A G E N D A
CITY OF SEASIDE
CITY COUNCIL

SPECIAL MEETING
Council Chamber
440 Harcourt Avenue
Thursday, December 5, 2019
6:00 PM

1. **CALL TO ORDER**

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

Ian N. Oglesby	Mayor
David R. Pacheco	Mayor Pro Tem
Jason Campbell	Council Member
Jon Wizard	Council Member
Alissa Kispersky	Council Member

3. **PUBLIC COMMENT**
Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

4. **CLOSED SESSION**

A. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8: REAL PROPERTY NEGOTIATIONS**

1466 Yosemite St, Seaside, CA 93955 Negotiator For The City: Craig Malin, City Manager. Other Negotiator for the Developer: Terrex Development Corp. Under Negotiation: Instructions To Negotiator Will Concern Price, Terms Of Payment Or Both

5. **BUSINESS ITEMS**

A. DEL MONTE MANOR BRIDGE LOAN REQUEST FOR REPAYMENT AND RELEASE/EXTINGUISH CITY REGULATORY AGREEMENT PRIOR TO CLOSE OF ESCROW

RECOMMENDATION: Consider the December 3, 2019 Del Monte Manor Request to extinguish the City's Regulatory Deed Restriction of rents at least one day prior to close of escrow and the recordation of the California Debt Limit Allocation Committee (CDLAC) Regulatory Deed Restrictions.

6. ADJOURNMENT

Next Regularly Scheduled Meeting:
December 5, 2019
7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings. City Council 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. Live streamed meeting videos as well as videos of past meetings are available on the City's website at: http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas

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: City Council

BY: Sheri Damon, Assistant City Attorney

DATE: December 5, 2019

SUBJECT: **DEL MONTE MANOR BRIDGE LOAN REQUEST FOR REPAYMENT AND RELEASE/EXTINGUISH CITY REGULATORY AGREEMENT PRIOR TO CLOSE OF ESCROW**

PURPOSE & RECOMMENDATION

Consider the December 3, 2019 Del Monte Manor Request to extinguish the City's Regulatory Deed Restriction of rents at least one day prior to close of escrow and the recordation of the California Debt Limit Allocation Committee (CDLAC) Regulatory Deed Restrictions.

BACKGROUND

At its meeting of June 18, 2019, the City Council approved a request by Del Monte Manor for an $800,000 bridge loan to assist in the refurbishment and maintenance of affordable housing at Del Monte Manor. The Del Monte Manor has 192 units 98 of which are subject to a Section 8 HUD deed restriction. At its meeting of August 15, 2019, the Council approved that the City's Regulatory Restrictions could be replaced by the California Debt Limit Allocation Committee (CDLAC) Regulatory deed restriction upon payoff of the City's bridge loan. The CDLAC deed restrictions will be subordinate to the primary lender. The overall goal of the City in approving the bridge loan was to assist DMM in obtaining the financing in order to complete the rehabilitation of the 192 Del Monte Manor units while preserving their affordability.

One of the investors has noted a discrepancy between the use of the appraisal of the property prior to the imposition of the City's Regulatory Agreement and the potential availability of tax credits which are an overall part of the DMM financing program. In order to maximize the availability of tax credits and keep the project on track, DMM is requesting that the City release/extinguish its Regulatory Restrictions a minimum of one day prior to the close of escrow, so as not to delay the project and to maximize the availability of tax credits. Upon close of escrow, the CDLAC Restrictions will still be recorded against the property.

FISCAL IMPACT

None associated with this action.

ATTACHMENTS

1. Del Monte Manor Payoff - City of Seaside 2019.12.03

Reviewed for Submission to the
City Council by:

Craig Malin, City Manager

TERREX DEVELOPMENT CORP.
1043 STUART STREET, SUITE 220, LAFAYETTE, CA 94549
TEL: 925.284.6474 TDD: 711.925.284.6464

December 3, 2019

Re: City of Seaside Loan Payoff

Dear Mayor Oglesby and Council Members:

We are preparing for the Del Monte Manor closing on December 20, 2019, and the commencement of its $30,000,000 rehabilitation in early January! Our lender and tax credit equity investors are preparing their final documents, so please prepare your payoff demand so we can satisfy the City's loan and remit the accrued interest.

As we committed, the City's Regulatory Agreement will be replaced by one in favor of CDLAC/CMFA at closing. In preparing the documents, a tax credit equity funding condition arose today for which we need to request the City's assistance to satisfy. Specifically, to meet the conditions for the calculation of our tax credits, one of the tax credit investors has requested that the City remove its Regulatory Agreement one day before closing.

Their reasoning is that the purchase price of the property, which equals the appraised value, was based on the unregulated status of 94 of the units when the purchase agreement was signed on 8/12/19. Currently projected LIHTC acquisition credits are based on this value. The investor is concerned that because the regulatory agreement now restricts the rents on the 94 units, the appraisal would be inconsistent with the status of the units if the regulatory agreement were to be in effect on the day of closing. Their worry is that the IRS could later disallow the acquisition credits on the difference in value caused by the rent restrictions if they are in place when we close.

Subsequent regulatory agreements, such as that which will be recorded for CDLAC and CTCAC would not affect the credits. So, there is no issue with the CDLAC Regulatory Agreement being recorded the next day as a condition of the closing.

An additional complication if the City's Regulatory Agreement is not released the day before closing is that the property would have to be reappraised, which would take 4 – 6 weeks. The result would be that the project would not have the funds to pay off the City's loan on-time. This would also delay the commencement of construction, which has been many months in planning. Assuming that all contractor, sub-contractor and tenant relocation schedules could be pushed-back, this would still mean that numerous tradespersons would be without pay or possibly have to find other employment during the delay.

The other consequence is that the appraised value would fall, causing a loss of an estimated $1,200,000 in tax credit equity. To mitigate the impacts of the rent increases to some of the families at Del Monte Manor, (of which topic I know you are very familiar) we have already reallocated $850,000 of our budget toward tenant rent graduations and relocation assistance for over income families. This has served to satisfy most of the residents and quiet the complaints.

We managed to fund the tenant assistance without having to scale-back the improvements plan, but the construction scope would need to be reduced to absorb a $1,200,000 loss of funding at this stage. As most of the renovation money is allocated to essential repairs such as roofs, sewer lines and accessibility improvements, cuts would need to be made to elective work such as the solar PV systems, basketball court and community room remodel.

We apologize for this unwelcome surprise, as it is out of left field for us as well. It came to us so late because there are several layers of underwriting on these transactions, and it was a final layer attorney with one of the major upper tier investors who brought this up today.

As I imagine that you are all experienced with real estate purchase transactions and understand that by the time one gets to the day before closing, all essential elements are in place, and the odds of anything causing the transaction to derail are very small. The typical peril in any transaction is that the buyer or the seller gets cold feet. In this case, the buyer is the seller, and they're in for over $600,000 of non-refundable costs, so that's not a likely factor in this case.

Confirmation of all conditions necessary for closing will be verifiable by the City via the escrow officer before the regulatory agreement would be removed, so there is essentially no risk that the City's objectives would not be met.

We respectfully request your assistance and trust by allowing the 94 units to be unregulated for one day – we of course plan no change in our actions with regard to operating and preserving Del Monte Manor as affordable housing for low-income families in Seaside for many years to come.

Please feel free to contact me if you have any questions.

Thank you for your consideration.

Sincerely,

Matt Locati
President

Cc. Craig Malin, City Manager – cmalin@ci.seaside.ca.us
Sheri Damon, Asst.City Attorney - SDamon@ci.seaside.ca.us
Kimberly Drabner, City Finance Director - kdrabner@ci.seaside.ca.us