Centre City Development Corporation

REPORT NO. CCDC-09-21
CCDC-09-13

DATE ISSUED: December 2, 2009

ATTENTION: Honorable Chair and Members of the Redevelopment Agency
Council President and City Council
Docket of December 7, 2009

ORIGINATING DEPT.: Centre City Development Corporation

SUBJECT: Ninth and Broadway Affordable Housing Project (southeast corner of Broadway & Ninth Avenue) – Design Review and Approval of Disposition and Development Agreement and ground lease – East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project – **JOINT PUBLIC HEARING**

COUNCIL DISTRICT: 2

REFERENCE: None

STAFF CONTACT: Eri Kameyama, Associate Project Manager

REQUESTED ACTIONS:

That the Redevelopment Agency of the City of San Diego ("Agency"):

1. Make certain findings, based on the Environmental Secondary Study, to the effect that the proposed Ninth and Broadway affordable housing project located at the southeast corner of Broadway and Ninth Avenue ("Project") is within the scope of the development program evaluated in previously certified environmental documents and that no further environmental review is required under the California Environmental Quality Act;

2. Make certain findings in support of the Agency's ground leasing of the Project site to the Developer, consistent with California Health and Safety Code section 33433;

3. Approve the proposed Disposition and Development Agreement (DDA) between the Agency and Broadway Tower Associates, L.P. ("Developer") for the Project as outlined in this report;

4. Approve the proposed ground lease between the Agency and Developer for the Project as outlined in this report;

5. Approve the issuance of a loan to Developer from the low and moderate income housing funds for Centre City Redevelopment Project Area, in the form of a residual receipts note

in an amount not to exceed $21,873,000; and

6. Grant design review approval and specifically approve the Basic Concept Drawings for the Project.

That the City Council of the City of San Diego ("Council"):

1. State for the record that it has reviewed and considered the Environmental Secondary Study for the Project;
2. Make certain findings in support of the Agency's ground leasing of the Project site to the Developer, consistent with California Health and Safety Code section 33433; and
3. Approve the proposed ground lease between the Agency and Developer for the Project as outlined in this report.

STAFF RECOMMENDATION:

- That the Agency make the necessary findings in support of the proposed actions and approve the following items: (i) the proposed DDA and ground lease with the Developer; (ii) a loan in an amount not to exceed $21,873,000; and (iii) the design of the Project (including the Basic Concept Drawings), and
- That the Council approve the proposed DDA and ground lease with the Developer and make related findings under California Health and Safety Code section 33433.

SUMMARY: Through a Request for Proposals (RFP), Centre City Development Corporation ("Corporation") selected BRIDGE Housing Corporation ("BRIDGE") to develop the proposed Ninth and Broadway affordable housing project on an Agency-owned site located at the southeast corner of Broadway and Ninth Avenue. The Agency entered into an Exclusive Negotiation Agreement (ENA) with BRIDGE on March 26, 2009. On behalf of the Agency, the Corporation negotiated terms and conditions of the proposed DDA and ground lease, which are summarized in the "Participation by Agency" section of this report. BRIDGE later formed Broadway Tower Associates, L.P. to undertake development of the Project. The proposed DDA includes an Agency subsidy in the amount not to exceed $21,873,000. The Agency will enter into a 70-year ground lease with the Developer, with a 20-year option to extend by the Developer.

FISCAL CONSIDERATIONS: Funds in the amount of $21,873,000 are available in the FY2010 Low and Moderate Income Housing Fund for the Centre City Redevelopment Project.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION: On June 17, 2009, the Corporation voted 4-0 to approve the following recommendations:

1. That the Agency and Council approve the proposed DDA and ground lease, which include an Agency subsidy of $21,873,000 and the requirement of pari passu disbursement of Agency funds during construction; and

2. That the Agency grant design review approval based on the ground floor design recommended by staff.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On June 10, 2009, the Centre City Advisory Committee (CCAC) voted 18-3 and the Project Area Committee (PAC) voted 16-3 to recommend that the Corporation approve the addition of retail space along Ninth Avenue with corresponding additional Agency subsidy and the Project to be exempt from the requirement of pari passu disbursement of Agency funds during construction, and that the Corporation recommend that the Agency and Council approve the proposed DDA and ground lease and grant Design Review approval based on the staff's preferred ground floor plan.

DEVELOPMENT TEAM

ROLE	**FIRM/CONTACT**	**OWNERSHIP**
Developer	Broadway Tower Associates, LP Contact: Brad Wiblin, Director of BRIDGE Southern California	General Partner: BRIDGE SC, LLC Its sole member: BRIDGE Housing Corporation Southern California, a 501(c)(3) nonprofit corporation.
Architect	Studio E Architects - Design Architect Contact: Eric Naslund, Principal McLarand Vasquez Emsiek & Partners (MVE) - Architect of Record Contact: Rick Castillo, Principal	Studio E: Eric Naslund and John Sheehan (Privately Owned) MVE: Carl McLarand, Ernesto Vasquez and Richard Emsiek (Privately Owned)
General Contractor	Highland Partnership, Inc. Contact: Ian Gill	Ian Gill and J. David Gardner (Privately Owned)
Property Management	BRIDGE Property Management Co. Contact: Susan Johnson	501(c)(3) nonprofit corporation
Tax Credit Investor	TBD	
Construction Lender	TBD	

BRIDGE has produced more than 13,000 units of high-quality affordable homes throughout California. BRIDGE was formed in 1983 as a 501(c)(3) nonprofit corporation to address the worsening shortage of affordable housing. BRIDGE's headquarters are in San Francisco and regional offices are in Los Angeles and San Diego. BRIDGE has strong background in affordable housing development in urban areas, mainly in San Francisco and Oakland.

BACKGROUND

The proposed Project advances the Visions and Goals of the Downtown Community Plan and the Objectives of the Centre City Redevelopment Project by:

- Increasing the supply of rental housing affordable to very-low- and low-income persons;
- Expanding the supply of living units affordable to very-low-income persons;
- Assisting the development of affordable, permanent supportive housing projects; and
- Eliminating blight and utilizing a vacant parcel on a major commercial corridor.

The Site

The proposed site is a 25,000-square-foot parcel located at the southeast corner of Ninth Avenue and Broadway. The parcel consists of a vacant lot, currently utilized as a surface parking lot, and an old vacant structure. The Agency owns 100 percent of the site. A site map (Attachment A) is included with this report.

The southern boundary of the project site abuts the historic Library Lofts building. Other surrounding uses include mid- and low-rise residential and commercial buildings to the west, a low-rise residential building to the east and the San Diego Square senior affordable apartment project to the north. The land use district for the site is Employment/Residential (ER) Mixed Use, which accommodates a variety of uses including office, residential, hotel, research and development, educational and medical facilities. The proposed development and mix of uses are consistent with the requirements of the ER district.

Original Developer and Acquisition

On March 28, 2003, the Agency entered into an Owner Participation Agreement (OPA) with Lee Goldberg and SJS, Inc., which was later assigned to Broadway and 9th, LP ("Original Developer"), to construct a 12-story, 393-unit affordable rental-housing project on the site. Due to price escalations in construction costs, the Original Developer determined that the project was no longer economically viable and requested that the Agency terminate the OPA. The Agency agreed to terminate the OPA and negotiated to obtain an option to purchase the site from the Original Developer.

The Agency acquired the property from the Original Developer per the Repurchase Agreement ("Agreement") dated July 17, 2006, which included rights to the design plans for the project that had already been reviewed by the City. The total purchase price for the land and plans was $8,800,000 ($352 per square foot, inclusive of the price of plans). The Agreement requires the Agency to develop an affordable housing project containing approximately 250 units on the property. It also requires that at least 75 percent of the total number of housing units be restricted to very-low-, low- or moderate-income occupants at affordable rents for a minimum of 55 years if it is rental housing, or 45 years if it is ownership housing. Per the Agreement, the original owner retains the right to repurchase the property unless the Agency enters into a development agreement with a developer prior to July 17, 2011.

RFQ/P (May 2007, August 2007)

The Corporation issued a Request for Letters of Interest on June 1, 2007 and received submittals from seven development teams. Based on the published criteria of qualifications, three teams were short-listed to proceed with a Request for Proposals (RFP). An RFP was issued on August 10, 2007 and the three short-listed teams, Barone Galasso and Associates, BRIDGE Housing Corporation (BRIDGE), and Chelsea Investment Corporation with Related Companies of California, responded to the RFP. After a thorough review process, the Corporation selected BRIDGE as the developer based on several criteria, including the overall quality of its proposal, strong background in urban affordable housing development, the project's conceptual design and its acceptance to guarantee the maximum Agency subsidy amount of $21.3 million on January 21, 2009. The Agency entered into an ENA with BRIDGE on March 26, 2009 to negotiate DDA terms for 180 days. The ENA was extended for additional 90 days on September 22, 2009.

DISCUSSION:

Project Description – The Developer proposes to construct affordable rental housing with 250 units targeted for very-low- and low-income individuals. Of the 250 units, 88 units (35 percent of the total) will be supportive housing available for special needs populations. To integrate the various resident populations, all unit types will be spread throughout the building. The proposed development will include 140 living units, 110 small apartments, 20,000 square feet of community space and 5,800 square feet of ground floor retail along Broadway and Ninth Avenue. The building will be 17 stories high, and will consist of a large four-story podium and topped by a 13-story tower. It will be managed by BRIDGE Property Management Company, a subsidiary of BRIDGE Housing Corporation that manages more than 60 developments with more than 7,200 rental and condominium units in California. The Project will have two resident managers and a part-time service coordinator.

The following is a summary of the Project:

Site Area	25,000 sq. ft.
Maximum FAR Permitted Minimum FAR Required Proposed FAR	10.0 – 14.0 6.0 6.8
FAR Bonuses Proposed	None
Stories	17 stories
Amount of Commercial Space	5,774 sq. ft.
Type of Housing	Affordable Rental Apartments
Total Number of Units	250
Types of Units (average sizes)	140 Living Units (283 sq. ft.) 36 Studios (387 sq. ft.) 74 1-BRs (587 sq. ft.)
Projected Rental Rates	\$284–893 based on 2009 AMI (25 MHSA tenants will pay 30% of their actual incomes)
Number of Units Demolished	0
Inclusionary Housing Ordinance Compliance/ Number of Affordable Units	Provision of 248 affordable apartments
Parking Required Proposed	120 spaces for residential 120 spaces for residential
Assessor's Parcel Nos.	534-331-01 and 534-331-15

Supportive Housing

A total of 88 units (35 percent of the total units) will be set aside as supportive housing units for people with special needs who are homeless or at risk of becoming homeless. Specifically, the Project will target young adults from foster homes and persons with HIV/AIDS. The Project will qualify for funding from California's Multifamily Housing Program (MHP) – Supportive Housing component. The Developer plans to provide a variety of services on-site, including nutrition and financial management classes and job training, and hire a part-time staff to coordinate services for the supportive housing tenants. The supportive housing units will be composed of 78 living units and 10 studios.

Of the 88 supportive housing units, 25 will be financed by the Mental Health Services Act (MHSA) program and will target transitional-age youth with diagnosis of severe mental illness. BRIDGE will partner with the Providence Corporation for Transition Age Youth ("Providence"), a nonprofit mental health provider based in San Diego specializing in the transitional age youth population. Providence is a recognized full service partnership under the Mental Health Services

Act, contracted by the County of San Diego. Supportive services to be provided by Providence include case management, substance abuse counseling, financial education, medical services, employment and education support services and transportation assistance. The Developer will work closely with Providence on these 25 units, including qualifying tenants, leasing and coordinating services. The MHSA units will target youth with incomes at or below 20 percent AMI, but will be restricted at 40 percent AMI to provide some flexibility in accepting MHSA qualified tenants referred by the County. The MHSA tenants will pay 30 percent of their actual incomes per the program regulations. The MHSA program will provide an operating subsidy to pay for the operating expenses that are not covered by the rental income.

The remainder of the supportive housing units (63 units) will target individuals with HIV/AIDS. Family Health Centers of San Diego will provide services, including case management, medical services, group education and comprehensive risk counseling services. The units will be restricted to individuals with incomes at or below 30 percent AMI.

Green Building

The Project will achieve Silver Leadership in Energy and Environmental Design (LEED) certification as required by the RFP. The project team includes a LEED consultant to advise on the Project's green building features and LEED strategy. The Project will incorporate a green eco-roof and photovoltaic panels. Costs for the proposed green building features and LEED certification process are incorporated into the development budget (approximately $1 million).

Amenities

The Project will include 20,000 square feet of community space. The ground floor will include an outdoor courtyard, a movie theater and a kitchen. There will be an outdoor terrace and laundry room on the fifth floor and a large outdoor open space on the 15th floor.

Ground Floor Retail

The Project will include approximately 5,800 square feet of commercial space (3,800 square feet along Broadway and 2,000 square feet along Ninth Avenue). The Broadway commercial tenant could use the interior courtyard behind the commercial space for outdoor seating if needed. The Developer will strive to secure a restaurant/café use that would provide employment opportunities for the residents, especially the supportive housing tenants who are trying to re-enter the workforce.

Parking

The building will include two levels of underground parking with 120 spaces (0.48 space/unit). This meets the Centre City PDO requirement of 120 spaces.

Project Financing – The estimated total development cost is approximately $66.7 million. Keyser Marston Associates (KMA), Agency economic consultants, analyzed the proforma submitted by the development team and concluded that the Project's development costs and operating expenses fall within industry standards for a project of this type. The attached proforma (Attachment C) represents a consensus reached after extensive negotiations among staff, KMA and the Developer. A summary of the development budget is shown in the table below.

	Project Total	Per Unit	Note
Direct Costs	$49,332,000	$197,300	$311 per SF GBA
Indirect Costs	$11,327,200	$45,300	23% of Direct Costs
Financing Costs	$4,999,400	$20,000	10% of Direct Costs
Total	$66,659,000	$262,600	$413 per SF GBA

The Developer proposes to finance the Project with a combination of 4 percent tax credits, MHP, MHSA, and Affordable Housing Program (AHP) funds. Key funding parameters of these affordable housing financing sources are summarized in Attachment B. The summary of permanent financing sources is shown in the table below.

SOURCES OF FUNDS	Project Total	Per Unit	Per SF GBA
Multi-Family Housing Program	$10,000,000	$40,000	$63
Tax Credits (4%)	$19,415,000	$77,660	$122
Mental Health Services Act Program	$2,000,000	$8,000	$13
Deferred Developer Fee	$500,000	$2,000	$3
Deferred Agency Interest	$395,000	$1,600	$2
Affordable Housing Program	$1,000,000	$4,000	$6
Permanent Loan	$4,453,000	$17,800	$28
Additional Sources to Fill the Gap (Other Funding Sources or Developer's Equity)	$6,023,000	$24,100	$38
Redevelopment Agency Assistance (excluding land)*	$21,873,000	$87,500 ($88,200 per aff. unit)	$138

TOTAL	$65,659,000	$262,600	$413

* If the land acquisition cost of $8,800,000 from the Original Developer (including purchasing of old plans) is added, the total Agency investment in this project would be $30.7 million, which equals $123,700 per affordable unit.

Additional Sources to Fill the Gap

During the RFP process, the Corporation required the Developer to provide assurance of the project costs and financing by committing to no requests for increases in the Agency's subsidy from the amount identified in its proposal.

As a condition of developer selection, the Developer agreed to guarantee the maximum Agency subsidy. The guarantee provided that increases in the Project's funding gap resulting from factors including lower tax credit pricing or development cost increases would be funded by additional non-Agency sources, developer fees and/or developer equity. The guarantee was based on the specific design, programs and financing mechanism that the Developer proposed for the RFP and it was understood that the Agency subsidy amount could be increased if the Agency or Corporation required the Developer to add features that were not included in the original proposal (contingent on the Agency approval).

Since the Developer's revised proposal submission in 2008, the conditions of the financial market and overall economy have changed dramatically, resulting in revisions to the assumptions included in the Developer's pro forma to reflect the current market. One financial assumption impacted by the economic conditions is tax credit pricing, which has been reduced from the original proposal of $0.90 to $0.75 reflecting weakening in the tax credit market. A reduction of $0.01 in tax credit price equates to about a 1 percent reduction in tax credit proceeds based on a previous analysis by KMA. Therefore, the Project must absorb an estimated 14 percent reduction in tax credit proceeds.

In addition, permanent loan underwriting assumptions required revisions. The Developer initially assumed a permanent loan from the California Housing Finance Agency (CalHFA), which had provided low-interest loans for supportive housing projects. However, due to the shortage of loan funds, CalHFA canceled its loan commitments to a number of projects beginning in fall 2008. CalHFA is not currently providing its low-interest loans for supportive housing projects and the Developer modified the interest rate assumption from 4.67 percent to 6 percent.

The Developer has been making efforts to reduce the unfilled gap by value engineering and identifying additional sources, including the Project Based Section 8 program for 50 extremely low-income units, which will provide rental subsidies to the Developer for the difference between an amount equal to 30 percent of tenants' actual incomes and 60% AMI rents. However, after applying these actions, an unfilled financing gap of $6 million remains. To fill the gap, the

Developer will pursue other state and federal funding sources. The Agency's loan commitment is required at this point to allow the Developer to apply for the required funding sources as applications become available. MHP and other competitive funding sources require local funding commitments to be competitive. The Agency loan will not be closed until all the funding sources are in place.

4 percent and 9 percent Tax Credits

The Developer's current proposal includes only 4 percent tax credit, as the Project exceeds the maximum number of units to qualify for the 9 percent tax credit allocation (maximum 150 units). The DDA provides language requiring the Developer to explore the possibility of structuring the Project as two projects (components) to leverage both 4 percent and 9 percent tax credits, possibly reducing the unfilled gap and/or the amount of the Agency subsidy.

Eligibility of the Project's common area costs in the tax credit bases must be explored if this financing structure is pursued because the current tax credit rule excludes from the tax credit eligible bases the costs of common areas that are not exclusively available for the project. Because the Project's lobby area and the first floor community space will be used by all residents, the Project's common areas may not be considered available exclusively for each of the Project's components. In addition, the Project needs to obtain a forward commitment (e.g, a commitment from CTCAC in 2010 to allocate tax credits to the project in year 2011) or a waiver for the 9% tax credit's 24-month "placed-in-service" requirement from the California Tax Credit Allocation Committee (CTCAC) due to the Project's 24-month estimated construction schedule. There are no known exceptions to the "placed-in-service" requirement under the tax credit regulations. The Developer and Corporation staff will work on these issues with CTCAC and will pursue an exemption or changes to the structure if determined to be feasible.

<u>Disposition of Property</u> – The Agency owns 100 percent of the project site. The Agency will enter into a ground lease (70-year term, 20-year option to extend at the Developer's discretion) at construction loan closing. Upon ground lease expiration, the Agency will own the building free of all encumbrances.

<u>Participation by Agency</u> – The essential terms and conditions of the Agency subsidy, ground lease and DDA are as follows. Unless noted, the terms and conditions are consistent with the Agency's Low-and Moderate-Income Housing Fund Transaction Guidelines ("Transaction Guidelines").

Ground Lease

- <u>Lease Term:</u> The Agency shall enter into a 70-year ground lease with the Developer, which includes a 20-year option to extend at the Developer's discretion.

- Lease Payment:

  - Housing – The Developer is required to submit a ground lease payment of $1 per year to the Agency for the initial 55 years. Beginning in Year 56, upon expiration of the affordability covenants, the Developer shall pay 10 percent of the effective gross income from the market-rate residential units annually until expiration of the ground lease term (including the 20-year option period, if exercised by the Developer). If the Developer chooses to extend the Agency's affordability covenants to keep the housing units affordable after Year 56, the ground lease payments will remain $1 per year.

  - Ground Floor Retail Space – Starting in year six, the Developer shall pay to the Agency an amount equal to 75 percent of the gross income from the retail space, after deducting a management fee to the Developer in an amount equal to 5 percent of the gross income and deposits to maintain a retail leasing reserve of $75,000 (escalate annually at the rate of increase in CPI), until sale of the retail space or expiration of the ground lease term (including the 20-year option period, if exercised by the Developer). The retail portions of the Project may be created as separate legal parcels. Upon sale of the leasehold interest in the retail space, the Agency shall receive a payment in the amount of $57 per square foot applicable to the allocated retail land cost for the retail space along Broadway, and 90 percent of the fair market value for the retail space along Ninth Avenue after a release payment to the permanent lender if required.

  - Deposits to Residential Operating Reserve - From year one to five, the gross income from the retail space less five percent management fee and deposits into the retail leasing reserve shall be deposited to an operating reserve account for housing until it reaches $500,000. Beginning in Year 6, or after the reserve reaches $500,000, whichever is earlier, the Developer shall pay 75 percent of the gross income, after deducting 5 percent management fee and deposits into the retail leasing reserve, to the Agency as ground lease payments.

- Ownership of Improvements: Upon expiration of the lease term, the Developer shall transfer title of the building including retail improvements to the Agency free of all encumbrances; and the Agency will receive 100 percent of the project cash flow including both residential and retail incomes.

- Option to Acquire Leasehold Interest: Beginning in Year 56 of the ground lease, the Agency shall have the right to acquire the leasehold interest in the Project at the greater of (a) the Fair Market Value (FMV) of the leasehold interest with the consideration of the underlying affordability restrictions and the release thereof beginning in Year 56, or (b) the sum of the remaining non-Agency debt balances, including accrued but unpaid interest, and property taxes.

The FMV of the leasehold interest in Year 56 is estimated to equal $74.3 million based on the discounted cash flow of the remaining value of the market-rate residential leasehold interest. The estimated balance of the MHP loan and MHSA loan (non-Agency debts), including accrued but unpaid interest, is estimated to be $24.2 million and $5.3 million respectively, at the end of Year 55. Additional debt may remain if the Developer is successful in its pursuit of other funding sources.

Net cash needed by the Agency to purchase the improvements (the greater of (a) and (b)) is estimated at $40.4 million (FMV less Agency loan balance of $33.8 million including interest), which equates to $6.1 million in net present value. The FMV in Year 56 will be dependent on many variables, including market rents, operating costs, capitalization rate, building condition and economic conditions in place.

- Agency Right of First Refusal to Acquire Residential Leasehold Interest and Retail Leasehold Interest: At any time after Year 55 of the ground lease, upon the Developer's receipt of a bona fide offer from a third party, the Agency shall have the right to acquire the residential improvements for a price equal to the higher of any bona fide offer subject to fair market value or the outstanding amount of non-Agency debt plus the amount of income taxes that would be incurred by the Developer from the sale. The Agency shall also have the right to acquire the retail improvements upon the Developer's receipt of a bona fide offer from a third party.

Disposition and Development Agreement

- Agency Assistance: The Agency will provide financial assistance to the affordable housing project in an amount not to exceed $21,873,000. The Agency subsidy will be provided in the form of a loan to be secured by a subordinate deed of trust. The Developer is required to fill the funding gap in excess of $21,873,000 as detailed in the "Project Financing" Section.

  The Developer shall use all reasonable efforts to maximize tax credit equity and other sources of funds. Specifically, the Developer is required to pursue 9 percent tax credits by structuring the Project as two projects if such structure is determined feasible and will result in a reduced Agency subsidy. The Developer and staff will work with CTCAC to explore this financing structure. (Detailed in the "Project Financing" Section.)

The Developer is required to make best efforts to obtain the proposed funding sources. However, if the Developer fails to obtain the required financing despite its best efforts, the Developer may terminate the DDA and shall not be found to be in default under the DDA. If the DDA is terminated under this circumstance, the Agency shall retain the performance deposit.

The Agency shall have the opportunity for a look-back prior to the Agency loan closing to decrease the Agency loan amount, if the Developer secures additional sources, including a higher amount of tax credit equity. There shall be a second look-back opportunity prior to conversion to permanent financing if the total sources exceed the actual acquisition and development costs. The excess amount shall be returned to the Agency as a repayment of the Agency loan.

- Agency Loan Term: The Agency loan shall have a 55-year term and a simple interest rate of 1 percent with repayment from the Project's cash flow. A lower interest rate is proposed for the Project to avoid significant losses to the nonprofit general partner of the limited partnership at Year 15 when the general partner buys out the interest in the Project from the limited partner (tax credit investor). Compared to other affordable housing projects funded by the Agency, the size of the accrued interest on the Project will be significant because (1) the amount of the Agency loan is much larger, and (2) the amount of cash flow to pay off the Agency loan and interest will be limited as a majority of the units are restricted to incomes of 30 percent and 40 percent AMI. The Agency's Transaction Guidelines allow a rate as low as 0 percent if proposed use/operation is for homeless/special needs population and has no income source for repayment.

- Predevelopment Loan: The Agency shall provide a predevelopment loan in an amount up to $1 million, which will be considered draws from the Agency's loan balance. The Developer shall be reimbursed for up to 75 percent of eligible predevelopment costs, not to exceed a total disbursement of $1 million. If the Developer fails to proceed with construction of the Project, the Agency would own 100 percent of the drawings, reports and other documents produced by third parties during the predevelopment phase, the value of which would be credited toward the loan repayment.

- Performance Deposit: Prior to the execution of the DDA, the Developer must deliver to the Agency a deposit of $100,000 as a performance guarantee. The deposit is refundable upon construction loan closing. If the Developer defaults on the terms of the DDA prior to construction loan closing, the deposit shall be retained by the Agency to pay for the costs incurred by the Agency.

- Residual Receipt Allocation: From Years 1 through 30, the residual receipts shall be divided as 50 percent to the Developer and 50 percent to the Agency and other public agencies that require residual receipt payments in proportion to each loan amount. From Years 31 through 55, the Developer shall receive 20 percent and the Agency and other public agencies shall receive 80 percent.

- Retention: The Agency shall disburse up to 80 percent of the total loan amount during construction. Upon completion, the Agency shall release 10 percent of the retention. The remaining 10 percent shall be released at permanent loan closing.

- Disbursement of Agency Funds: The Agency loan funds during construction (80% of total loan amount) shall be disbursed in proportion to the construction loan disbursements, with such proportion based upon the amounts of the original loan balances of the Agency Loan and the construction loan ("pari passu" disbursement).

  However, considering the tightening underwriting by institutional lenders in the current financial market, changes to the timing of disbursement of Agency funds may be approved by the Agency's Executive Director, if the Developer provides sufficient documentation from institutional construction lenders, evidencing the Developer's difficulty in obtaining construction financing without the Agency's earlier distribution of Agency funds or Agency's proportionally greater distribution of Agency funds during construction. Difficulty in obtaining construction financing include conditions imposed by the lenders for having the Agency's pari passu disbursement requirement (i.e. higher interest rate; accelerated repayment terms; higher loan fees or points; the provision of additional collateral; additional investment of equity; deferral of additional developer fee; or substantially more onerous guaranties.)

- Developer Fee: The total developer fee shall not exceed $2,500,000, of which a minimum of $500,000 (20 percent of total) shall be deferred during the construction period. The deferred developer fee shall be repaid from the Project's cash flow with interest (applicable federal rate) prior to calculation of cash flow for distribution.

- LEED Certification: The building shall be designed and constructed to achieve the Silver certification rating for Leadership in Energy and Environmental Design based on criteria provided by the US Green Building Council (USGBC). The Developer shall submit the Project for commissioning to the USGBC.

- Asset Management Fee (Limited Partner) and Partnership Management Fee (General Partner): The combined amount of these fees shall not exceed $32,500 in Year 1. For the initial 15 years, the maximum combined fees shall increase at the lower of 2.75 percent or an annual increase in Consumer Price Index (CPI). After Year 16, the combined fees shall be reduced to $26,300, the amount equal to $17,500 escalated at 2.75 percent per year from Year 1 through 15, and increase at the lower of 2.75 percent or an annual increase in CPI thereafter. The Agency's Transaction Guidelines limit the combined fees in Year 1 at $17,500. However, staff and KMA determined that the higher fees are acceptable based on the size and complexity of the Project.

- A total of 248 units shall be restricted for 55 years as shown in the table below.

Unit Type/Income Limit	30% AMI	40% AMI	60% AMI	No Restrictions	TOTAL
Living Unit:	**63**	**77**	**0**	**0**	**140**
*MHSA**	*0*	*15*	*0*	*0*	*15*
Other Supportive	*63*	*0*	*0*	*0*	*63*
Nonsupportive	*0*	*62*	*0*	*0*	*62*
Studio:	**0**	**10**	**26**	**0**	**36**
*MHSA**	*0*	*10*	*0*	*0*	*10*
Nonsupportive	*0*	*0*	*26*	*0*	*26*
One Bedroom:	**0**	**0**	**72**	**2**	**74**
Nonsupportive	*0*	*0*	*72*	*0*	*72*
Manager's	*0*	*0*	*0*	*2*	*2*
TOTAL	**63**	**87**	**98**	**2**	**250**

* The 25 MHSA units are underwritten at 20% AMI. However, the units will be restricted at 40% AMI to allow flexibility for the County's Department of Mental Health to refer MHSA eligible tenants.

- Developer shall include 88 supportive housing units.

- Developer shall construct all on-site improvements, design, install, and maintain all surface off-site improvements.

- Additional Floors – Based on the request by the Corporation board to maximize the Project's density, the Developer agreed to work with the Corporation staff to evaluate the viability of adding floors to the Project. It is estimated that up to three floors (42 units) could be added to the proposed building structure without redundant systems. Because it would be an Agency-directed design change and other funding sources may be at their maximum limits for a single project, it is expected that an additional Agency subsidy is needed to construct additional floors. To minimize the required additional Agency subsidy, new funding sources must be identified in advance of the Agency making the determination to pursue additional floors. It is understood that all new sources of funds will first be applied to finance the existing funding gap and only surplus funds will be used for the additional floors.

> Considering that the Developer has spent substantial time and efforts in crafting a plan for the Project, including the target populations and management program, the additional floors are required only to the extent that the new funding sources do not require different resident population and/or management program. The Developer shall submit the scope, estimated costs and funding gap for the proposed addition not less than 60 days in advance of the application deadlines for the new funding sources. A final decision on the additional floors must be made by the Agency within 30 days from the Developer's submittal. The additional Agency subsidy must be reviewed and approved by the Agency board. If the Agency does not authorize the additional funding, the Developer is not required to build the additional floors. In the event that, the Developer fails to secure the non-Agency financing for the additional floors despite best efforts, the Developer shall not be required to provide the additional floors.

DDA documents are attached to this report as Attachment D. Section 33433 report and reuse analysis are also attached to this report as Attachment E.

DESIGN REVIEW

The present design of the Project is reflected in the Basic Concept Drawings, which are attached to this report as Attachment G. The proposed 17-story building is comprised of a 13-story tower above a four-story building base. The tower is pulled back from the north and south ends of the building base to create two landscaped terraces atop the fourth floor and the upper-three-floors of the southwest tower corner are carved out creating a third 15th floor "sky" terrace. The ground level of the development consists of a residential lobby, common indoor areas and administrative functions, retail and resident courtyard areas, and two retail spaces that activate the Broadway and Ninth Avenue frontages. Two project driveways are located on Ninth Avenue, providing access to the Project's underground parking and required loading space. Pursuant to the regulations of the 2006 Planned District Ordinance (PDO), the Broadway streetwall is setback 15 feet from the right-of-way, creating a de-facto plaza adjacent to Broadway. To ensure enhancement of the Broadway streetscape, design of this area will follow the PDO's Urban Open Space Design Guidelines (to the extent feasible).

The exterior design of the building is modern, utilizing metal panels, glazing, smooth trowelled plaster, natural concrete, and stone cladding at the building base. The west elevation is characterized by a distinctive sawtooth façade pattern, created by projecting triangular bays that cover the tower face. The north facing sides of the triangular projections are clad with metal panels, while the southern faces provide windows into the units. Metal panels are also employed on the eastern façade of the building and are carried down into the building base. The southern tower face is marked by a swath of photovoltaic "solar scrim" that extends horizontally over the upper level terrace and cascades down the building's southern exposure. This unique design element will provide energy for basic building functions, serve as a shade structure for the upper terrace, and add color and visual interest to the south elevation.

The building base is well articulated with glazing, vertical metal panel banding, stone cladding and sections of natural concrete. A projecting rectangular window box wraps the building corner at Ninth Avenue and Broadway and two square frame elements project from the western façade adding additional articulation. At the second level, a thin floor slab projects beyond the building face creating a thin canopy wrapping the Project's street frontages. The entrance to the residential lobby is recessed into the western façade and extends through the building to the internal landscaped courtyard area.

The Corporation Consultant Architect, Gwynne Pugh, has reviewed the Project and commended the design for its elegant aesthetics, access to street level retail spaces, and considerable ground floor glazing. He describes the overall design as handsome and well thought out and recommends the Project for approval.

Proposed Schedule of Performance

Action	Completion Date
Redevelopment Agency/City Council	December 2009
Complete Financing Commitments	By December 2010
Start Construction	Spring 2011
Complete Construction	Spring 2013

Project Benefits – The proposed Project would provide the following:

- Affordable rental housing for very-low- and low-income households;
- Supportive housing units for special needs population who are at risk of being homeless;
- Living units for very low-income individuals; and
- Elimination of blight by developing an underutilized lot on a major commercial corridor.

Environmental Impact: As explained in the Environmental Secondary Study attached to this report as Attachment F, this activity is covered under the 2006 Final Environment Impact Report (which is a "Program EIR") and the related 2007 Addendum certified in connection with the Downtown Community Plan ("Previous Environmental Documents"). Acting as the "lead agency" for purposes of CEQA review, the Agency will make certain findings, consistent with CEQA Guidelines Section 15168 and the Agency's CEQA procedures, to the effect that (i) the environmental impacts of the proposed activity were adequately addressed in the Previous Environmental Documents, (ii) the proposed activity is within the scope of the development program described in the Previous Environmental Documents, and (iii) no further environmental documentation is required under CEQA. Such findings are set forth in the draft Agency resolution accompanying this item. Acting as the "responsible agency" for purposes of CEQA review pursuant to CEQA Guidelines Section 15096, the Council will state for the record that it has reviewed and considered the Environmental Secondary Study.

CONCLUSION

The proposed Project meets the goals identified in the Downtown Community Plan and Centre City Redevelopment Plan. Staff recommends that the Agency approve the proposed DDA and ground lease with the Developer, together with the related actions described in this report.

Respectfully submitted,

Eri Kameyama
Associate Project Manager

Brandon Nichols
Associate Planner

Concurred by:

Frank J. Alessi
Executive Vice President & Chief Financial Officer

Attachments:
A – Site Map
B – Key Funding Parameters of Affordable Housing Financing Sources
C – Project Proforma Analysis by KMA
D – DDA and Attachments
E – Section 33433 Report and Reuse Analysis
F – Environmental Secondary Study
G – Basic Concept Drawings