

Request for City Council Committee Action from the Department of Community Planning and Economic Development

Date: September 17, 2009

To: Council Member Lisa Goodman, Chair, Community Development Committee

Subject: Amendments to the Amended and Restated Redevelopment Contract by and between the City of Minneapolis and Holtzman Interests #28 LLC for the Mill District City Apartments as outlined in this report.

Recommendation:

Authorize the execution of an Amendment to the Amended and Restated Redevelopment Contract by and between the City of Minneapolis and Holtzman Interests #28 LLC and related documents consistent with the terms and conditions outlined in this report.

Previous Directives:

- April 4, 2008 City Council a) consented to the assignment and assumption of the Redevelopment Contract between the City of Minneapolis and Brighton Nine/Portland LLC to Village Green Companies for the redevelopment of the Washington Live/Work site and Portland Condos site; b) Authorized the execution of an Amended and Restated Redevelopment Contract between the City of Minneapolis and Village Green Companies include language related to a financial incentive to ensure compliance with construction commencement and closing timelines.
- November 17, 2006 City Council authorized staff to execute a Second Amendment to the Amended and Restated Redevelopment Contract between the City and Brighton Nine/Portland LLC for portions of Parcel D West that would allow for the Washington Live/Work project to consist of commercial and office uses and would allow for an extension of the closing date of the Portland Condos project subject to the payment of extension fees.
- August 18, 2006, City Council authorized CPED staff to award a pollution remediation contract to the lowest responsible bidder for pollution remediation on the Portland Condos site not to exceed \$460,000 and to execute the necessary agreements; funding was provided in 2003 by the Metropolitan Council's TBRA program.
- June 16, 2006, City Council approved the execution of an amendment to the Amended and Restated Redevelopment Contract for portions of Parcel D West; amended the 2006 General Appropriation Resolution by increasing Fund CWM by \$125,000 for shoring costs associated with the soil remediation to be reimbursed by Brighton upon closing; and increased the 2006 Revenue Budget for Fund CWM by \$272,492 (\$125,000 for shoring costs to be reimbursed and \$147,492 for a holding fee to extend the property closing to June 1, 2007).

- March 31, 2006, City Council accepted and appropriated a SAFHB planning fund allocation in the amount of \$25,000.00 to allow for an archaeological survey on Parcel D West, The Portland site, located at the corner of Portland Avenue and 2nd Street South.
- July 7, 2005, City Council approved an Amended and Restated Redevelopment Contract for Parcel D West to allow development of the property.
- January 17, 2003, City Council accepted and appropriated a TBRA grant from Metropolitan Council in the amount of \$460,000.00 for soil remediation on the ultimate Portland Condos site.
- July 7, 2001, City Council approved a land sale of the Washburn Crosby Mill and Parcel D West to the Minnesota Historical Society and Brighton Development Corporation.
- June 29, 1992, the MCDA acquired Parcel D as a part of the Milwaukee Depot acquisition.

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 Approved by: Charles T. Lutz, Deputy Director CPED _____
 Catherine A. Polasky, Director of Economic Policy & Development _____
 Presenters in Committee: Carrie Flack, Sr. Project Coordinator

Financial Impact

- Action is within the Business Plan

Community Impact

- Neighborhood Notification – This project was presented to the Downtown Minneapolis Neighborhood Association on April 8, 2008 and to the Industry Square Project Committee on May 14, 2008. In addition, the land use and planning approvals required additional notification be sent to the neighborhood group allowing additional opportunity for comments. All comments received on the project have been positive.
- City Goals – Connected Communities – great spaces and places, thriving neighborhoods; Enriched Environment – greenspace, arts, sustainability; A Premier Destination – visitors, investment and vitality.
- Comprehensive Plan – 2.8 Minneapolis will develop the existing economic base by emphasizing business retention and expansion; 2.9 Minneapolis will strengthen long-term confidence in the economy by building innovative public to private sector partnerships; 4.9 Minneapolis will grow by increasing its supply of housing; 4.11 Minneapolis will improve the availability of housing options for its residents; 4.15 Minneapolis will carefully identify project sites where housing redevelopment and or housing revitalization are the appropriate responses to neighborhood conditions and market demand; 9.5 Minneapolis will support the development of residential dwellings of appropriate form and density; 9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional, and adds value to the physical environment. In addition, the project is consistent with the Historic Mills District Master Plan and Update.
- Zoning Code – Housing is permitted as a conditional use in district C3A and any proposed new commercial and/or retail uses will be permitted uses.
- Other– Not applicable

Supporting Information

Holtzman Interests #28 LLC (an affiliate of Village Green Companies) proposes to construct a 4-5 story building that will not exceed 56 ft. in height consisting of approximately 175 market rate rental housing units, approximately 3,500 sf of commercial space with approximately 175 below grade parking spaces. This building will front onto 2nd Street South, Portland Avenue South and Washington Avenue South and will also face the interior courtyard to be constructed in the middle of the block. Ingress and egress to the site will be from Portland Avenue.

The project has received all approvals, permits are ready to be issued, and all extension fees are current. However, the status of the financial climate has delayed its closing. The project has received approval from US Bank for a construction loan for 63% of the final value and an agreement has been completed with an equity investor. Normally, Village Green receives 75% of the value for the construction loan and thus a significant gap in funds is needed for construction. Village Green has been able to provide a large portion of the required additional equity. Historically, these gaps were bridged with letters of credit or small loans from banks with a pledge of cash flow from a stabilized apartment project and personal guaranties of the principals of Village Green. Village Green is finding that banks cannot take their traditional pledge of cash flow and guaranties as collateral because of the way the FDIC is regulating them today despite being a 90-year old company with an excellent reputation and financial performance.

Therefore, Village Green has proposed an alternative structure to finalize the financing of the project that will allow construction to begin by the end of September. The City of Minneapolis and Brighton Development Corporation would defer the land sale payments for up to 24 months. The amount due to the City is \$1,474,980. The City will receive a Promissory Note from Holtzman Interests #28 LLC (the managing member of Mill District City Apartments LLC); monthly interest payments at 150 basis points over prime (4.75% today); with maturity at two years from closing. Source of payment and collateral for the deferral of the purchase price includes:

1. Earnout proceeds in the construction loan of \$2,200,000;
2. Net rental income distributions to Holtzman Interests #28;
3. Assignment of net cash flow distributions from Eitel City Apartments;
4. Permanent financing; and
5. Personal guaranties of Jonathan Holtzman, Ron Benach and Wayne Moretti;

All are subject to first priority of Western Bank and Brighton Live/Work LLC in connection with the deferral of approximately \$1.4 million for the Live/Work parcel. In addition, the developer will defer 100% of its development fee in the project until both the City and Brighton have been paid.

Staff recommends approval of a supplemental agreement with Holtzman Interests #28 LLC and the amendment to the Amended and Restated Redevelopment Contract as requested incorporating the following changes:

1. Extend the closing and construction commencement deadlines to no later than October 31, 2009.
2. Extend the construction completion deadline to October 31, 2011 (24-month construction period).
3. Village Green Companies will continue to pay a \$12,291 monthly holding fee for the Portland Condos site (based on 10% of the land cost) until closing.

4. Defer receipt of the purchase price of the Portland Condos parcel (\$1,474,980) until the October 31, 2011 construction completion deadline, subject to monthly interest being paid at 1.5 above prime and a balloon payment of principal at maturity and a Promissory Note from Holtzman Interests #28 LLC.
5. Require collateral in the form of personal guaranties from the three principal partners of Village Green (Jonathan Holtzman, Ron Benach, and Wayne Moretti); an assignment of net cash flow distributions from Eitel City Apartments; net rental income distributions to Holtzman Interests #28 LLC; earnout proceeds in the construction loan of \$2,200,000.
6. Defer Developer fee until City loan is repaid.
7. Replace the \$229,000 Good Faith Deposit with a personal guaranty from Jonathan Holtzman.
8. Consent to the Assignment and Assumption of the Amended and Restated Redevelopment Contract by Holtzman Interests #28 LLC to Mill District City Apartments LLC, which is an affiliate of Holtzman Interests #28 LLC.