Meeting Date: 6/21/2011

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	✓ Report
☐ Res. No(s). _____	☐ Public Hearing
☐ Other _____	☐ Other

Prepared By: Kymberly Horner / Larry S. White Agenda Item No. O-1

Reviewed By: City Manager City Attorney Finance Other *(Specify)*

DATE: June 21, 2011

TO: City Council

Oxnard Housing Authority Board of Commissioners

FROM: William E. Wilkins, Housing Director
Curtis P. Cannon, Community Development Director

SUBJECT: **Affordable Housing Loan Agreements in the Total Sum of $7 Million and Amendment of Predevelopment Agreement Regarding the Las Villas de Paseo Nuevo Project Located in the Cypress Neighborhood Southwest of the Intersection of Cypress Road and Pleasant Valley Road, Ventura County Assessor Parcel Nos. 222-0-070-110, 155, 185 and 190.**

RECOMMENDATION

That the City Council:

1. Approve and Authorize the Mayor to execute an Affordable Housing Loan Agreement (Agreement No. 7407) with Paseo Nuevo Partners, L.P., in the amount of $5,000,000 from the City's Low and Moderate Income Housing Fund ("LMIHF") for the development of Las Villas de Paseo Nuevo, with such non-substantive changes as may be approved by the City Attorney, and direct the Community Development Director (or designee) to execute a Local Financing Commitment Letter, evidencing the City's approval for benefit of obtaining tax credits, in a form acceptable to the City Attorney.

2. Approve and Authorize the Mayor to execute an Affordable Housing Loan Agreement with Paseo Nuevo Partners, L.P., in the amount of $2,000,000 from the City's Affordable Housing In-Lieu Fees ("AHILF") for the development of Las Villas de Paseo Nuevo, with such non-substantive changes as may be approved by the City Attorney, and direct the Housing Director (or designee) to execute a Local Financing Commitment Letter, evidencing the City's approval for benefit of obtaining tax credits, in a form acceptable to the City Attorney.

3. Authorize the City Manager, Community Development Director and Housing Director (or designee), with approval from the City Attorney on behalf of the City, to prepare, revise and sign all documents necessary and appropriate to carry out and implement the Las Villas de Paseo Nuevo Loan Agreements, and to administer the City's obligations, responsibilities and duties pursuant to those documents.

4. Authorize the Chief Financial Officer to establish necessary accounts and budgets in accordance with these recommendations.

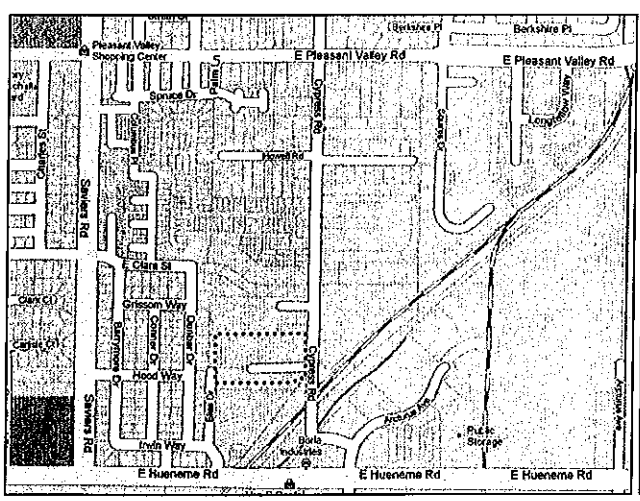
That the Oxnard Housing Authority Board of Commissioners:

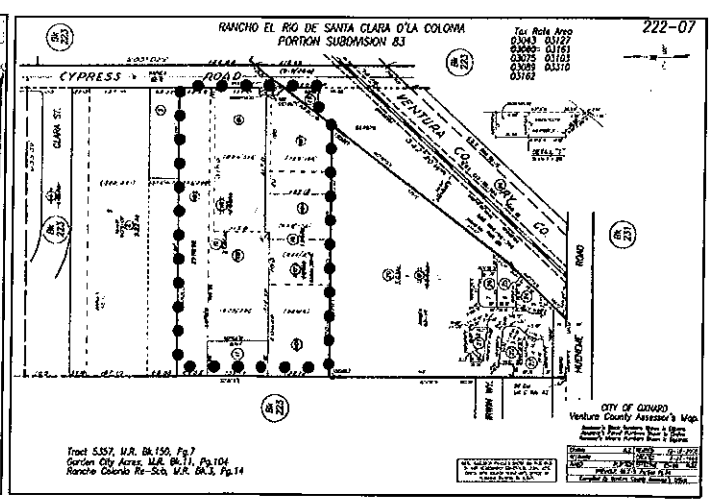
1. Approve and authorize the Chairman to execute a First Amendment to Predevelopment Agreement with Pat McCarthy Construction and Ramona Properties, assigning the purchase option to Paseo Nuevo Partners, L.P. in place of the Housing Authority and reducing the option period to exercise the option to purchase the property from 90 to 35 days, with such non-substantive changes as may be approved by Housing Authority General Counsel.

2. Authorize the Chairman and Housing Director (or designee), with approval from the Housing Authority General Counsel, to prepare, revise and sign all documents necessary and appropriate to carry out and implement the Las Villas de Paseo Nuevo Purchase Agreements, and to administer the Commission's obligations, responsibilities and duties pursuant to those documents.

DISCUSSION

Project Summary: Paseo Nuevo involves the redevelopment of 4.93 acres of land located in the Cypress Neighborhood southwest of the intersection of Cypress Road and Pleasant Valley Road. The scope of redevelopment entails the removal of 22 residential dwellings and subsequent development of seventy-two (72) affordable apartment units (including one manager's unit) for persons or families of very low, low and moderate income. The project is structured as a joint venture public-private partnership involving the Oxnard Housing Authority, Las Cortes (the City's non-profit affordable housing development entity) and The McCarthy Companies. These parties will serve as general partners in the newly constituted Paseo Nuevo Partners, L.P., expressly formed for this project.





Past Involvement: Last November, the City Council and Board of Commissioners approved a Predevelopment Agreement along with $600,000 in AHILF monies to facilitate initial planning. This action enabled McCarthy Companies to more fully develop plans for the site including design-development documents, relocation assistance, community partnerships and related predevelopment activities. Among the actions now requested is to amend the Predevelopment Agreement to solidify Paseo Nuevo Partners, L.P., as the development entity to undertake the project and accelerate the performance schedule. A companion request is to supplement the $600,000 predevelopment assistance with an additional $1.4 million in AHILF monies, increasing the total AHLIF allocation to $2 million.

Land Use and Entitlements: The proposed project requires a zone change from R-1 Single Family to R-2-PD Multiple Family Residential, a Planned Development permit to construct 12 two-story structures with a total of 72 affordable apartment units and on-site amenities, a density bonus for 13 dwelling units in addition to the 59 units allowed by City Code. The density bonus also includes a request for three concessions (side yard setback, rear yard setback, and dimensions of balconies) and to waive the requirement for parking garages. These matters were approved by the Planning Commission on April 21, 2011, and are scheduled for City Council consideration as a separate agenda item on the evening of May 17th, 2011.

Project Structure: The 4.93-acre Paseo Nuevo site is presently owned by Ramona Property Partners, Inc., (Pat McCarthy Construction, Inc. and Martin Marietta Family Trust, as equal owners) which acquired the property approximately five years ago at a cost of $3.75 million. Today, the property is valued at $4.075 million as determined by appraisal dated October 16, 2010, by Abergel & Associates, Inc. Subject to approval of requisite financing, it is proposed that the property be conveyed to Paseo Nuevo Partners, L.P., at purchase price of $4 million and thereafter developed by Paseo Nuevo Partners, L.P., with The McCarthy Companies as general contractor. At the conclusion of the 15-year low income tax credit compliance period, the Oxnard Housing Authority has (and is expected to exercise) an option to acquire the project.

SOURCE OF FUNDS				
Construction Phase			**Permanent Phase**	
Tax Exempt Bonds	12,390,203		Tax Exempt Bonds	7,200,000
Tax Credit Financing	1,522,669		Tax Credit Financing	7,613,347
Solar Tax Credit Equity	-		Solar Tax Credit Equity	211,200
Oxnard LMIHF	5,000,000		Oxnard LMIHF	5,000,000
Oxnard LMIHF Accrued Interest	230,557		Oxnard LMIHF Accrued Interest	230,557
Oxnard AHILF	2,000,000		Oxnard AHILF	2,000,000
Oxnard AHILF Accrued Interest	92,222		Oxnard AHILF Accrued Interest	92,222
Seller Carryback Note	2,000,000		Seller Carryback Note	2,000,000
Seller Carryback Note Interest	92,222		Seller Carryback Note Interest	92,222
Deferred Impact Fee *	600,000		Deferred Impact Fee*	600,000
Solar Rebates (NSHP)	450,000		Solar Rebates (NSHP)	450,000
Deferred Developer Fee	2,023,568		Deferred Developer Fee	911,893
Total	$26,401,441		**Total**	$26,401,441
*Subject to future approval of the City Council (not part of this agenda item).				

Source and Use of Funds: As depicted in the table below, the Paseo Nuevo project entails layered financing from a number of sources. Most notably, monies from the Low and Moderate Income Housing Fund ("LMIHF") amount to roughly 19% of total financing, while the Affordable Housing In-Lieu Fees ("AHILF") represent approximately 7.6%. Together, there sums are roughly the difference between total costs and the typical 75% loan-to-value threshold ("LTV") imposed by commercial lenders. This generally conforms to the threshold test used by Community Development staff in assessing reasonableness of requested funding (i.e., gap financing). The slight difference between the 25% LTV threshold and the actual 26.6% funding request takes into account extraordinary costs of site preparation and tenant relocation. The balance of project costs, including developer/contractor fees, conforms to State thresholds governing the tax credit program.

USE OF FUNDS				
Construction Phase			**Permanent Phase**	
Land costs	4,000,000		Land costs	4,000,000
Lost rents, demolition, closing costs	275,000		Lost rents, demolition, closing costs	275,000
New construction	11,973,738		New construction	11,973,738
Construction contingency	470,691		Construction contingency	470,691
Solar installation	880,000		Solar installation	880,000
Financing costs	1,492,067		Financing costs	1,492,067
Architectural & Engineering	480,883		Architectural & Engineering	480,883
Permits/Impact Fees *	2,500,000		Permits/Impact Fees*	2,500,000
Relocation costs	550,000		Relocation costs	550,000
Other soft costs	698,600		Other soft costs	698,600
Soft cost contingency	130,462		Soft cost contingency	130,462
Developer Fee	2,500,000		Developer Fee	2,500,000
Reserves	450,000		Reserves	450,000
Total	$26,401,441		Total	$26,401,441
*Subject to future action by the City Council on a request for fee deferral (not part of this agenda item).				

Loan Structure: The City's proposed financial assistance is structured in the form of residual receipts loans; that is, the LMIHF and AHILF loans (with 3% simple interest) are repayable from the City's 50% share of net cash flow after payment of permitted mortgages and operating expenses. Residual receipts would also be used as compensation for lost increment arising from the tax-exempt status of the project ("PILOT"), payable over 55 years. The priority and distribution of cash flow is outlined in the table below. Depending upon cash flow performance, the per unit subsidy (LMIHF and AHILF combined) could range from a high of $97,222 to a low of $0. By comparison, the State-wide average subsidy under the tax credit program is $130,000/unit.

DISTRIBUTION OF CASH FLOW
Order/Priority of Distributable Income
First Level – Fixed Costs
Asset Management Fee
Partnership Management Fee
Interest on Seller Carryback Note
Second Level – Residual Receipts
50% to Deferred Developer/Contractor Fees
50% to City
PILOT
LMIHF Loan
AHILF Loan
Third Level – Remaining Income
Oxnard Housing Authority (40%)
Las Cortes (20%)
McCarthy Companies (20%)
Tax Credit Investor (20%)

Loan Draws: Loan proceeds are to be disbursed in two distinct draws: (i) the First Draw, totaling $2 million of the LMIHF loan and $1.4 million of the AHILF loan would be disbursed upon the property's conveyance to Paseo Nuevo Partners and used for predevelopment and acquisition expenses; and (ii) the Second Draw would be disbursed upon completing site preparation, tenant relocation and evidencing firm financial commitment of the funds necessary to complete the project. If conditions precedent are not satisfied for disbursement of the Second Draw (e.g., inability to secure tax credits, failure to evidence other financing commitments by June 30, 2012, etc.), the City could opt to accelerate repayment of its loans and require that the First Draw become immediately due and payable.

Loan Coverage: As a condition of the First Draw, the deeds of trust securing repayment of the LMIHF and AHILF loans would be recorded in a superior position to the deed of trust securing payment of the Seller Carryback Note. The property has a current appraised value of $4.075 million, Assuming the current appraised value does not decline, there should be sufficient equity in the property to protect the City's interest (as to the First Draw) in the event of default under the City's loans. As part of the Second Draw, the City's loans would be subordinated to the construction and permanent lender, as well as the Seller Carryback Note and PILOT Note. However, as a condition to this reordering of debt, an MAI appraisal would be required evidencing that there is a minimum 90% combined loan to value coverage (except as to PILOT).

Affordable Housing: All of the residential dwellings constructed as part of the Paseo Nuevo project must be made available exclusively to (and occupied by) persons and families of very low, low and moderate income at affordable rents. Of these units, the distribution among the target income categories, by dwelling unit size, must equal or exceed occupancy characteristics of the 22 dwellings to be demolished as part of the project. In addition to, and apart from Replacement Housing requirements, at least 15% of the total number of new dwellings must be restricted and made affordable to low and moderate income persons under the inclusionary housing provision of redevelopment law. Together, these requirements translate into the affordable housing obligations summarized in the table on the following page.

AFFORDABLE HOUSING DISTRIBUTION					
Income Category	No. of Bedrooms				Total Units
	1 Bedroom	2 Bedroom	3 Bedroom	Unspecified	
Very Low Income	0	16	5	0	21
Lower Income	0	8	6	0	14
Moderate Income	0	2	2	33	37
Total	0	26	13	33	72

Displacement Provisions: The scope of development contemplates the removal of 22 residential dwellings along with the displacement of those persons who presently occupy the units. By law, an equal number of replacement dwellings (with a unit mix equal or greater number of bedrooms as those destroyed or removed units) must be provided within four years of destruction or removal. Furthermore, no persons or families of very low, low or moderate income may be displaced unless and until a suitable replacement dwelling is made available to such persons at a cost that is affordable. In fulfillment of these statutory obligations, the City is required to prepare and adopt a Relocation Plan and a Replacement Housing Plan. These matters are scheduled for City Council consideration as a separate agenda item on the evening of May 17th, 2011.

Successor Authority: The City Council and Oxnard Community Development Commission entered into a Cooperation Agreement on January 18, 2011, as further clarified on March 8, 2011, by adoption of Resolution Nos.13,351 and 147, respectively (collectively the "Accord"). By authority of the Accord, the City is obligated and authorized to continue the implementation of redevelopment within the Ormond Beach, Southwinds, Downtown Revitalization, City Community Revitalization and Historic Enhancement and Revitalization of Oxnard ("HERO") Project Areas (individually referred as "Project Area" and collectively as the "Project Areas"). However, the City's responsibility is expressly limited to the assets and revenues available to the Commission that have been, or in the future will be, transferred to the City. Pursuant to the Accord, the City's name is used in both the LMIHF and AHILF loan documents.

LMIHF Availability: At present, there is an unexpended balance of $13.6 million in the LMIHF. Over the remaining five-year term of the current adopted Redevelopment Implementation Plan, an additional $14 million in housing setaside funds are anticipated (after deducting program operating costs). This translates to a total fund balance of approximately $27.6 million by FY2013-14 which would cover the pre-existing obligations of Wagon Wheel, Sonata Apartments and Colonial House totaling $21.15 million. This leaves a balance of $6.45 million to fund Paseo Nuevo and the proposed Cuesta Del Mar AFFORDABLE Housing project. If housing setaside receipts lag behind loan drawdowns, the City has number of means to remedy the time gap including, but not limited to, issuance of a tax allocation bond, lending discretionary tax increment to the LMIHF or restructuring the schedule of loan disbursements.

Public Benefits:

- Blight removal and revitalization in furtherance of HERO redevelopment goals.
- Local development team and community partnerships (PAL, City Corps, & Parks/Recreation).
- Strong project management and participation in the Multifamily Housing Crime Free Program.
- Job creation and improved quality of life.
- Full payment of development impact fees while maintaining housing affordability.
- Furtherance of City/Authority affordable housing and sustainability goals.

ENVIRONMENTAL IMPACT

In accordance with Section 15332 of the California Environmental Quality Act (CEQA) Guidelines, in-fill development projects may be found to be exempt from the requirements of CEQA. The proposed project is located on less than five acres of land, is consistent with the zoning and General Plan, is surrounded by urban development, all public services and utilities are available, and no sensitive habitats or species exist on the property. On the basis of these findings, the Planning Commission adopted a Notice of Exemption. As such, no further environmental documentation is required.

FINANCIAL IMPACT

Requested assistance is expressly limited to funds available through the LMIHF and AHILF. Approval of this action will not have an impact on the General Fund.

Attachment #1: LMIHF Loan Agreement and Exhibits
Attachment #2: AHILF Loan Agreement and Exhibits
Attachment #3: First Amendment to Predevelopment Agreement and Exhibits

Note: Attachment #1, 2, and #3 have been provided to City Council under separate cover. Copies for review are available at the Help Desk in the Library after 6:00 p.m. on Thursday prior to the Council meeting and in the City Clerk's Office after 8:00 a.m. on Monday prior to the Council meeting.