

RESOLUTION NO. 2008-172

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING SECOND IMPLEMENTATION AGREEMENT AND CONSENTING TO THE TAX INCREMENT FINANCING PLAN AND AGREEMENT FOR THE DUNES ON MONTEREY BAY DEVELOPMENT PROJECT (FORMERLY UNIVERSITY VILLAGES), AMENDING BUSINESS TERMS OF PREVIOUSLY EXECUTED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN MARINA REDEVELOPMENT AGENCY (MRA) AND MARINA COMMUNITY PARTNERS, LLC (MCP), MAKING REQUIRED STATUTORY FINDINGS, AND APPROVING EXPENDITURE OF AGENCY FUNDS FOR PUBLIC IMPROVEMENTS AS REQUIRED PURSUANT TO HEALTH AND SAFETY CODE SECTION 33445 AND 33421.1, AND 3) AUTHORIZING EXECUTIVE DIRECTOR/CITY MANAGER TO EXECUTE THESE AGREEMENTS, SUBJECT TO FINAL REVIEW AND APPROVAL BY AGENCY COUNSEL AND CITY

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Marina (the "City") has adopted, and the Marina Redevelopment Agency (the "Agency") is responsible for implementing, the Former Fort Ord Redevelopment Project No. 3 Redevelopment Plan (the "Redevelopment Plan"), pursuant to Ordinance No. 99-21 dated November 2, 1999, pertaining to the Former Fort Ord redevelopment project area as described therein (the "Project Area"); and

WHEREAS, to assist in implementing the Redevelopment Plan, the Agency has adopted a five-year implementation plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law as part of the adoption of the Redevelopment Plan; and

WHEREAS, the Agency pursuant to the terms of the Implementation Agreement with the Fort Ord Reuse Authority ("FORA") acquired the property located within the former Fort Ord commonly known as the Dunes area from FORA for purposes of achieving the goals and objectives of the Redevelopment Plan (the "Site"); and

WHEREAS, in furtherance of the Redevelopment Plan, the Implementation Plan, the University Villages Specific Plan, the City General Plan and the Fort Ord Base Reuse Plan, the City Council approved the Agency entering into a Disposition and Development Agreement ("DDA") with Marina Community Partners providing for the development on the Site of a high quality mixed-use development to be known as the Dunes Development (formerly the University Villages Development), consisting of approximately 1237 residential units including 310 residential units affordable at below market rates, up to 750,000 square feet of retail space, up to 760,000 square feet of business park development, hotels with an aggregate of 500 rooms, certain public improvements and appurtenant improvements including landscaping, community amenities and infrastructure (the "Development"); and

WHEREAS, as a result of market conditions, the development of the Dunes as previously contemplated in the DDA is not financially feasible and the Developer has requested and the Agency has agreed to certain revisions to the DDA in order to ensure the timely completion of the Development in a manner consistent with the Development Approvals and to ensure that the City and the Agency receive the fiscal, community and public benefits associated with the Development, and

WHEREAS, the Agency and the Developer have negotiated the terms of the Second Implementation Agreement ("Second Implementation Agreement") which amends and supplements the DDA and pursuant to which the Agency has agreed to provide certain financial assistance to the Developer in order to ensure the timely development of the Development in a manner consistent with the Development Approvals previously approved by the City; and

WHEREAS, the Agency and the Developer have negotiated the terms of the Tax Increment Financing Plan and Agreement ("Tax Increment Financing Plan and Agreement") which implements the provisions of the Second Implementation Agreement with regards to the Agency's financial assistance to the Developer; and

WHEREAS, in accordance with Sections 33431 and 33433 of the Redevelopment Law, the Agency desires to enter into the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement with the Developer, substantially in the form on file with the City Clerk and the Agency Secretary, pursuant to which, among other matters:

1. The Agency will sell the Property to the Developer for a base purchase price of not less than \$43,000,0000, plus a potential additional profit participation payment as set forth in the DDA;

2. The Agency will provide Low and Moderate Income Housing Fund Assistance (the "Housing Assistance") toward the costs associated with the very low, low and moderate income housing to be developed as part of the Development to fill the financial feasibility gap between the reasonably anticipated costs of the Development and the reasonably available private sector debt and equity revenues to pay such costs.

3. The Agency will provide additional assistance in the form of Tax Increment generated from the Development to assist with the payment of infrastructure, site preparation and other costs associated with the Development ("Non-Housing Assistance").

4. The Developer will continue to develop the Development on the Property, in accordance with the DDA and in a manner consistent with the previously approved Entitlements including the Environmental Impact Report certified for the University Villages Specific Plan; and

WHEREAS, the following are sometimes collectively referred to in this Resolution as the "Redevelopment Actions":

1. this Resolution;
2. the Second Implementation Agreement;
3. the disposition by the Agency of the remaining portions of the Property to the Developer and the development of the Development on the Property by the Developer;
4. the payment by the Agency of the Housing Assistance;
5. the payment by the Agency of the Non-Housing Assistance;

6. the Tax Increment Financing Plan and Agreement;

7. related physical actions to be undertaken and achieved through the DDA;

and

WHEREAS, the Redevelopment Actions will serve the purposes of the Redevelopment Law, the Redevelopment Plan, the Implementation Plan, the University Villages Specific Plan, the City General Plan and the Base Reuse Plan by eliminating blighting conditions in, and promoting the economic revitalization of, the Project Area, by providing job generating uses furthering the City and the Agency's economic development goals, by providing needed retail services to the community and by providing additional affordable housing units; and

WHEREAS, the Agency has placed on file a copy of the Second Implementation Agreement and the summary (including an accompanying amendment to the reuse valuation for the Property) called for in Section 33433 of the Redevelopment Law with respect to the disposition of the Property to the Developer (the "Amended Section 33433 Summary"), and has made the Second Implementation Agreement and the Amended Section 33433 Summary available for public inspection and copying pursuant to Section 33433 of the Redevelopment Law; and

WHEREAS, the City Council and the Agency have conducted a duly noticed public hearing on the Second Implementation Agreement pursuant to Sections 33431 and 33433 of the Redevelopment Law for the purpose of receiving the input and comments of the public on the Redevelopment Actions; and

WHEREAS, the City Council by this resolution desires to make the findings and grant the consents required by Sections 33433, 33445 and 33421.5 of the Redevelopment Law in connection with Agency approval and implementation of the Redevelopment Actions; and

WHEREAS, in considering approval of the DDA, the City and the Agency complied with the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines (collectively "CEQA") through the preparation and certification of the University Villages Specific Plan Environmental Impact Report which EIR includes the Redevelopment Actions (EIR No. SCH No. 2004091167), referred to in this Resolution as the "EIR"), Findings Regarding Mitigations Measures (the "Findings"), the Statement of Overriding Considerations ("Statement") and a mitigation monitoring program (the "Mitigation Monitoring Program"), which EIR was certified by the City Council pursuant to Resolution No. 2005-127 adopted on May 31, 2005 and approved by the Agency as a responsible agency pursuant to Resolution No. 2005-20 adopted on May 31, 2005; and

WHEREAS, because the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement provide for the identical physical development of the Property as that evaluated in the EIR and for the further detailed reasons set forth below, the EIR has served as the CEQA documentation for consideration of approval of the Second Implementation Agreement, the Tax Increment Financing Plan and Agreement and the Redevelopment Actions; and

WHEREAS, the following additional materials (collectively, the "Supporting Documents") have been presented to and considered by the Agency in support of the findings and approvals set forth in this Resolution: (1) the staff reports of August 5, 2008 accompanying this Resolution; (2) the Amended Section 33433 Summary; (3) the Second Implementation Agreement; and (4) the Tax Increment Financing Plan and Agreement. The Supporting Documents are hereby incorporated by reference in this Resolution and, together with the above recitals (the "Recitals"), form the evidentiary basis and establish the analytical route for reaching the ultimate findings and conclusions contained in this Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby finds that the above Recitals are true and correct and have served, together with the Supporting Documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the City Council hereby finds, for the following reasons, and based on the provision of CEQA (with particular reference to 14 California Code of Regulations, Section 15162), that the EIR, the Findings, the Statement and the Mitigation Monitoring Program have served as the environmental documentation pursuant to CEQA for approval of this Resolution, the Second Implementation Agreement, the Tax Increment Financing Plan and Agreement and the Redevelopment Actions. Specifically, the City Council finds that the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement provide for the identical physical development of the Property as that evaluated and mitigated in the EIR, the Findings, the Statement and the Mitigation Monitoring Program. The City Council further specifically finds that there have not been any of the following occurrences since the approval of the EIR, the Findings, the Statement and the Mitigation Monitoring Program that would require a subsequent or supplemental environmental documents in connection with approval of this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement:

1. there have not been substantial changes in the assembly, disposition, development, operation and maintenance of the Property and the Development that is the subject of this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement which would require major revisions in the EIR and the Mitigation Monitoring Program;

2. there have not been substantial changes with respect to the circumstances under which the assembly, disposition, development, operation and maintenance of the Property and the Development implemented pursuant to this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement will be undertaken which would require major revisions in the EIR and the Mitigation Monitoring Program; and

3. there has not been the appearance of new information which was not known and could not have been known as of the date of approval of the EIR and the Mitigation Monitoring Program which is relevant to the approval of the EIR and the Mitigation Monitoring Program as it relates to the assembly, disposition, development, operation and maintenance of the Property and the Development to be implemented pursuant to this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement.

BE IT FURTHER RESOLVED, that the City Council hereby finds and determines that the applicable mitigation measures and monitoring program set forth in the EIR, the Findings and the Mitigation Monitoring Program are incorporated into and will be implemented pursuant to the Second Implementation Agreement.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to file a Notice of Determination in accordance with 14 Cal. Code of Regulations, Section 15075 in connection with approval of this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement.

BE IT FURTHER RESOLVED, that, pursuant to Section 33433 of the Redevelopment Law, the City Council hereby finds and determines that the consideration to be given by the Developer for the purchase of the Property under the Second Implementation Agreement is not less than the fair reuse value of the Property at the use and with the covenants, conditions, and development costs authorized by the DDA as amended by the Second Implementation Agreement. This finding and determination is based on the facts and analysis set forth in the Recitals and Supporting Documents, which may be briefly synopsisized as follows:

1. The fair reuse value of the Property under the terms of the DDA as amended by the Second Implementation Agreement has been determined to be Forty Three Million Dollars (\$43,000,000); and

2. The purchase price to be paid for the Property by the Developer under the DDA as amended by the Second Implementation Agreement is Forty Three Million Dollars (\$43,000,000), plus an additional profit participation payment as set forth in the DDA.

BE IT FURTHER RESOLVED, that, pursuant to Section 33433 of the Redevelopment Law, the City Council hereby finds and determines that the conveyance of the Property to the Developer pursuant to the DDA as amended by the Second Implementation Agreement will assist in the elimination of blight in the Project Area, will provide housing for very low, low and moderate income persons, and is consistent with the Implementation Plan adopted pursuant to Health and Safety Code Section 33490. These findings and determinations are based on the facts and analysis set forth in the Recitals and Supporting Documents, which may be briefly synopsisized as follows:

1. The conveyance of the Property and the development of the Development pursuant to the DDA as amended by the Second Implementation Agreement will replace currently deteriorating former military structures on the Property with a new high quality vertical mixed-use development that will serve the needs of the residents of the Project Area and the City, provide local employment opportunities, provide 310 units of housing affordable to very low, low, moderate and workforce income persons, and serve as a catalyst for further economic development and property revitalization efforts in the Fort Ord area; and

2. The development of the Development on the Property pursuant to the DDA as amended by the Second Implementation Agreement will implement several specific goals of the Agency's currently adopted Implementation Plan and is a specifically enumerated and budgeted activity in the Implementation Plan.

BE IT FURTHER RESOLVED, that the City Council hereby finds and determines that the provision by the Agency of the Housing Assistance in accordance with the DDA as amended by the Second Implementation Agreement is necessary and appropriate to fill the financial feasibility gap between the reasonably anticipated costs of the development of the affordable housing and the reasonably available private sector debt and equity revenues to pay such costs. This finding and determination is based on the facts and analysis set forth in the Recitals and Supporting Documents indicating that the development of the affordable housing in accordance with the DDA as amended by the Second Implementation Agreement generates a warranted private investment shortfall, or financial feasibility gap, of approximately Forty Seven Million Thousand Dollars (\$47,000,000), equivalent to the maximum amount of the Housing Assistance by the Agency under the DDA as amended by the Second Implementation Agreement.

BE IT FURTHER RESOLVED, that, pursuant to Section 33445 of the Redevelopment Law and in connection with the payment by the Agency of the costs of certain infrastructure improvements as part of the Housing Assistance and Non-Housing Assistance, the City Council hereby finds and determines that: (a) the infrastructure improvements to be funded with the Housing Assistance and the Non-Housing Assistance are of benefit to the Project Area and the immediate neighborhood; (b) the payment of funds by the Agency for the costs of the infrastructure improvements will assist in the elimination of one or more blighting conditions in the Project Area, will provide housing for very low, low and moderate income persons, and is consistent with the Implementation Plan adopted pursuant to Health and Safety Code Section 33490; (c) there are no other reasonable means of financing available to the community to pay the costs of the Public Improvements and (d) the very low, low and moderate income housing to be developed as part of the Development will directly benefit from the infrastructure improvements to be funded with the Housing Assistance; (e) the very low, low and moderate income housing units to be developed as part of the Development will be restricted at affordable housing costs and for the duration required pursuant to Health and Safety Code Section 33334.3(f)(2); and (f) the portion of the Housing Assistance potentially used for infrastructure improvements does not exceed the portion of the total cost of the infrastructure improvements constructed as part of the Development applicable to the affordable housing. The findings and determinations set forth in (a) through (f) of this paragraph are based on facts and analysis set forth in the Recitals and Supporting Documents that have been previously summarized above in this Resolution. The finding and determination set forth in (c) of this paragraph is based on the facts and analysis set forth in the Recitals and the Supporting Documents, which may be briefly synopsized as follows:

1. Because there is a shortfall in warranted private investment that exceeds the cost of the affordable housing generally and the cost of the Development and in particular a portion of the infrastructure costs associated with the construction of the Development, the Developer can not afford to finance the costs of the a portion of the infrastructure necessary for the Development;

2. The City does not have currently available or reasonably anticipated future revenues to fund the costs of the infrastructure to be funded with the Housing Assistance and the Non-Housing Assistance and, as a result, there are no funds allocated to capital improvement programs or budgets to pay such costs; and

3. There are no currently available or reasonably anticipated other governmental funding sources to pay the costs of the infrastructure at the federal, state or local level.

BE IT FURTHER RESOLVED, that, pursuant to Section 33421.1 of the Redevelopment Law, the City Council hereby consents to, and hereby finds and determines that, the provision of on-site and off-site improvements by the Agency pursuant to the DDA as amended by the Second Implementation Agreement, if any, is necessary to effectuate the purposes of the Redevelopment Plan. This finding and determination is based, in part, on the facts and analysis set forth in the Recitals and the Supporting Documents that have been previously summarized above in this Resolution. This finding and determination is further based on the determination that the Developer could not afford to pay the costs of such Agency-provided on-site and off-site improvements, as evidenced by facts and analysis set forth in the Recitals and the Supporting Document indicating a shortfall in the warranted private investment for the Development.

BE IT FURTHER RESOLVED, that, pursuant to Sections 33391, 33431, 33433 and 33445 of the Redevelopment Law, the City Council hereby approves and authorizes:

1. The Second Implementation Agreement, the Tax Increment Financing Plan and Agreement and all ancillary documents attached as exhibits to, or referenced for execution by the Agency in, the Second Implementation Agreement;

2. The execution by the Mayor or City Manager of the Consent and Agreement attached to the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement and all such ancillary documents in substantially the form on file with the City Clerk and the Agency Secretary, with such changes as are approved by the City signatory (such approval to be conclusively evidenced by the execution of the consents to the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement);

3. The sale of the Property by the Agency of the remaining Agency owned portions of the Property pursuant to the provisions of the Second Implementation Agreement;

4. The payment by the Agency of the costs of the infrastructure for the Development to be funded as part of the Housing Assistance and the Non-Housing Assistance.

BE IT FURTHER RESOLVED, that the City Manager is authorized to take those actions delegated to the City Manager in the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement and all other actions reasonably required on the part of the City to implement the terms of the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement.

BE IT FURTHER RESOLVED, that nothing in this Resolution shall affect the City's policy discretion in granting or denying the Planning Approvals.

BE IT FURTHER RESOLVED, that the City hereby designates the City Clerk and the Secretary of the Agency as the custodian of the documents and other material, which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the City Clerk's Office at 211 Hillcrest Avenue, Marina, California.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect from and after its passage.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 5<sup>th</sup> day of August 2008, by the following vote, to wit:

AYES: COUNCIL: Amadeo, Ford, Gray, McCall, Wilmot

NOES: COUNCIL: None

ABSTAIN: COUNCIL: None

ABSENT: COUNCIL: None

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Gerald J. Wilmot, Mayor

ATTEST:

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Dimitra M. Hubbard, Deputy City Clerk

APPROVED AS TO FORM:

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City Attorney



RESOLUTION NO. 2008-18 (MRA)

A RESOLUTION OF THE MARINA REDEVELOPMENT AGENCY APPROVING SECOND IMPLEMENTATION AGREEMENT AND TAX INCREMENT FINANCING PLAN AND AGREEMENT FOR THE DUNES ON MONTEREY BAY (FORMERLY UNIVERSITY VILLAGE), AMENDING BUSINESS TERMS OF PREVIOUSLY EXECUTED DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN MARINA REDEVELOPMENT AGENCY (MRA) AND MARINA COMMUNITY PARTNERS, LLC (MCP), AND AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE THESE AGREEMENTS, SUBJECT TO FINAL REVIEW AND APPROVAL BY AGENCY COUNSEL AND CITY ATTORNEY

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; the "Redevelopment Law"), the City Council (the "City Council") of the City of Marina (the "City") has adopted, and the Marina Redevelopment Agency (the "Agency") is responsible for implementing, the Former Fort Ord Redevelopment Project No. 3 Redevelopment Plan (the "Redevelopment Plan"), pursuant to Ordinance No. 99-21 dated November 2, 1999, pertaining to the Former Fort Ord redevelopment project area as described therein (the "Project Area"); and

WHEREAS, to assist in implementing the Redevelopment Plan, the Agency has adopted a five-year implementation plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law as part of the adoption of the Redevelopment Plan; and

WHEREAS, the Agency pursuant to the terms of the Implementation Agreement with the Fort Ord Reuse Authority ("FORA") acquired the property located within the former Fort Ord commonly known as the Dunes area from FORA for purposes of achieving the goals and objectives of the Redevelopment Plan (the "Site"); and

WHEREAS, in furtherance of the Redevelopment Plan, the Implementation Plan, the University Villages Specific Plan, the City General Plan and the Fort Ord Base Reuse Plan, the Agency on May 31, 2005 approved a Disposition and Development Agreement ("DDA") with Marina Community Partners providing for the development on the Site of a high quality mixed-use development to be known as the Dunes Development (formerly the University Villages Development), consisting of approximately 1237 residential units including 310 residential units affordable at below market rates, up to 750,000 square feet of retail space, up to 760,000 square feet of business park development, hotels with an aggregate of 500 rooms, certain public improvements and appurtenant improvements including landscaping, community amenities and infrastructure (the "Development"); and

WHEREAS, the Agency has previously approved an Implementation Agreement to the DDA dated September 6, 2006, which clarified certain provisions in the DDA.

WHEREAS, as a result of market conditions, the development of the Dunes as previously contemplated in the DDA is not financially feasible and the Developer has requested and the Agency has agreed to certain revisions to the DDA in order to ensure the timely completion of the Development in a manner consistent with the Development Approvals and to ensure that the City and the Agency receive the fiscal, community and public benefits associated with the Development, and

WHEREAS, the Agency and the Developer have negotiated the terms of the Second Implementation Agreement ("Second Implementation Agreement") which amends and supplements the DDA and pursuant to which the Agency has agreed to provide certain financial assistance to the Developer in order to ensure the timely development of the Development in a manner consistent with the Development Approvals previously approved by the City; and

WHEREAS, the Agency and the Developer have negotiated the terms of the Tax Increment Financing Plan and Agreement ("Tax Increment Financing Plan and Agreement") which implements the provisions of the DDA as amended by the Second Implementation Agreement relating to the Agency financial assistance to the Developer; and

WHEREAS, in accordance with Sections 33431 and 33433 of the Redevelopment Law, the Agency desires to enter into the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement with the Developer, substantially in the form on file with the City Clerk and the Agency Secretary, pursuant to which, among other matters:

1. The Agency will sell the Property to the Developer for a base purchase price of not less than \$43,000,0000, plus a potential additional profit participation payment as set forth in the DDA as amended by the Second Implementation Agreement;

2. The Agency will provide Low and Moderate Income Housing Fund Assistance (the "Housing Assistance") toward the costs associated with the very low, low and moderate income housing to be developed as part of the Development to fill the financial feasibility gap between the reasonably anticipated costs of the Development and the reasonably available private sector debt and equity revenues to pay such costs.

3. The Agency will provide additional assistance in the form of Tax Increment generated from the Development to assist with the payment of infrastructure, site preparation and other costs associated with the Development ("Non-Housing Assistance").

4. The Developer will continue to develop the Development on the Property, in accordance with the DDA and in a manner consistent with the previously approved Entitlements including the Environmental Impact Report certified for the University Villages Specific Plan; and

WHEREAS, the following are sometimes collectively referred to in this Resolution as the "Redevelopment Actions":

1. this Resolution;
2. the Second Implementation Agreement;
3. the disposition by the Agency of the remaining portions of the Property to the Developer and the development of the Development on the Property by the Developer;
4. the payment by the Agency of the Housing Assistance;

5. The payment by the Agency of the Non-Housing Assistance;
  6. The Tax Increment Financing Plan and Agreement implementing the Housing Assistance and the Non-Housing Assistance;
  7. related physical actions to be undertaken and achieved through the DDA;
- and

WHEREAS, the Redevelopment Actions will serve the purposes of the Redevelopment Law, the Redevelopment Plan, the Implementation Plan, the University Villages Specific Plan, the City General Plan and the Base Reuse Plan by eliminating blighting conditions in, and promoting the economic revitalization of, the Project Area, by providing job generating uses furthering the City and the Agency's economic development goals, by providing needed retail services to the community and by providing additional affordable housing units; and

WHEREAS, the Agency has determined that the payment of the Non-Housing Assistance to the Developer for costs associated with public improvements will assist the Agency in the elimination of blight, will be of benefit to the Project Area and adjacent areas and that there are no other means available to finance the public improvements; and

WHEREAS, the Agency has placed on file a copy of the Second Implementation Agreement and the summary (including an accompanying amendment to the reuse valuation for the Property) called for in Section 33433 of the Redevelopment Law with respect to the disposition of the Property to the Developer (the "Amended Section 33433 Summary"), and has made the Second Implementation Agreement and the Amended Section 33433 Summary available for public inspection and copying pursuant to Section 33433 of the Redevelopment Law; and

WHEREAS, the City Council and the Agency have conducted a duly noticed public hearing on the Second Implementation Agreement pursuant to Sections 33431 and 33433 of the Redevelopment Law for the purpose of receiving the input and comments of the public on the Redevelopment Actions; and

WHEREAS, the City Council has made the findings and granted the consents required by Sections 33433, 33445 and 33421.5 of the Redevelopment Law in connection with Agency approval and implementation of the Redevelopment Actions; and

WHEREAS, in considering approval of the DDA, the City and the Agency complied with the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines (collectively "CEQA") through the preparation and certification of the University Villages Specific Plan Environmental Impact Report which EIR includes the Redevelopment Actions (EIR No. SCH No. 2004091167), referred to in this Resolution as the "EIR"), Findings Regarding Mitigations Measures (the "Findings"), the Statement of Overriding Considerations ("Statement") and a mitigation monitoring program (the "Mitigation Monitoring Program"), which EIR was certified by the City Council pursuant to Resolution No. 2005-127 adopted on May 31, 2005 and approved by the Agency as a responsible agency pursuant to Resolution No. 2005-20 adopted on May 31, 2005; and

WHEREAS, because the Second Implementation Agreement provides for the identical physical development of the Property as that evaluated in the EIR and for the further detailed reasons set forth below, the EIR has served as the CEQA documentation for consideration of approval of the Second Implementation Agreement and the Redevelopment Actions; and

WHEREAS, the following additional materials (collectively, the "Supporting Documents") have been presented to and considered by the Agency in support of the findings and approvals set forth in this Resolution: (1) the staff reports of August 5, 2008 accompanying this Resolution; (2) the Amended Section 33433 Summary; (3) the Second Implementation Agreement; and (4) the Tax Increment Financing Plan and Agreement. The Supporting Documents are hereby incorporated by reference in this Resolution and, together with the above recitals (the "Recitals"), form the evidentiary basis and establish the analytical route for reaching the ultimate findings and conclusions contained in this Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Agency hereby finds that the above Recitals are true and correct and have served, together with the Supporting Documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Agency hereby finds, for the following reasons, and based on the provision of CEQA (with particular reference to 14 California Code of Regulations, Section 15162), that the EIR, the Findings, the Statement and the Mitigation Monitoring Program have served as the environmental documentation pursuant to CEQA for approval of this Resolution, the Second Implementation Agreement, the Tax Increment Financing Plan and Agreement and the Redevelopment Actions. Specifically, the Agency finds that the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement provide for the identical physical development of the Property as that evaluated and mitigated in the EIR, the Findings, the Statement and the Mitigation Monitoring Program. The Agency further specifically finds that there have not been any of the following occurrences since the approval of the EIR, the Findings, the Statement and the Mitigation Monitoring Program that would require a subsequent or supplemental environmental documents in connection with approval of this Resolution and the Second Implementation Agreement:

1. there have not been substantial changes in the assembly, disposition, development, operation and maintenance of the Property and the Development that is the subject of this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement which would require major revisions in the EIR and the Mitigation Monitoring Program;

2. there have not been substantial changes with respect to the circumstances under which the assembly, disposition, development, operation and maintenance of the Property and the Development implemented pursuant to this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement will be undertaken which would require major revisions in the EIR and the Mitigation Monitoring Program; and

3. there has not been the appearance of new information which was not known and could not have been known as of the date of approval of the EIR and the Mitigation Monitoring Program which is relevant to the approval of the EIR and the Mitigation Monitoring Program as it relates to the assembly, disposition, development, operation and maintenance of the Property and the Development to be implemented pursuant to this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement.

BE IT FURTHER RESOLVED, that the Agency hereby finds and determines that the applicable mitigation measures and monitoring program set forth in the EIR, the Findings and the Mitigation Monitoring Program are incorporated into and will be implemented pursuant to the Second Implementation Agreement.

BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized and directed to file a Notice of Determination in accordance with 14 Cal. Code of Regulations, Section 15075 in connection with approval of this Resolution, the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement.

BE IT FURTHER RESOLVED, that, pursuant to Section 33433 of the Redevelopment Law, the Agency hereby finds and determines that the consideration to be given by the Developer for the purchase of the Property under the Second Implementation Agreement is not less than the fair reuse value of the Property at the use and with the covenants, conditions, and development costs authorized by the DDA as amended by the Second Implementation Agreement. This finding and determination is based on the facts and analysis set forth in the Recitals and Supporting Documents, which may be briefly synopsisized as follows:

1. The fair reuse value of the Property under the terms of the DDA as amended by the Second Implementation Agreement has been determined to be Forty Three Million Dollars (\$43,000,000); and

2. The purchase price to be paid for the Property by the Developer under the DDA as amended by the Second Implementation Agreement is Forty Three Million Dollars (\$43,000,000), plus an additional profit participation payment as set forth in the DDA.

BE IT FURTHER RESOLVED, that, pursuant to Section 33433 of the Redevelopment Law, the Agency hereby finds and determines that the conveyance of the Property to the Developer pursuant to the DDA as amended by the Second Implementation Agreement will assist in the elimination of blight in the Project Area, will provide housing for very low, low and moderate income persons, and is consistent with the Implementation Plan adopted pursuant to Health and Safety Code Section 33490. These findings and determinations are based on the facts and analysis set forth in the Recitals and Supporting Documents, which may be briefly synopsisized as follows:

1. The conveyance of the Property and the development of the Development pursuant to the DDA as amended by the Second Implementation Agreement will replace currently deteriorating former military structures on the Property with a new high quality vertical mixed-use development that will serve the needs of the residents of the Project Area and the City, provide local employment opportunities, provide 310 units of housing affordable to very low, low, moderate and workforce income persons, and serve as a catalyst for further economic development and property revitalization efforts in the Fort Ord area; and

2. The development of the Development on the Property pursuant to the DDA as amended by the Second Implementation Agreement will implement several specific goals of the Agency's currently adopted Implementation Plan and is a specifically enumerated and budgeted activity in the Implementation Plan.

BE IT FURTHER RESOLVED, that the Agency hereby finds and determines that the provision by the Agency of the Housing Assistance in accordance with the DDA as amended by the Second Implementation Agreement is necessary and appropriate to fill the financial feasibility gap between the reasonably anticipated costs of the development of the affordable housing and the reasonably available private sector debt and equity revenues to pay such costs. This finding and determination is based on the facts and analysis set forth in the Recitals and Supporting Documents indicating that the development of the development of the affordable housing in accordance with the DDA as amended by the Second Implementation Agreement generates a warranted private investment shortfall, or financial feasibility gap, of approximately Forty Seven Million Dollars (\$47,000,000), equivalent to the maximum amount of the Housing Assistance by the Agency under the DDA as amended by the Second Implementation Agreement.

BE IT FURTHER RESOLVED, that, pursuant to Section 33445 of the Redevelopment Law and in connection with the payment by the Agency of the costs of certain infrastructure improvements as part of the Housing Assistance and non-Housing Assistance, the Agency hereby finds and determines that: (a) the infrastructure improvements to be funded with the Housing Assistance and the non-Housing Assistance are of benefit to the Project Area and the immediate neighborhood; (b) the payment of funds by the Agency for the costs of the infrastructure improvements will assist in the elimination of one or more blighting conditions in the Project Area, will provide housing for very low, low and moderate income persons, and is consistent with the Implementation Plan adopted pursuant to Health and Safety Code Section 33490; (c) there are no other reasonable means of financing available to the community to pay the costs of the Public Improvements and (d) the very low, low and moderate income housing to be developed as part of the Development will directly benefit from the infrastructure improvements to be funded with the Housing Assistance; (e) the very low, low and moderate income housing units to be developed as part of the Development will be restricted at affordable housing costs and for the duration required pursuant to Health and Safety Code Section 33334.3(f)(2); and (f) the portion of the Housing Assistance potentially used for infrastructure improvements does not exceed the portion of the total cost of the infrastructure improvements constructed as part of the Development applicable to the affordable housing. The findings and determinations set forth in (a) through (f) of this paragraph are based on facts and analysis set forth in the Recitals and Supporting Documents that have been previously summarized above in this Resolution. The finding and determination set forth in (c) of this paragraph is based on the facts and analysis set forth in the Recitals and the Supporting Documents, which may be briefly synopsized as follows:

1. Because there is a shortfall in warranted private investment that exceeds the cost of the affordable housing generally and the cost of the Development and in particular a portion of the infrastructure costs associated with the construction of the Development, the Developer can not afford to finance the costs of the a portion of the infrastructure necessary for the Development;

2. The City does not have currently available or reasonably anticipated future revenues to fund the costs of the infrastructure to be funded with the Housing Assistance and the Non-Housing Assistance and, as a result, there are no funds allocated to capital improvement programs or budgets to pay such costs; and

3. There are no currently available or reasonably anticipated other governmental funding sources to pay the costs of the infrastructure at the federal, state or local level.

BE IT FURTHER RESOLVED, that the Agency finds and determines that the acquisition of the Site in accordance with the DDA as amended by the Second Implementation Agreement will benefit the Project Area, will assist in the alleviation of blighting conditions within the Project Area. These findings and determinations are based on facts and analysis set forth in the Recitals and Supporting Documents that have been previously summarized above in this Resolution.

BE IT FURTHER RESOLVED, that, pursuant to Sections 33391, 33431, 33433 and 33445 of the Redevelopment Law, the Agency hereby approves and authorizes:

1. The Second Implementation Agreement and all ancillary documents attached as exhibits to, or referenced for execution by the Agency in, the Second Implementation Agreement;

2. The execution by the Agency Chairperson or Executive Director of the Second Implementation Agreement, the Tax Increment Financing Plan and Agreement, and all such ancillary documents in substantially the form on file with the City Clerk and the Agency Secretary, with such changes as are approved by the Agency signatory (such approval to be conclusively evidenced by the execution of the Second Implementation Agreement);

3. The sale of the Property by the Agency of the remaining Agency owned portions of the Property pursuant to the provisions of the Second Implementation Agreement;

4. The payment by the Agency of the costs of the infrastructure for the Development to be funded as part of the Housing Assistance and the Non-Housing Assistance in accordance with the terms of the Tax Increment Financing Plan and Agreement.

BE IT FURTHER RESOLVED, that the Agency Executive Director is authorized to take those actions delegated to the Executive Director in the Second Implementation Agreement, the Tax Increment Financing Plan and Agreement and all other actions reasonably required on the part of the Agency to implement the terms of the Second Implementation Agreement.

BE IT FURTHER RESOLVED, that the Agency hereby appropriates such funds as may be necessary to fulfill the Agency's obligations under the Second Implementation Agreement and the Tax Increment Financing Plan and Agreement, and amends the Agency budget to the extent necessary to implement such appropriation.

BE IT FURTHER RESOLVED, that nothing in this Resolution shall affect the City's policy discretion in granting or denying the Planning Approvals.

BE IT FURTHER RESOLVED, that the Agency hereby designates the City Clerk and the Secretary of the Agency as the custodian of the documents and other material, which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the City Clerk's Office at 211 Hillcrest Avenue, Marina, California.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect from and after its passage.

PASSED AND ADOPTED by the Marina Redevelopment Agency at a regular meeting duly held on the 5<sup>th</sup> day of August 2008, by the following vote, to wit:

AYES: BOARD MEMBERS: Amadeo, Ford, Gray, McCall, Wilmot

NOES: BOARD MEMBERS: None

ABSTAIN: BOARD MEMBERS: None

ABSENT: BOARD MEMBERS: None

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Gerald J. Wilmot, Chairman

ATTEST:

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Dimitra M. Hubbard, Agency Secretary

APPROVED AS TO FORM:

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Agency Counsel



July 31, 2008

Item No. **9a(1) & (2)**

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of August 5, 2008

Honorable Chair and Members  
of the Marina Redevelopment Agency

Redevelopment Agency Meeting  
of August 5, 2008

**RECOMMENDATION TO OPEN PUBLIC HEARING, RECEIVE ANY TESTIMONY AND 1) CONSIDER ADOPTING RESOLUTION NO. 2008- (MRA), APPROVING SECOND IMPLEMENTATION AGREEMENT AND TAX INCREMENT FINANCING PLAN AND AGREEMENT FOR DUNES ON MONTEREY BAY DEVELOPMENT PROJECT (FORMERLY UNIVERSITY VILLAGE), AMENDING BUSINESS TERMS OF PREVIOUSLY EXECUTED DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN MARINA REDEVELOPMENT AGENCY (MRA) AND MARINA COMMUNITY PARTNERS, LLC, (MCP); 2) CONSIDER ADOPTING RESOLUTION NO. 2008-, APPROVING SECOND IMPLEMENTATION AGREEMENT AND CONSENTING TO TAX INCREMENT FINANCING PLAN AND AGREEMENT FOR DUNES ON MONTEREY BAY DEVELOPMENT PROJECT (FORMERLY UNIVERSITY VILLAGE), AMENDING BUSINESS TERMS OF PREVIOUSLY EXECUTED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN MARINA REDEVELOPMENT AGENCY (MRA) AND MARINA COMMUNITY PARTNERS, LLC, (MCP), MAKING REQUIRED STATUTORY FINDINGS AND APPROVING EXPENDITURE OF AGENCY FUNDS FOR PUBLIC IMPROVEMENTS AS REQUIRED PURSUANT TO HEALTH AND SAFETY CODE SECTION 33445 AND 33421.1, AND; 3) AUTHORIZING EXECUTIVE DIRECTOR/CITY MANAGER TO EXECUTE AGREEMENTS SUBJECT TO FINAL REVIEW AND APPROVAL BY AGENCY COUNSEL AND CITY ATTORNEY**

**RECOMMENDATION:**

It is recommended that the Agency Board:

1. Open public hearing and receive any testimony and consider adopting Resolution No. 2008-, (MRA), approving Second Implementation Agreement and Tax Increment Financing Plan and Agreement for The Dunes on Monterey Bay Development Project (formerly University Village), amending business terms of previously executed Disposition and Development Agreement (DDA) between Marina Redevelopment Agency (MRA) and Marina Community Partners, LLC, (MCP), and;

It is recommended that the City Council:

2. Consider adopting Resolution No. 2008-, approving Second Implementation Agreement and consenting to Tax Increment Financing Plan and Agreement for the Dunes on Monterey Bay Development Project (formerly University Village), amending business terms of previously executed Disposition and Development Agreement (DDA) between the Marina Redevelopment Agency (MRA) and Marina Community Partners, LLC, (MCP), making required statutory findings, and approving expenditure of Agency funds for public improvements as required pursuant to Health and Safety Code Section 33445 and 33421.1, and;

It is recommended that the Agency Board and City Council:

3. Authorize the Executive Director/City Manager to execute documents subject to final review and approval by Agency Counsel and City Attorney.

**BACKGROUND:**

At the regular meeting of May 31, 2005, the Marina Redevelopment Agency adopted Resolution No. 2005-21 (MRA) and the City Council adopted Resolution No. 2005-135, approving the University Village Disposition and Development Agreement (DDA) granting Marina Community Partners, LLC, (MCP) an option to acquire approximately 290 total acres in the University Villages Project site from the Redevelopment Agency.

At the same meeting the City Council certified, pursuant to Resolution No. 2005-127, the final Environmental Impact Report for the development project. The Redevelopment Agency approved the EIR pursuant to Resolution No. 2005-20 (MRA) as a responsible agency.

The City Council also adopted Resolution No. 2005-132, approving certain land use approvals including a Specific Plan for the development area and Resolution No. 2005-134, finding that the development project was consistent with the Base Reuse Plan. The staff report from the May 31, 2005 meeting is incorporated in this staff report by reference.

The project was subsequently renamed The Dunes on Monterey Bay. The Agreement contemplated additional implementation agreements as the development project proceeded. Section 12.8 of the DDA provides that the parties may enter into clarifying, interpretive and implementing addenda to the DDA from time to time.

At the regular meeting of August 1, 2006, the Marina Redevelopment Agency adopted Resolution No. 2006-36 (MRA), approving an Implementation Agreement, dated September 6, 2006, to detail the requirements and schedule of performance of development for the smaller development phases within Phase 1 – Phases 1A, 1B, and 1C.

At the regular meeting of November 20, 2007, the Marina Redevelopment Agency adopted Resolution No. 2007-37 (MRA), accepting an Excused Delay Letter from MCP for delay in construction of the Development due to absorption decreases in the housing market and related impacts which have adversely affected the economic feasibility of the project, and authorizing renegotiations of the financial terms of the DDA.

Despite the excused delay from the downturn in the housing market, both parties desired to enter into negotiations for the purposes of moving forward with construction of the project. As a result, amended business terms and an amended schedule of performance were reflected in a proposed Second Implementation Agreement brought to the Agency Board and the City Council for approval in January 2008.

At the regular meeting of January 22, 2008, the Agency Board adopted Resolution No. 2008-03 (MRA), and the City Council adopted Resolution No. 2008-14, approving the Second Implementation Agreement amending business terms of the DDA.

The agreement contemplated both the City and the Fort Ord Reuse Authority (FORA) reinvesting some of their tax increment generated from the project back into the development project in order for the developer to proceed with the construction of the economic development portions of the project.

Subsequent to City Council and Agency Board approval, it was determined that FORA would not participate by investing its tax increment into the project. Therefore, the Agency and MCP never executed the Second Implementation Agreement approved by City Council and the Agency Board.

Both parties continue to desire to proceed with construction and have continued negotiations. As a result, amended business terms and an amended schedule of performance are reflected in the Second Implementation Agreement (“**ATTACHMENT 1**”), with supporting financial documents, the Reuse Valuation (“**ATTACHMENT 2**”) and 33433 Report (“**ATTACHMENT 3**”), and supporting implementing document for use of tax increment, the Tax Increment Financing Plan and Agreement (“**ATTACHMENT 4**”).

#### **ANALYSIS:**

Subsequent to the project approvals in 2005, and despite potential delays from litigation, the developer has proceeded, at a very brisk pace, with deconstruction, grading, preparing construction drawings and actual construction of 368,000 square feet in the regional retail area in Phase 1A. The regional retail center, located at the corner of Highway 1 and Imjin Parkway, now includes a Target, Kohl’s, REI, Best Buy, Bed, Bath & Beyond, Michael’s, and Old Navy.

During that time, MCP took title to Phase 1 of the site paying a purchase price of \$6,000,000. Also during that time, an Implementation Agreement was completed breaking phase 1 into smaller phases – 1A, 1B, and 1C.

Prior to the national decline in the residential market, MCP moved forward with deconstruction, grading and some infrastructure placement in Phases 1B and 1C, which will contain the Village Promenade, a focused service hotel, affordable housing, single family housing, office and the residential model complex.

Up to that point, the City had issued 400 building permits (including deconstruction permits), and received \$9.3 million in impact fees. The regional retail center also currently provides 750 new jobs to the area. MCP had invested \$35 million in infrastructure and vertical construction totaled nearly \$50 million. FORA also received nearly \$3.5 million in impact fees from the Dunes development as well as its \$3 million from land sales.

MCP expects to continue to develop the land uses Phases 1B, 1C and Phases 2 and 3, in accordance with the previously approved Development Approvals, the Disposition Development Agreement and the previous Implementation Agreement. MCP expects to bring forward in the next few months design documents for the Village Promenade, the focused service hotel as well as complete the infrastructure improvements for Phase 1B.

The certified and approved EIR has served as the environmental documentation for the Second Implementation Agreement and nothing in this Agreement changes the analysis, recommendations and conclusions of the EIR or the mitigation measures adopted in May 2005. The Second Implementation Agreement contemplates the same development originally proposed and studied for the EIR. It is expected that subsequent project approvals necessary for proceeding with the development of the Dunes will rely upon the EIR.

The adoption of the Second Implementation Agreement does not make any physical changes to the Development. Additionally, there have not been any substantial changes to the project since the certification of the EIR, no new information has come available to the Agency that was not known at the time of certification of the EIR and there have not been any substantial changes with respect to the circumstances under which the Development is being undertaken.

For these reasons the Agency and the City have concluded that no additional environmental analysis is required and that the Certified EIR is the appropriate environmental document for this Second Implementation Agreement.

**Second Implementation Agreement:**

**Business Term and Schedule of Performance Amendments:**

The Second Implementation Agreement will amend the original DDA's business terms and schedule of performance as follows:

1. The developer will remove the current excused delay and proceed with the project according to the Schedule of Performance, first, this calendar year, with planning and design review and construction of the infrastructure to support the economic development portions of the project, then following, with vertical improvements for these land uses, then following, with residential construction as the market returns. These priority economic development land use portions of the project include the Village Promenade, the two hotels, Phase I office and related improvements.  
In addition, the developer will follow further detailed quality standards for retail in the Village Promenade, and development of a restaurant separate from the Village Promenade. The developer can request a six month extension to the completion date for obtaining permits and approvals for the Village Promenade, but this is contingent on specific leasing commitment criteria, and providing staff with regular leasing and marketing progress reports;
2. The Agency will invest a portion of its share of non-housing tax increment that is to be generated by the Dunes development and not previously committed to the project, estimated at \$58 million through 2030.

3. The Agency will additionally invest some of its share of tax increment deposited in the low-moderate housing set aside generated by the Marina Heights portion of the same Redevelopment Project Area #3 in which the Dunes is located as well as the low and moderate income housing funds generated by the Dunes estimated at \$18 million through 2020. The original DDA already included the low-moderate housing set aside generated by the Dunes project of \$29.3 million.

The tax increment funds will be used for costs associated with infrastructure improvements, including site preparation costs and public improvements, all allowable under redevelopment law.

4. The developer will reduce the threshold for participation in additional profits, should the development perform better than currently projected, from twenty two percent (22%) in the original DDA to nine percent (9%) as amended in this Agreement.
5. The land price proposed for the development in this Agreement is \$43 million, down slightly from the original \$48 million. The City has preserved the majority of the land value as those proceeds may go directly into the City's General Fund and can be used for Citywide expenses and services. Tax increment cannot be used for these City General Fund expenses.
6. This Agreement reduces the number of Workforce units from 124 to 62, a reduction from ten percent (10%) to five percent (5%) of overall housing units. These units, coupled with twenty percent (20%) Affordable units, bring the total Below Market Rate units to twenty five percent (25%) of all housing units in the project, a significant amount beyond the fifteen Percent (15%) required per redevelopment law. Workforce units are those housing units reserved for households with incomes in the 120% - 150% of area median income. Affordable units are those reserved for households at or below 120% of Median Income.
7. 100 of the proposed live/work homes proposed in the original DDA will be constructed as regular townhomes. The live/work homes will be preserved in the corridor just south of the Promenade corridor where they will still more likely be sustained by the market.
8. Finally, the Marina Coast Water District is currently analyzing its capital improvement program budgets and discussion has ensued about an increase to the connection fees to be charged to developers. The Agency has agreed with MCP that each party will split an increase above what is currently projected in the attached financial documents on an equal basis. The Agency's share, while unquantifiable today, would be paid from tax increment beyond 2030 not currently pledged above for infrastructure and site preparation costs.

### **Tax Increment Financing Plan and Agreement**

The Tax Increment Financing Plan and Agreement implements the provisions of the DDA as amended by the Second Implementation Agreement relating to the Agency's financial assistance to the Developer. The Tax Increment Financing Plan specifies the timing of payments to the Developer and is necessary in order to document the Agency's future financial obligations since it is expected that the Developer will expend the funds for infrastructure improvements and other development related costs substantially in advance of the Agency receiving the tax increment funds pledged for such costs.

## **Additional Information Relating to the Use of Tax Increment and the 2<sup>nd</sup> Implementation Agreement**

1. When the City invests tax increment of nearly \$106 million through 2030, that is an additional amount of \$78.3 from the original DDA.  
The original DDA anticipated an investment from the Low and Moderate Income Housing Funds of \$29.3 million.
2. The City's investment is not 100% of the tax increment generated by the Dunes development. The housing funds are committed through 2020, while the non-housing tax increment funds will be committed through 2030. The Agency expects to collect an additional \$70.5 million generated beyond the commitment proposed in the Agreement through 2045, the life of the project area and the timeframe for which tax increment can be received by the Agency.
3. The use of tax increment funds are regulated by State Law and are designed to be reinvested in the Project Area to assist development such as the Dunes. Tax increment funds cannot be used for City General Fund purposes, such as police and fire operations.
4. If the project does not proceed, no tax increment will be generated from the additional project improvements and development.
5. Tax Increment funds are almost always utilized to fund infrastructure for redevelopment projects, especially on blighted former military bases where old infrastructure and buildings must first be removed prior to constructing the new improvements and developments. Since the original DDA was executed in 2005 at the height of the residential market, it was anticipated that these funds may not be necessary to support the project. The Agency was fortunate enough at the time to preserve the majority of its tax increment for use at times when the market is not flourishing and the economics of large complex master plan communities such as this are significantly different.
6. The Agency's commitment of tax increment to the Development does not change the allocation of tax increment to FORA and other taxing agencies. FORA will continue to receive 35% of the net tax increment and the County will continue to receive 25% of the net tax increment. Other taxing agencies, including the schools will continue to receive their same share of tax increment.
7. The Agency has determined, based on the information in the Reuse Appraisal, that there are no other sources of funds for the payment of the infrastructure costs. The Development itself does not generate a sufficient level of return to enable the Developer to pay the full cost of infrastructure.
8. Additionally, the City Capital Improvement Program (CIP) does not include the infrastructure improvements necessary to serve the project and does not contain any surplus funds that could be devoted to this project. The redevelopment of the area, consistent with the DDA, will eliminate blight in the Project Area and benefit the project area and the surrounding area by transforming an obsolete and abandoned military base into a fully functioning neighborhood providing jobs, housing and economic development opportunities to the City and the region.

9. Redevelopment of the area with a retail Village Promenade and hotels will provide long term fiscal benefits to the City in the form of sales and transient-occupancy taxes which funds go directly to the City's General Fund.

Additionally, these portions of the Development, with the future business park and office uses are important to meeting the City's goals of positive jobs housing balance and fiscal and economic sustainability. Additional benefits of the development include providing the Marina community and the region with a focal point for entertainment and shopping turning a long disused military base into significant community asset.

**Benefits to the City and Agency of the Second Implementation Agreement:**

Absent this Second Implementation Agreement, the development will likely not proceed or will be delayed significantly. If the development project proceeds, the City will begin to receive numerous benefits from the project, including but not limited to the following:

1. Revenues from City development impact fees to accomplish critical citywide improvements. Impact fees are estimated to total \$44 million through build-out of the project.
2. Also during construction, an additional 800 construction jobs will be created, generating over \$33 million in annual payroll.
3. During development, there will be continued deconstruction and removal of blighted abandoned structures that currently tax the regional resources in terms of police and fire personnel.
4. When the development project is built out and continuing through 2030, the City expects to receive \$34 million in sales tax for General Fund use.
5. Also through build-out and continuing through 2030, the City expects to receive \$41 million in hotel tax (transient occupancy tax, TOT) for General Fund use.
6. At build-out, an additional 4,700 permanent jobs will be created with \$193 million in annual payroll.
7. Not only will community amenities such as the Village Promenade and parks benefit the community, but the development of these community amenities will also enhance value for the future residential development.
8. Affordable housing will be created with the assistance of the low-mod set aside housing funds. 25% of all units will be below market rate levels.
9. The City and Agency have not pledged any funds that directly impact the City's General Fund or other general purpose revenues.
10. Most important, will be the development of a sustainable mixed-use project with shops, restaurants, a business park, and hotels as well as a wide variety of residences, parks, an arts and cultural district, and a transit corridor and center, whose total assessed value at build-out will be approximately \$1.2 billion.

### **Fiscal Benefits to the Regional Community:**

If the Dunes development project moves forward, many other community agencies and organizations will benefit from their share of tax increment and impact fees generated by the project. This does not include the multiplier affect to the region from the population increase and new jobs. Those agencies will also be able to construct much needed capital improvements to support their mission in Marina and throughout the larger community. These benefits include, but are not limited to, the following:

- Approximately \$6.2 million in impact fees and \$89 million in Tax Increment funds to the Monterey Peninsula Unified School District and Monterey Peninsula College to complete critical school facilities
- \$109 million in project generated Tax Increment funds to the County of Monterey
- \$22 million in Tax Increment funds for other local agencies, such as the County of Monterey Library system, Moss Landing Harbor, and the Monterey County Water Resources Agency
- Approximately \$58 million in impact fees and land sales proceeds and tax increment estimated to be \$24.1 million to FORA for critical base-wide regional improvements
- The project will also create 21 acres of community/city parks and improved public access to Ft. Ord Dunes State Park via the 8<sup>th</sup> street bridge
- The project will also provide about \$6.5 million to the Marina Coast Water District for capital improvements from Impact fees

Figures represent funds generated by the project either through build-out or through 2030 for tax increment.

### **FISCAL IMPACT:**

The financial terms of the DDA, as modified in the Second Implementation Agreement, are more specifically shown in the attached amended Reuse Valuation and 33433 Report (“ATTACHMENT 2” and “ATTACHMENT 3”, respectively).

In general, the fiscal impacts to the Agency and City of this Second Implementation Agreement are:

1. Use of the Agency’s share of the project’s Tax Increment dollars not previously utilized through the year 2020 for Housing funds and 2030 for non-housing funds, and;
2. Utilization of additional tax increment funds deposited in the low-moderate housing set aside from the Marina Heights portion of Redevelopment Project Area #3, and;
3. A slight reduction in land value for the future phases 2 and 3, and;



4. A potential increase in the share of future profits, as the threshold for Agency participation in profit participation has been reduced from a 22% IRR to a 9% IRR, and;
5. The split of a potential increase in MCWD connection fees to the project with MCP on a 50/50 basis. The Agency's share, while unquantifiable today, would be paid from remaining tax increment not currently pledged above.

The Agency and City will continue to receive significant land sales, sales tax, transient occupancy tax, development impact fees and other fiscal benefits from the project as projected and detailed in the approvals for the project from May 2005. These fiscal benefits and impacts from future project development are entirely dependent, however, on the condition that the project moves forward and improvements are constructed as anticipated.

**CONCLUSION:**

The request is submitted for City Council and Agency Board consideration and possible action.

Respectfully submitted,

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Debby J. Platt  
The Dunes Development, Project Manager  
City of Marina

**REVIEWED/CONCUR:**

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Douglas A. Yount,  
Development Services Director  
City of Marina

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Anthony J. Altfeld  
City Manager  
City of Marina

**NOTED FOR FISCAL IMPACT:**

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Richard B. Standridge, CPA  
Interim Finance Director  
City of Marina