



## Legislation Details (With Text)

<b>File #:</b>	22-705	<b>Version:</b>	1	<b>Name:</b>	Shoreline Third Amendment to DDA and PSA
<b>Type:</b>	Staff Report	<b>Status:</b>	Filed	<b>In control:</b>	City Council
<b>On agenda:</b>	12/19/2022	<b>Final action:</b>	12/19/2022	<b>Enactment #:</b>	2022-225
<b>Enactment date:</b>					
<b>Title:</b>	Adopt a Resolution to Approve and Authorize the City Manager to Execute the Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement; and Approve and Authorize the City Manager to Execute a Promissory Note and Deed of Trust with Cal Coast Companies LLC, Inc. and Making Findings Related Thereto for the Shoreline Development Project				
<b>Sponsors:</b>	Tom Liao				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Att A - Reso 3rd Amendment to Shoreline DDA_PSA KB, 2. Att B - 3rd Amendment to Shoreline DDA_PSA, 3. Ex A - Shoreline Siungle Family Promissory Note, 4. Ex B - Shoreline Single Family Deed of Trust, 5. Ex J - Revised DDA Schedule of Performance - December 2022, 6. Att C - Shoreline Development Summary Presentation, 7. Att D - Public Private Partnership Summary				

Date	Ver.	Action By	Action	Result
12/19/2022	1	City Council	Approved	Pass

Adopt a Resolution to Approve and Authorize the City Manager to Execute the Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement; and Approve and Authorize the City Manager to Execute a Promissory Note and Deed of Trust with Cal Coast Companies LLC, Inc. and Making Findings Related Thereto for the Shoreline Development Project

### COUNCIL PRIORITY

- Housing and Homelessness
- Community & Business Development

### SUMMARY

A Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement, and execution of a Promissory Note and Deed of Trust are recommended for the Shoreline Development Project (Project), which will address market and regulatory challenges and facilitate the successful sale and development of the San Leandro Shoreline Project, which will bring much needed housing, hotel and retail amenities, strengthen the City's economic base by providing revenues for City services, and bring a new community park and other public infrastructure improvements.

### RECOMMENDATIONS

Staff recommends that the City Council approve and authorize the City Manager to execute the Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement, and execute a Promissory Note and Deed of Trust with Cal Coast Companies LLC, Inc. for the Shoreline Development Project.

### BACKGROUND

The Shoreline Development is a public-private partnership between the City of San Leandro (City) and Cal Coast Companies LLC, Inc. (Developer) to fulfill the community's vision for a self-sustaining, high-quality, mixed-use development complemented by recreational amenities at the San Leandro Monarch Bay Shoreline Area bounded by Marina Blvd to the north, the San Francisco Bay to the west, and Fairway Drive to the south.

The Project elements include a new 210-room hotel, restaurant/banquet facility, market/retail space, 285-apartments, 144 detached single-family homes, 62 townhomes and related site improvements. Public improvements include demolition within the harbor basin, construction of a new community park, reconstruction of the Mulford-Marina branch library, redesigned 9-hole golf course, reconstruction of Monarch Bay, Mulford Point and Pescador Point Drives, and related site improvements including raising the site to mitigate against sea level rise. Attachment C provides an overview of the approved development and Attachment D provides additional background on the long-standing public-private partnership between the City and the Developer.

After more than a decade of community outreach and planning for the future of the Shoreline area, the City Council approved General Plan and Zoning Map Amendments and entered into a Disposition and Development Agreement (DDA) with the Developer for the Shoreline Development on February 24, 2020. The DDA, and its associated agreements, including a Purchase and Sale Agreement (PSA) and Ground Leases, outline key business terms, including the scope of development, schedule of performance, and Developer and City responsibilities.

The PSA approves the sale of approximately 15.8 acres of land along the western portion of the existing 9-hole Marina Golf Course for the construction of 144 single family and 62 townhome housing units (Single Family Element). The sale price of approximately \$29.88 million is based on an appraisal and the approved number of single-family homes and townhouse lots. As a condition of sale, the Developer must redesign and reconstruct the 9-hole golf course, to be completed prior to the sale of the 133<sup>rd</sup> home in the Single-Family Element. They must also perform associated public improvements and sea level rise mitigation and reconstruct Monarch Bay Drive with a Class I bicycle lane.

On June 21, 2022, the City Council approved planning entitlements, a Second Amendment to the DDA and PSA as well as a Development Agreement for the Project. Planning entitlements included an Addendum to the San Leandro Shoreline Development Project EIR, and Planned Development Project and Site Plan Review for the private elements of the Project.

The Development Agreement (DA) provides additional details related to the City and Developer's obligations, particularly related to construction and implementation of the Project. The DA also details the scope, phasing and procedures for the Developer's installation of public improvements, with the requirement that overall site preparation be performed during the first phase of the Project. The DA also addresses the implementation of key sustainability measures including sea level rise mitigation, Transportation Demand Management planning, and development of a Community Facilities District. Finally, the DA provides for cooperation moving forward, including coordination of construction of the park and other public elements and timely processing of future permits.

The Second Amendment to the DDA and PSA provided further detail on the Project phasing and schedule to ensure that site preparation, public improvements, and the development overall are performed in a continuous and coordinated manner. Changes were also made relating to the timing of certain requirements, the schedule of performance, and interim arrangements for existing leases and agreements on site in order to facilitate a timely sale and leasing of the properties.

## **Analysis**

In order to facilitate the successful sale and development of the Shoreline Development Project, adjustments

to the Disposition and Development Agreement and Purchase and Sale Agreement are recommended at this time. To comply with the California Surplus Lands Act, the close of escrow for the sale of the Single-Family element and commencement of each of the Ground Leases are planned to occur prior to December 31, 2022.

Following approval of the planning entitlements, the DA and DDA and PSA Amendments in June of 2022, the Developer began to prepare to purchase and enter into ground leases for the Project. They began the process to obtain financing for the purchase of the Single Family property, hiring financial brokers and entering into term negotiations with multiple institutional lenders for an 'acquisition and development' loan, which would fund the purchase of the property and site preparation throughout the Project.

However, with interest and inflation rates rising markedly and an uncertain economic outlook, lenders have become more cautious and limited in their lending activity, opting to 'sit on the sidelines' for the remainder of 2022. The Developer then began working with private lenders for an acquisition loan; however, it quickly became apparent that they would not be able to meet all of the lender's conditions prior to the required closing date of December 31, 2022.

Based on these challenges, the Developer proposed a closing arrangement by which the Developer would make a down payment on the property and the City would provide the developer a 'takeback' loan to serve as 'bridge' or seller financing for the remaining purchase price until the market stabilizes and the Developer is able to secure long term financing.

The City's staff and legal team consulted with industry experts and advisors to review the proposal, including Debbie Kern with the real estate advisory firm of Keyser Marston and James Fabian with the City's Financial Advisor, Fieldman Rolapp and Associates. These experts noted that they are seeing developers experience similar challenges in the regional market and provided feedback on proposed terms.

Based on their feedback and further research, a counter proposal was provided, and the following proposed takeback loan terms are proposed at this time:

- Down payment by Cal Coast - \$5 million - nonrefundable and available to the City upon Close of Escrow
- Takeback Loan by City - \$24.88 million - with no cash disbursements required of City
  - Term - initial term of 6 months, with option for six 3-month extensions (up to 2 years)
  - Interest - market rate interest at the current prime rate, beginning at 7.5% adjustable at each extension, (initial payment of \$933,111 at 6 months)
- Developer payment obligations are established through a Promissory Note and secured through a Deed of Trust

Following evaluation and consultation, staff finds the above terms to be appropriate for the Project and market. The market rate interest will generate additional revenue for the City beyond what would normally be generated on public investments, does not provide any economic subsidy to the Developer, and will motivate the Developer to obtain long-term financing. The Promissory Note and Deed of Trust will provide the City appropriate collateral and security to ensure rights to take back the property if the loan is not paid.

The proposed term length is based on discussions with the above industry experts, who noted that the amount of time for the market to stabilize and lenders and developers to be ready to invest and begin projects is unknown, with the potential for market stabilization to not come until the end of 2023 or into 2024. Based on this and the advice of the Developer's lending broker, it is recommended that the option for term extensions through the end of 2024 be included in the agreement. A total term length of two years, with an initial term length of 6 months, and the option to take up to six 3-month extensions, is recommended at this time. The Developer would be required to make interest payments at the end of each term, with interest set by the prime rate at the date of each option extension. In this way, the Developer will be required to make an investment

with each term extension they take.

If the loan is not issued, or if the loan is not repaid and the property returned to the City, and the property is not sold prior to December 31, 2022, the sale of the Single Family property to the Developer and the Ground Leases would not close this year, and the property would need to be offered through the Surplus Lands Act process. This is a lengthy and formal process defined by statute, which requires that cities offer surplus property to specified development groups, including affordable housing developers, to result in a minimum of 15% - 25% affordable housing. This is not preferred or recommended because the City would have less control during the process, the value of the property would likely diminish, and the length of time before housing is built at the site would likely increase.

Several additional changes are also proposed to the timing of requirements in the DDA and PSA in order to reflect the normal timing of such steps in the development process and facilitate the timely closing of the sale and leases. Similar to the Second Amendment to the DDA and PSA, several conditions precedent to the sale and leases are amended to be 'Post Closing Requirements', including a final financing plan and insurance. Following the Developer's discussions with labor representatives, further language is provided related to the Project Labor Agreement requirement. Per their agreement, the Developer will enter into a Labor Relations Development Agreement at this time, with their General Contractors entering into agreed-upon Project Labor Agreements prior to each phase of the Project. These changes are reflected in an Amended Schedule of Performance.

Staff finds that the proposed arrangement provides a clear and more certain path towards closing of the sale of the Single-Family property prior to the December 31<sup>st</sup> deadline and allows the project the best opportunity to continue and succeed, and as such staff recommends approval of the Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement.

Staff finds that the continuance of the Shoreline Development Project and sale of the Single-Family property under the proposed terms will provide various benefits to the community including:

- Facilitate the development of high-quality housing units that will satisfy a portion of City's share of the regional housing needs.
- Provide revenues necessary for the City to remove outdated materials and infrastructure in the Shoreline area, the marina, and the associated parking area.
- Create a new park element in order to remove blight and provide recreational opportunities for City residents.
- Provide for the upgrading and reconstruction of Monarch Bay Road and a variety of other roads, trails, and other infrastructure projects in the Shoreline-Marina area of the City.
- Strengthen the City's economic base with a variety of long-term jobs, in addition to construction jobs.
- Provide for and generate substantial revenues for the City in the form of tax revenues, sales proceeds, fees, exactions and other fiscal benefits.

### **Previous Actions**

The City has taken a number of actions over the years to further the development, including:

- Resolution No. 2015-125 - Shoreline EIR Certification
- Resolution No. 2015-126 - Shoreline General Plan Amendment
- Ordinance No. 2015-008 - Shoreline Zoning Map Amendment
- Resolution No. 2020-019 - Shoreline General Plan Amendment and EIR Addendum
- Ordinance No. 2020-001 - Shoreline Zoning Map Amendment

- Resolution No. 2020-020 - Shoreline Disposition & Development Agreement
- Resolution No. 2022-085 - Shoreline EIR Addendum, Planned Development Project and Site Plan Review Approval (Planning Entitlements)
- Resolution No. 2022-086 - Shoreline Second Amendment to Disposition and Development Agreement
- Ordinance 2022-010 - Shoreline Development Agreement
- Resolution No. 2022-083 - Shoreline West Side Vesting Tentative Tract Map
- Resolution No. 2022-147 - Shoreline East Side Parcel Map
- Resolutions Nos. 2022-148, -149, -150, -160, and Ordinance 2022-012 - Formation of Shoreline Community Facilities District

### **Applicable General Plan Policies**

The Project is consistent with the General Plan's goals, policies and objectives. The pertinent General Plan goals, policies, and actions that apply to the Shoreline Development project include:

- **Goal LU-9.** Reinforce the San Leandro Shoreline as a regional destination for dining, lodging, entertainment, and recreation, while creating a new waterfront neighborhood with housing, retail, and office uses.
- **Policy LU-9.1 Waterfront Enhancement.** Enhance the San Leandro waterfront as a distinguished recreational shoreline and conservation area, with complementary activities that boost its appeal as a destination for San Leandro residents and visitors. Future development at the Shoreline should be compatible with the area's scenic and recreational qualities.
- **Policy LU-9.3. Public Amenities in Shoreline Development.** Ensure that future development at the Shoreline includes complementary amenities that benefit San Leandro residents and current shoreline users, such as improved park space, restaurants, pedestrian and bicycle paths, and access to the Bay Trail.
- **Policy LU-9.4. Land Use Mix.** Strive for a mix of land uses in the San Leandro Shoreline area that requires little or no City investment and results in a Shoreline that is financially self-supporting. Development should be phased in a manner that is consistent with this policy, and should maximize the extent to which commercial development funds public amenities and services.

### **Environmental Review**

Staff has reviewed the proposed Project and analyzed it based upon Section 15162 of the CEQA Guidelines. The scope of proposed development is not proposed to change at this time and approval of the proposed amendment is not subject to environmental review at this time.

### **Legal Analysis**

The City Attorney drafted the Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement, and Promissory Note and Deed of Trust in compliance with all generally and specifically applicable laws and regulations.

### **Financial Impacts**

The proposed amendment does not alter the sales price or lease rental rate for the Project. However, the proposed takeback loan will defer the receipt of sales proceeds for the Single-Family parcel. In order to carry out the City's responsibilities under the DDA, such proceeds are intended for the construction of the Shoreline park. While planning for the park may continue at this time and funds for the park are not needed immediately, delay and uncertainty in the timing of the full payment may impact future timing of the park construction. If the sale is completed by December 31, 2022, and the loan executed, the \$5 million down payment for the loan, as well as the interest, estimated at approximately \$1.86 million over a year at 7.5%, will be available for the City's use.

Upon completion, the Shoreline Development will have numerous positive fiscal impacts, with approximately \$350 million in private investment, \$29 million for the land sale, \$1.4 million in annual leases, \$2.2 million towards the affordable housing trust fund, \$900,000 in annual Hotel Transit Occupancy Tax per year, over \$300,000 in expected building permit fees, payment of applicable development impact fees, and increased annual property tax revenues.

## ATTACHMENTS

- **Attachment A:** Resolution to Approve and Authorize the City Manager to Execute the Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement and a Promissory Note and Deed of Trust with Cal Coast Companies LLC, Inc. and Making Findings Related Thereto for the Shoreline Development Project.
- **Attachment B:** Third Amendment to the Purchase and Sale Agreement and Disposition and Development Agreement for Shoreline Development Project
  - Ex A: Shoreline Single Family Promissory Note
  - Ex B: Shoreline Single Family Deed of Trust
  - Ex J: Shoreline Schedule of Performance (as amended)
- **Attachment C:** Shoreline Development Summary Presentation
- **Attachment D:** Shoreline Public Private Partnership Background

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