



CITY OF SEASIDE
OVERSIGHT BOARD

AGENDA

REGULAR MEETING
COUNCIL CHAMBER
440 Harcourt Avenue
Monday, March 9, 2015
2:30 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. **CALL TO ORDER**

Sally Reed
Vicki Nakamura
Steve Bradford
Mark McClain
Jane Parker
Chris Ricker
Ralph Rubio

Chair
Vice Chair
Board Member
Board Member
Board Member
Board Member
Board Member

2. **REVIEW OF AGENDA**

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

3. **CHAIR, VICE-CHAIR, EXECUTIVE DIRECTOR REPORTS**

4. **PUBLIC COMMENTS**

5. **BUSINESS ITEMS**

A. CONSIDERATION OF A FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH KB-BAKEWELL SEASIDE VENTURE, LLC TO DEVELOP AN INTEGRATED, MIXED-USE DEVELOPMENT ON THE SURPLUS II AND “26 ACRES” LAND SITES IN THE FORMER FORT ORD

PURPOSE: The purpose of this item is for the Oversight Board to consider approval of a First Amendment to the Exclusive Negotiating Agreement (the “ENA” or “Agreement”) with KB Bakewell Seaside Venture LLC, a California limited liability company, (the “Developer”) to plan and develop an integrated, mixed-use project on the Surplus II and "26 acres" land sites in the former Fort Ord as approved by the Successor Agency Board/City Council on March 5, 2015.

RECOMMENDATION: It is recommended the Oversight Board adopt a resolution approving the First Amendment to the ENA with KB-Bakewell Seaside Venture to extend the ENA Period for twelve (12) months from the Effective Date with one (1), ninety (90) day administrative extension by the Executive Director/City Manager, and direct staff to forward it to the State Department of Finance (the “DOF”) for consideration with a recommendation of approval.

6. BOARD MEMBER, EXECUTIVE DIRECTOR AND LEGAL COUNSEL COMMENTS & REQUESTS

7. ADJOURNMENT

Next Regularly Scheduled Meeting:
TBD
Seaside City Hall
2:30 PM

The City of Seaside is an ADA accessible facility and is committed to include the disabled in all of its services, programs and activities. Any person who requires accommodation to be able to participate in this meeting is asked to contact the office of the City Clerk at 899-6707, no fewer than two business days prior to the meeting to allow for reasonable arrangements.

The City Council Chambers is equipped with a portable microphone for anyone unable to come to the podium. Assisted listening devices are also available.

Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Meetings are also available through live streaming at: <http://cvp.telvue.com/player?id=T01629&video=52314&noplaylists=1&width=400&height=300> Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 5.A.

TO: Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Seaside

FROM: John Dunn, City Manager

BY: Lisa Brinton, Community and Economic Development Services Manager
Diana Ingersoll, Deputy City Manager Resource Management Services

DATE: March 9, 2015

SUBJECT: **CONSIDERATION OF A FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH KB-BAKEWELL SEASIDE VENTURE, LLC TO DEVELOP AN INTEGRATED, MIXED-USE DEVELOPMENT ON THE SURPLUS II AND "26 ACRES" LAND SITES IN THE FORMER FORT ORD**

PURPOSE

The purpose of this item is for the Oversight Board to consider approval of a First Amendment to the Exclusive Negotiating Agreement (the "ENA" or "Agreement") with KB Bakewell Seaside Venture LLC, a California limited liability company, (the "Developer") to plan and develop an integrated, mixed-use project on the Surplus II and "26 acres" land sites in the former Fort Ord as approved by the Successor Agency Board/City Council on March 5, 2015.

RECOMMENDATION

It is recommended the Oversight Board adopt a resolution approving the First Amendment to the ENA with KB-Bakewell Seaside Venture to extend the ENA Period for twelve (12) months from the Effective Date with one (1), ninety (90) day administrative extension by the Executive Director/City Manager, and direct staff to forward it to the State Department of Finance (the "DOF") for consideration with a recommendation of approval.

BACKGROUND

On March 12, 2014, the Successor Agency and the City Council entered into an ENA with KB Bakewell Seaside Venture for the development of an integrated mixed-use project on the Surplus II and "26 acres" land sites in the former Fort Ord. The ENA provides the development team time to finalize their concept plan, complete a market feasibility study, submit a

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development application and performance schedule, negotiate a land purchase or ground lease, and complete the California Environmental Quality Act (CEQA) process for the proposed project. A summary of the ENA terms follows.

- **Term.** The term of the ENA is for twelve (12) months from the Effective Date. Provided that the Developer is not in default, the ENA period may be extended by the mutual written agreement of Developer and the City Manager for five (5) calendar months and then for three (3) calendar months provided that the developer is not in default and CEQA has commenced.
- **Developer Deposit.** The Developer has deposited with the City the sum of Twenty Five Thousand and No/100 Dollars (\$25,000.00) to reimburse the City for costs associated with staff review of Developer submittals and the costs of consultants retained by the City in connection with the Agreement or Project. The Developer is also required to deposit an additional \$50,000.00 with the City to commence the required CEQA review of the proposed project.

The ENA Period expires on March 12, 2015. Administrative extensions by the City Manager under Section 1 of the ENA are not permitted as the CEQA process has not commenced.

Given that the Surplus II land site is owned by the Successor Agency, the First Amendment to the ENA cannot be fully executed until the Successor Agency, Oversight Board and state Department of Finance grant approval of the Agreement. For this reason, the effective date and extension dates have been left blank at this time and will be filled at the time of execution.

TERMS OF FIRST AMENDMENT

This extension is to allow the additional time needed for the Developer to submit city entitlement applications, the City to complete its compliance with CEQA and process project entitlements, and for both parties to prepare and agree to a DDA with negotiated business terms. The First Amendment extends the ENA Period and revises deliverable dates under Attachments Nos. 2 and 3.

Term: Under the First Amendment, a twelve (12) month extension of the ENA Period from the Effective Date would be granted with the provision of an administrative extension by the City Manager of ninety (90) days provided that the Developer is not then in default under the ENA, all terms of the DDA have been negotiated and agreed to by City staff, and the extension is necessary in order to complete compliance with CEQA and obtain Project and DDA approvals.

Specific Developer and Specific City Tasks: Attachments Nos. 2 and 3 of the ENA are rescinded and replaced with revised attachments including modified dates for remaining Developer and City tasks.

RECOMMENDATION/NEXT STEPS

It is recommended that the Oversight Board approve the First Amendment to the Exclusive

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Negotiation Agreement with KB-Bakewell Seaside Venture for the development of an integrated mixed-use project on the Surplus II and "26 acres" land sites in the former Fort Ord, as approved by the Successor Agency Board. If approved by the Oversight Board, the ENA would be forwarded to DOF for its consideration. The Agency/City will not execute the First Amendment to the ENA until DOF approval is received.

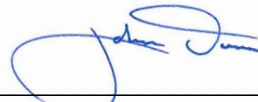
FISCAL IMPACT

There is no fiscal impact associated with this item. With the execution of the ENA in March 2014, the Developer provided a \$25,000 deposit to cover the City's costs associated with obtaining project entitlement and the negotiation of DDA. An additional deposit of \$50,000 will be deposited prior to commencing CEQA preparation. The Developer deposit account is current with no outstanding invoices.

ATTACHMENTS

1. Attachment 1: Resolution approving First Amendment to the ENA with KB Bakewell Seaside Venture
 2. Exhibit "A" First Amendment to ENA with KB Bakewell
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**Reviewed for Submission to the
City Council by:**



John Dunn, City Manager

RESOLUTION NO. 15-XX (OB)

**A RESOLUTION OF THE OVERSIGHT BOARD
OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY
OF THE CITY OF SEASIDE**

APPROVING A FIRST AMENDMENT OF THE EXCLUSIVE NEGOTIATING AGREEMENT (THE “ENA” OR “AGREEMENT”) WITH KB BAKEWELL SEASIDE VENTURE LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR DEVELOPMENT OF AN INTEGRATED MIXED-USE PROJECT THE SURPLUS II AND “26 ACRES” LAND SITES IN THE FORMER FORT ORD

Recitals

WHEREAS, on February 10, 2014, the Oversight Board adopted Resolution 2014-01 approving an Exclusive Negotiating Agreement with KB Bakewell Seaside Venture, LLC (the “Developer”) for the purchase of the Surplus II and “26 acres” land sites in the former Fort Ord by the Developer for the development of an integrated mixed-use project (“the Project”); and

WHEREAS, on March 12, 2014, upon receiving Department of Finance (the “DOF”) approval of Oversight Board Action 14-01, the Successor Agency and City Council executed the ENA with the Developer; and

WHEREAS, the ENA has been incorporated into the Successor Agency’s Long Range Property Management Plan which is under review with DOF; and

WHEREAS, the ENA provides the development team time to refine the conceptual plan, complete a market feasibility study, submit development applications and performance schedule, negotiate a land purchase, and complete the California Environmental Quality Act (the “CEQA”) process for the proposed project; and

WHEREAS, additional time is needed for the Developer to submit city entitlement applications, the City to process the required entitlements, to comply with the California Environmental Quality Act (“CEQA”) and to prepare and agree to a Disposition and Development Agreement; and

WHEREAS, the ENA Period expires on March 12, 2015, and does meet the criteria for an administrative extension by the Executive Director/City Manager; and

WHEREAS, at its March 5, 2015, meeting the Successor Agency Board/City Council approved the First Amendment to the ENA with KB-Bakewell and directed staff to forward it to the Oversight Board for consideration with a recommendation of approval; and

WHEREAS, pursuant to Health and Safety Code Section 34175(b) and the California Supreme Court’s decision in California Redevelopment Association, et al. v. Ana Matosantos, et al. (53 Cal.4th 231(2011)), on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Redevelopment Agency of the City of

Seaside (the “Agency”) transferred to the control of the Successor Agency of the Redevelopment Agency of the City of Seaside (the “Successor Agency”) by operation of law; and

WHEREAS, Health and Safety Code Section 34181(a) provides that the Oversight Board shall direct the Successor Agency to dispose of property of the former redevelopment agency, and Section 34181(e) provides that the Oversight Board may approve amendments to agreements if the amendments would be in the best interest of the taxing entities; and

WHEREAS, the Successor Agency Board/City Council does not plan to execute the First Amendment to the Exclusive Negotiating Agreement unless and until it is approved by the Oversight Board, and the California Department of Finance has approved such action by the Oversight Board or failed to respond in the time provided under California Health and Safety Code Section 34181(f).

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE HEREBY FINDS, DECLARES, AND RESOLVES AS FOLLOWS:

1. The Oversight Board hereby finds that the above recitals are true and correct.
2. The First Amendment to the Exclusive Negotiating Agreement is hereby approved.
3. The City Clerk/Agency Secretary shall certify to the adoption of this Resolution.

PASSED AND ADOPTED at a regular meeting of the Oversight Board of the Successor Agency of the Redevelopment Agency of the City of Seaside, State of California, held on the 9th day of March, 2015, by the following votes:

AYES: MEMBERS:

NOES: MEMBERS:

ABSENT: MEMBERS:

ABSTAIN: MEMBERS:

Sally Reed, Chair

ATTEST:

Lesley

Milton,

Agency

Secretary

EXHIBIT A

FIRST AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT

(Attached.)

FIRST AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT

This FIRST AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT (this "**First Amendment**") is made and entered into as of _____, 2015 (the "**Effective Date**"), by and between the CITY OF SEASIDE, a municipal corporation [as successor agency to the Redevelopment Agency of the City of Seaside] (the "**City**") with respect to Successor Agency owned parcels in the area commonly known as Surplus II and identified on the Site Map attached hereto as Attachment No. 1, and the CITY OF SEASIDE, a municipal corporation (the "**City**") with respect to parcels 031-151-054, 031-151-055, 031-151-056 and KB Bakewell Seaside Venture, a California limited liability company (the "**Developer**").

RECITALS

A. The City owns the land in the City of Seaside, California that is generally depicted on the "Site Map" attached hereto as Attachment No. 1 ("Site").

B. City and Developer entered into that certain Exclusive Negotiating Agreement dated as of March 12, 2014 (the "**ENA**") for the purchase of the Site by the Developer for the development of an integrated mixed use development (the "**Project**") on the Site.

C. The ENA provides the development team time to refine the development plans, complete a market feasibility study, submit a development application and performance schedule, negotiate two Disposition and Development Agreements (the "**DDAs**"), and complete the California Environmental Quality Act (the "**CEQA**") process for the proposed project.

D. The terms of the ENA cannot be extended administratively by the City Manager as provided under Section 1 of the ENA.

E. The ENA Period is to be extended twelve months from the Effective Date from in order for the Developer to submit city entitlement applications, for the city to complete its compliance with the California Environmental Quality Act ("**CEQA**"), to process entitlement applications, and to complete the preparation of the DDA.

F. The ENA, as amended by this First Amendment, shall hereinafter be referred to herein as the "**Agreement**".

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth below and in furtherance of the understanding and intent of City and Developer, the Parties hereto agree as follows:

1. The capitalized terms not otherwise defined herein shall have the meanings given in the ENA.

2. The ENA Period is hereby extended for twelve (12) months from the Effective Date and may be subject to further administrative extension by the City Manager for ninety (90)

days provided that the Developer is not then in default under the ENA as amended, all terms of the DDAs have been negotiated and agreed to by City staff and the Developer, and the extension is necessary in order to complete compliance with CEQA and to obtain approval of project entitlements and the DDAs by the City Council.

3. Attachments Nos. 2 and 3 of the ENA are rescinded and replaced with the revised Specific Developer Tasks and Specific City Tasks attached to this Agreement.

4. Except as expressly modified by the terms of this First Amendment, the terms and conditions of the Agreement shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms of this First Amendment and the terms of the Original Agreement, the terms of this First Amendment shall control.

5. This First Amendment may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

6. Time is of the essence for each and every provision hereof in which time is a factor.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed as of the day and year first above written.

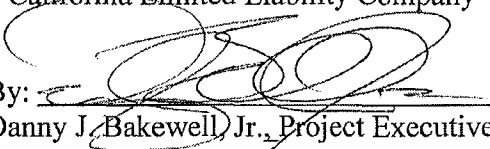
CITY:

CITY OF SEASIDE,
a municipal corporation

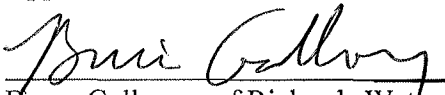
By: _____
John Dunn, City Manager

DEVELOPER:

KB-BAKEWELL SEASIDE VENTURES,
a California Limited Liability Company

By: 
Danny J. Bakewell, Jr., Project Executive

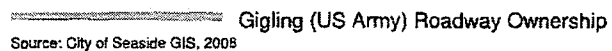
Approved as to Form:


Bruce Galloway of Richards Watson Gershon
Counsel to City

ATTACHMENT NO. 1

SITE MAP

(Attached)

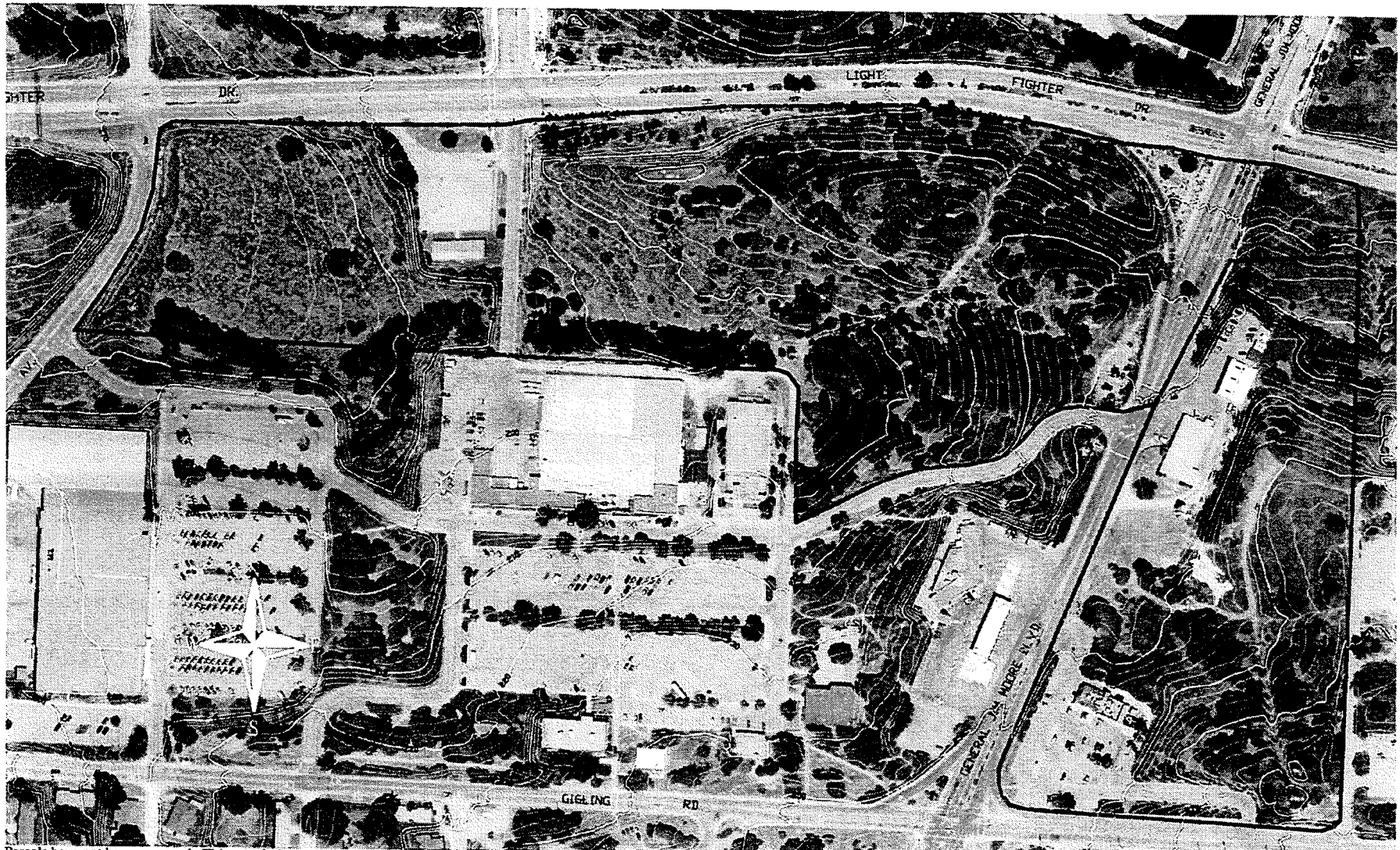


Source: City of Seaside GIS, 2008

Malmedy (CSUMB) Roadway Ownership

Surplus II Boundary

T:\GIS_maps\Public Works\FormerFortOrd\Surplus\11.8.15.13.mxd



Parcels have not been surveyed. This map is for general planning purposes only. The City of Seaside makes no warranty, representation or guarantee as to the content, sequence, accuracy, timeliness or completeness of any of the spatial location depicted.

ATTACHMENT NO. 2

SPECIFIC DEVELOPER TASKS

1. Within two (2) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer shall deliver the following items for City staff review and approval:

- i. Preliminary site plan and revised architectural concept drawings identifying the location, general configuration traffic circulation, and proposed design characteristics of the Project.
- ii. Conceptual development program ("Development Program") for the Project that include a breakdown of the proposed scope of development including a range of building square feet by land use and acreage by land use, improvements, approximate number and mix of any residential units, any affordable housing units by level of affordability, proposed public parks/amenities, circulation acreage, and other general uses.
- iii. Detailed market analysis for the Project demonstrating the marketability of the proposed conceptual development program. If appropriate, the findings of the market study may be used to modify and refine the development concept.

2. Within three (3) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer and City staff shall determine the likely type and schedule for obtaining entitlements necessary for construction of the Project including, but not limited to, discretionary permits.

3. Within four (4) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer shall deliver to City for City staff review and approval, a preliminary financing plan for the proposed Project.

4. Within four (4) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer shall submit to City a schedule of development setting forth the proposed timetable for the commencement, substantial completion and final completion of the Project (the "Development Schedule").

5. Within four (4) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer shall deliver to City for City staff review and approval, an organizational chart of the Developer that corresponds to the proposed Development Program.

6. Within four (4) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer shall deliver to the City a fully completed and executed development application including all items identified on the City of Seaside Development Application Submittal Checklist.

7. Developer shall use good faith efforts to negotiate the key business terms and conditions to be incorporated into the DDAs. Developer shall promptly provide comments to the City on the initial draft of the DDAs and subsequent drafts submitted by City.

8. Within six (6) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer shall obtain and review a preliminary report for the Site from a title company selected by Developer and copies of the documents listed as title exceptions therein and shall deliver copies of the reports and documents to City together with a written description of any objections Developer may have to any of the title exceptions (and the rationale for the objections), it being understood that Developer shall have the right under the Agreement to perform/obtain an ALTA survey at Developer's cost and reasonably object to items (and locations of title exceptions) disclosed by such survey.

Prior to execution of the Agreement, the Developer shall submit to the City for its review and approval all organizational documents for the entities signing the documents (and, to the extent requested by City, information, certifications and/or documents relating to the ownership, control and signing authority of the direct and indirect owners, members or partners of each such entity).

ATTACHMENT NO. 3

SPECIFIC AGENCY/CITY TASKS

1. Within fifteen (15) days of the latter of the City and Developer agreeing on a purchase price or the Effective Date, City shall provide to Developer copies of all currently existing plans, studies and other written information regarding the Site in the possession of the City, to the extent not previously delivered to Developer and to the extent material to the Project. Thereafter, the City shall promptly provide to Developer within ten (10) days after receipt thereof copies of all plans, studies and other written information material to the Project which are received by the City.

2. As soon as they are available, the City shall provide the Developer with copies of contracts entered into between the City and its consultants for the Project. Developer shall have the right to review and provide input to any and all consultant contracts procured on its behalf prior to execution by the City.

3. Within three (3) months of the latter of the City and Developer agreeing on a purchase price or the Effective Date, Developer and City staff shall determine the likely type and schedule for obtaining entitlements necessary for construction of the Project including, but not limited to, the Discretionary Permits.

4. City shall use good faith efforts to diligently prepare and process the required CEQA Documents. City agrees to submit a CEQA status report to the Developer monthly during the term of this ENA or as mutually determined by the Parties.

5. City and City staff will review the Developer's development application and other submissions in a timely manner.

6. City shall use good faith efforts to negotiate the key business terms and conditions to be incorporated into the DDAs. City shall provide an initial draft of the Agreement to Developer and shall thereafter revise the draft DDAs to the extent reasonably permitted by the Agreement negotiations.

7. No consents, approvals or comments by City staff or City staff shall diminish, affect or waive either: (i) rights of the City to later impose conditions and requirements under CEQA; (ii) the rights of the City not to approve the Agreement; (iii) the City's governmental rights, powers and obligations.