



CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

333 WEST OCEAN BOULEVARD

LONG BEACH, CALIFORNIA 90802

(562) 570-6711

01 FEB 01 FAX 4682-570-8583

February 13, 2001

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

SUBJECT: Amendment to the Disposition and Development Agreement and Ground Lease With DDR Urban LP for the Queensway Bay Project (District 2)

DISCUSSION:

On April 28, 1998, the City Council authorized the City Manager to enter into a Disposition and Development Agreement (DDA) with DDR OliverMcMillan for development of approximately 494,000 square feet of dining/entertainment/retail uses on approximately 18 acres of leased land in the Queensway Bay Project. This DDA was executed on August 10, 1998.

On October 5, 1999, the City Council authorized the City Manager to execute amendments to the subject DDA and Ground Lease to provide for Mello Roos bond financing of a 2200-space parking structure, to commit the City to contribute up to \$1,169,000 per year to support its portion of the parking structure, to provide other specific financial incentives to the project, and to extend the developer's deadline for meeting all pre-disposition requirements from December 31, 1999 to March 31, 2000. The Amended and Restated Disposition and Development Agreement (Amended DDA) was executed on December 30, 1999.

Subsequently, DDR OliverMcMillan has been re-named DDR Urban LB, which is now owned by Developers Diversified Realty Corporation of Cleveland Ohio and its Chairman as the general partner and entities under the control of DDR as the limited partner.

The construction of the project did not commence on schedule, and on December 19, 2000, the City Council directed the City Manager to notify the developer that it had failed to satisfy conditions of its Amended DDA, and that these unsatisfied conditions must be corrected no later than January 25, 2001, otherwise the City Council could take formal action to terminate the Amended DDA.

On January 17, 2001, DDR responded by requesting a 15-month extension of its rights under the Amended DDA, in return for which DDR would commit to the following:

1. **Make a \$500,000 deposit to escrow, which can be either cash or a letter-of-credit. The \$500,000 deposit will be refunded to DDR upon the close of escrow on the ground lease, provided such closing takes place before the extended expiration date.**
2. **Release the City from any liability related to the DDA and DDR's development period prior to the date of this agreement.**
3. **Upon the expiration of the extended DDA term, convey all due-diligence information, which DDR has obtained on the project (including architectural and engineering plans & studies, soil and geotechnical investigations, traffic information and all permits obtained). This material (which DDR values in excess of \$5 million) would be conveyed at no cost to the City.**
4. **An application for extension of the Coastal Commission's Intent to Issue Permit has been filed.**
5. **Pursuant to the DDA, DDR will reimburse the adjacent developer for costs it may incur associated with the relocation and construction of storm drain improvements and or/construction of Seaside Way, should the proposed DDR project go forward.**
6. **Submit complete final building, signage, lighting and landscaping plans in a timely manner.**
7. **Permit the City to solicit and obtain back up offers from other interested developers during DDR's exclusive period. This is a significant concession only if there is a vehicle in place, prior to the expiration of DDR's extension, to have DDR assign its rights to a back-up developer selected by the City. The specifics of this concept are:**
 - a. **A formal assignment of DDR's development rights would occur three months prior to the expiration of DDR's extension.**
 - b. **However, this assignment would only become effective and released from escrow if/when DDR's full extension period had expired without a closing having occurred.**
 - c. **No back-up developer shall be formally designated in the first 12 months of the DDA extension period.**

This matter has been reviewed by Deputy City Attorney James McCabe.

TIMING CONSIDERATIONS

The City Council action to extend the DDA and Ground Lease for this project is being requested at the February 13, 2001 City Council meeting to ensure that the developer will proceed immediately on all requisite predevelopment activities to be completed prior to closing and construction commencement.

FISCAL IMPACT

The fiscal impact of this project, as described in the attached October 5, 1999 City Council letter remains unchanged.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Authorize the City Manager to execute amendments, as may be required, to the Disposition and Development Agreement, the Ground Lease and all other necessary documents with DDR Urban LP to provide for said 15-month extension of the deadline for meeting all predisposition requirements in return for the additional developer's commitments enumerated above.

Respectfully submitted,



**HENRY TABOADA
CITY MANAGER**

HT/VC/ka

Attachments