY 10.49 ACRES OF PROPERTY OWNED BY THE CITY, APPROPRIATING FUNDS IN CONNECTION THEREWITH, AND TAKING RELATED ACTIONS."
3. Authorize the Authority to make two loans to the Developer for the purchase of the Property and construction of the Project (\$1,965,539 for Phase I and \$4,789,461 for Phase II), to be repaid from a percentage of residual receipts (i.e., net income) from the Project over the term of the loans, with any accrued interest and unpaid principal coming due 55 years from the completion of the Project, with such loans being secured by a subordinate deed of trust on the Project.
4. Authorize the Director of Finance to appropriate \$6,755,000 from Unobligated Housing Asset Fund balance to the appropriate budget line item.
5. Authorize the Director of Finance to designate the proceeds of the sale of the City-owned property for the purpose of future affordable housing.
6. Authorize Mayor/Chairman, staff, and legal counsel to negotiate, execute and record agreements and necessary documents to effectuate the resolutions, including the conveyance of the Property, the funding commitments, and related actions for the Project as set forth in the Second Amended and Restated DDLA.

BACKGROUND/ANALYSIS:

On October 13, 2022, City Council approved the conveyance of a City owned 10-acre parcel identified as APN 694-120-028 and a 0.49-acre parcel identified as a portion of APN 694-120-029 (the "Property") to Palm Communities, Inc. ("Developer") and the Authority Board approved two loans from the Authority's Low and Moderate Income Housing Asset Fund ("Housing Fund") in the total amount of \$6,755,000 to the Developer pursuant to a Disposition, Development and Loan Agreement, dated November 23, 2022 ("DDLA"), for the purchase of the Property and construction of 239 affordable housing units and two manager units in two phases ("Project").

As part of the approval, the Developer was authorized to submit applications to the various financial funding sources identified for the Project. The application submitted to the California Debt Limit Allocation Committee ("CDLAC") did not score sufficient points for an allocation of tax-exempt bonds ("Tax-Exempt Bonds") and federal and state tax credits ("Tax Credits"). However, the Project did receive a \$6,700,000 loan from the County of Riverside ("County") as well as 45 project-based vouchers ("PBVs").

The Developer requested an amendment to the DDLA to extend the escrow closing to June 2026, extend the Project completion date to June 30, 2028, modify the Project to consist of only one phase, modify the City and Authority's affordability restrictions, require the City to provide a land carry-back loan in the amount of \$3,425,000 (fair market purchase price), and decrease the Authority's loans from \$6,755,000 to \$3,330,000. The purpose of this amendment was to allow the Project to receive additional points in the MHP Loan application, an additional funding source the Developer was seeking. On June 14, 2023, the City Council and Authority approved an Amended and Restated Disposition and Development Agreement, dated June 22, 2023 (the "First Amended and Restated DDLA") in accordance with their request.

Developer was not successful in the MHP Loan application and is now requesting amendments to the First Amended and Restated DDLA pursuant to the proposed Second Amended and Restated DDLA. However, the Project did receive an additional 75 PBVs from the County. Attached is the proposed Second Amended and Restated DDLA among the City, Authority and Developer. Adoption of the resolutions will approve the Second Amended and Restated DDLA with the Developer.

The Second Amended and Restated DDLA stipulates that the City convey the Property to the Developer in two phases and provides two loan commitments from the Authority in the amounts of \$1,965,539 and \$4,789,461. The second Amended and Restated DDLA requires the City to sell the Property to the Developer for a total of \$3,425,000. The Second Amended and Restated DDLA also increases the Authority Loan from \$3,330,000 to two loans totaling \$6,755,000 from the Housing Fund. The affordability restrictions will remain unchanged from the First Amended and Restated DDLA. Finally, the resolutions approving the Second Amended and Restated DDLA authorize the City/Authority's staff and legal counsel to proceed to execute and record any agreements and documents deemed necessary for the conveyance of the Property and the financing and construction of the Project, and the Second Amended and Restated DDLA includes the City Manager's right to terminate agreement if the Developer fails to obtain an award of Tax Credits by the end of 2024.

If the required funding sources are awarded to the Project, the Property owned by the City will be sold, subject to satisfaction of the conditions to closing for a two-phased Project, which are typical closing conditions for a DDLA. Conditions to the closing of the sale of the two parcels include the recording of a parcel map, payment of grading permit fees and all final parcel map fees and recording of certain easements (which may occur at the close of escrow) for access over a portion of adjacent property owned by the City (providing access to remove sand adjacent to a future boundary wall).

The attached City and Authority resolutions approve the Second Amended and Restated DDLA, including the exhibits attached thereto, substantially in the form presented to the City Council and Authority Board at this meeting ("Second Amended and Restated DDLA Documents") and authorize staff and officers of the City and Authority to finalize, execute and record the Second Amended and Restated DDLA Documents, as applicable, and any other agreements and documents necessary to implement the Second Amended and Restated DDLA Documents at the closing of escrow.

Project: The Project will be operated for a period of fifty-five (55) years following the date of Certificate of Occupancy ("COO") for each phase of the Project to provide rental housing affordable to persons and families of low and extremely low income in accordance with the affordability restrictions contained in the Second Amended and Restated DDLA and the Tax-Exempt Bonds, 4% Federal Tax Credits, State Tax Credits, County Loan and PBVs being used to finance the two phases of the Project. To the extent necessary, the Authority will subordinate the deed of trust securing the two Loans (as described below) to the liens and encumbrances of the Project's construction and permanent lenders. However, the City and Authority will not subordinate their interests in the Density Bonus Housing Agreements (described below) or the Authority Housing Agreements (described below) to such liens or encumbrances.

Contractor: The Project contractor will be an affiliate of the Developer. In lieu of requiring multiple bids from third party contractors, City staff has confirmed that the contract price is reasonable given the requirement of State and Federal prevailing wages, increasing interest rates and construction costs. However, the Second Amended and Restated DDLA requires, as a condition to closing, that the Developer provide to the Authority the primary construction lender's cost analysis, or, alternatively, that the Developer pay for a City obtained cost review.

Density Bonus Housing Agreements. In order to develop the 241-unit Project (121 units in Phase I and 120 units in Phase II), the approved entitlements include the use of the City's Density Bonus Ordinance, which also allows for fewer parking spaces to be included in the Project than required by the City's Municipal Code. The Density Bonus provision was able to be used by the Project because at least 20% of the units will be restricted to very-low Income households. The two Density Bonus Housing Agreements have a term of fifty-five (55) years from COO and restricts 12 units in each phase to very-low income households, for a total of 24 Density Bonus units.

Authority Loan Terms. The Authority Loans shall be in the principal amount of \$1,965,539 (Phase I) and \$4,789,461 (Phase II) and be made from the Authority's Housing Fund, and commence as of the effective date of the Loan Agreements and have a term of fifty-five (55) years from the COO, bear simple interest at three percent (3%) per annum and will be repaid

from a proportional share (50%) of the Project's residual receipts and the Authority Loans will be due and payable at the end of the loan term. The Phase I Authority Loan will be used to acquire the Phase I parcel and the Phase II Authority Loan will be used to acquire the Phase II parcel and for some of the Phase II costs of construction.

Authority Housing Agreements. The Housing Agreements for the Project will restrict all units in the Project to households that have incomes that do not exceed the following percentages of the Riverside County area median (AMI) income:

- Phase I: 36 units restricted to 30% of the AMI or less (approximately 30% of the units), 61 units restricted to 59% of the AMI or less (approximately 50% of the units), and 23 units restricted to 80% of the AMI or less (approximately 20% of the units). One three-bedroom unit will be set-aside for the onsite manager.
- Phase II: 36 units restricted to 30% of the AMI or less (approximately 30% of the units), 60 units restricted to 59% of the AMI or less (approximately 50% of the units), and 23 units restricted to 80% of the AMI or less (approximately 20% of the units). One two-bedroom unit will be set-aside for the onsite manager.

Total development costs for the Project, including land costs, are estimated at \$153,839,000 (\$82,160,000 (Phase I) and \$71,679,000 (Phase II)). The Project is intended to be funded by leveraging multiple funding sources including: Tax-Exempt Bond proceeds, 4% Federal Tax Credits, State Tax Credits, a \$6,700,000 County Loan, an aggregate of one-hundred and twenty (120) PBVs provided by the County, deferred developer fee, and the Authority Loans.

In order to evaluate the Developer's funding request, the Authority engaged the services of Keyser Marston Associates, Inc. ("KMA"), a state-wide provider of affordable housing consulting services, to provide technical assistance related to determining whether or not the Project's updated pro forma projections, feasibility and the request for the Loans were reasonable.

In evaluating the Developer's request for the Authority Loans to assist with the purchase of the Property and construction of the Project in two phases, KMA conducted a detailed review of the Developer's proforma. The Project's assumptions, methodologies, and calculations were reviewed and evaluated for reasonableness and accuracy. KMA presented its analysis in a financial gap analysis memorandum, dated March 27, 2024, which is attached to this staff report. KMA's analysis concluded that the Project still has a \$6,755,000 financial gap, or \$28,000 per unit, thus the Developer's request for financial assistance is still warranted. In comparison, the Authority agreed to provide \$22,400 per unit in assistance to the Vitalia project in August 2021 and \$41,100 per unit to the Urban Housing Community ("UHC") project in July 2022

KMA concludes in their financial gap analysis memorandum:

1. The \$638,300 per unit estimate for total development costs are reasonable given the Project scope of work, federal and state prevailing wage requirements, increasing interest rates and current inflationary market conditions.
2. The total development costs decreased by 1% since the last KMA analysis in June 2023 due to the Developer removing the TUMF and SCE fees as they will be waived or refunded.
3. While the financial gap remains at \$6,755,000, the Authority will be providing the land purchase price (\$3,425,000) from the Housing Fund. Therefore, the City will receive an

- upfront payment for the Site (in two payments as each parcel is conveyed).
4. For RHNA purposes, the City will be able to add 120 extremely-low income units to the City's housing inventory as well as 119 low income units (59% AMI and 80% AMI) and two above moderate units.
 5. The Project meets the State law requirements for use of monies in the Housing Fund because at least 30% of the Housing Fund monies are being spent on extremely-low income households and no more than 20% of the Housing Funds monies are being used to benefit households earning 60% to 80% AMI.

By making the Authority Loans to the Developer, the City and Authority will benefit from 239 units restricted to extremely-low and low income households for a term of 55-years.

Therefore, staff requests approval of the actions described herein in order to allow the Developer to meet the deadline to submit an application to the CDLAC/TCAC. If the City Council and Authority Board approve such request and the Developer is awarded the proposed funding sources, staff and legal counsel will finalize the Second Amended and Restated DDLA, including the exhibits thereto, which were provided in substantial form at this meeting, and any other documents deemed necessary or proper for the conveyance of the Property and the financing and construction of the Project.

Legal Review:

This report and resolutions have been reviewed by the Special Legal Counsel.

Strategic Plan:

One of the priorities of the City's Envision Palm Desert Strategic Plan, as part of Land, Use, Housing and Open Space, is to facilitate development of high-quality housing for people of all income levels. This request meets that objective by diversifying the City's housing stock for lower income households.

FINANCIAL IMPACT:

An appropriation from the Authority's Housing Asset Fund will be necessary in an amount not to exceed \$6,755,000, or \$28,800 per unit. Funds are available from the Authority's Housing Asset Fund unobligated fund balance. The above- identified funding will only be provided upon the Developer's satisfaction of the Second Amended and Restated DDLA terms and conditions contained therein, including, but not limited to, providing proof, satisfactory to the Authority, that the Developer has financing commitments from all other sources of financing necessary to fund the Project as permit ready.

The financial impact to the City is that the Second Amended and Restated DDLA provides the City with upfront cash payments for the Site as each parcel is conveyed. As such, the City will convey the Site to the Developer and receive \$3,425,000. Staff recommend designating the proceeds of the sale of the Property for future affordable housing purposes.

ATTACHMENTS:

1. City Resolution - Palm Communities Second Amended and Restated DDLA
2. Authority Resolution - Palm Communities Second Amended and Restated DDLA
3. Second Amended and Restated DDLA – Palm Communities
4. Second Amended and Restated DDLA – Exhibits - Palm Communities
5. KMA Memorandum, (Palm Villas - Updated Financial Gap Analysis, dated 3/27/2024)