Centre City Development Corporation

REPORT NO. CCDC-10-04

DATE ISSUED:	January 6, 2010
ATTENTION:	Honorable Chair and Members of the Redevelopment Agency Docket of January 12, 2010
ORIGINATING DEPT.:	Centre City Development Corporation
SUBJECT:	15th and Commercial Affordable Housing Project (north side of Commercial Street between 15th and 16th streets) – Approval of First Implementation Agreement to the Owner Participation Agreement – East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project
COUNCIL DISTRICT:	2
REFERENCE:	None
STAFF CONTACT:	Eri Kameyama, Associate Project Manager, 619-533-7177

REQUESTED ACTION: That the Redevelopment Agency of the City of San Diego ("Agency") approves the proposed First Implementation Agreement to the Owner Participation Agreement ("Agreement") among the Agency, S.V.D.P. Management, Inc. ("Owner") and 15th & Commercial, L.P. ("Developer") for the 15th and Commercial affordable housing project ("Project").

STAFF RECOMMENDATION: That the Agency approves the proposed Agreement among the Agency, Owner and Developer for the Project.

SUMMARY: The Developer proposes to demolish and replace the existing Bishop Maher Center (BMC) located at 15th and Commercial streets in the East Village neighborhood. The facility currently provides 150 transitional housing beds for single men. The proposed 12-story building will include 150 replacement transitional housing beds, 64 new affordable housing units, one manager's unit and a child day care center. The Agency entered into the Owner Participation Agreement (OPA) with the Owner in July 2009 and committed a development loan in the amount of $7,300,000 for the Project. The Owner and Chelsea Investment Corporation formed 15th & Commercial, L.P., a limited partnership, to jointly develop the Project.

The Developer successfully secured 9% tax credit allocation from the California Tax Credit Allocation Committee (CTCAC) in October 2009. However, due to the current adverse market conditions, the Developer has not been able to secure a tax credit investor for the Project and decided to apply for the funding under the American Reinvestment and Recovery Act of 2009

(ARRA) administered by CTCAC. The program allows the Developer to exchange the allocated tax credits for a grant by CTCAC if the Developer provides evidence that it was not able to secure a tax credit investor after making good faith efforts. The OPA requires an amendment to incorporate the requirements of the ARRA funding as well as the updated project budget and method of financing based on the final project pro forma.

FISCAL CONSIDERATIONS: The funds in the amount of $7,300,000 have already been encumbered, and there is no change in the Agency subsidy for the Project.

The amount of the Agency loan was included in the Fiscal Year 2010 budget, was considered when determining this project area's ability to fund its estimated portion of the State's ERAF Take, and will not impact the Agency's ability to make the FY 2010 ERAF Payment at such time it becomes legally obligated to do so.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:
On November 18, 2009, the Centre City Development Corporation Board ("Corporation") voted unanimously to approve the proposed Agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

DEVELOPMENT TEAM

ROLE	FIRM/CONTACT	OWNERSHIP
Owner	S.V.D.P. Management Inc. Mathew Packard, Vice President of Development	Nonprofit Board of Directors, 501(c)(3)
Developer	15th & Commercial, L.P. Mathew Packard, Vice President of Development, S.V.D.P. Management Inc. Jim Schmid, President, Chelsea Investment Corporation	S.V.D.P. Management Inc. – Its Managing General Partner 15th & Commercial CIC,LLC – Its Administrative General Partner Chelsea Investment Corporation – Manager of 15th& Commercial CIC,LLC
Architect	Austin Veum Robbins Partners, Tom Vorkoper, Project Architect (Original Architect) Joseph Wong Design Associates Joseph Wong	Doug and Deen Austin, Chris Veum, Randy Robbins (Privately owned) Joseph Wong (Privately owned)

General Contractor	ROEL Construction Company Robert Cruden, Project Manager	Wayne Hickey (Privately owned)

Austin Veum Robbins Partners (AVRP) was the original architect who prepared the full plans for design approval. The firm of AVRP was dissolved in early 2009. Joseph Wong Design Associates (JWDA) assumed the role as the architect of record, prepared the interior design and value engineering, and will manage the project through completion.

BACKGROUND:

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

- Expanding the supply of affordable rental housing;
- Adding to the range of downtown housing opportunities; and
- Developing affordable, permanent supportive housing units for the special needs population.

The Developer proposes to demolish and replace the existing BMC located at 15th and Commercial streets in the East Village neighborhood. The facility currently provides 150 transitional housing beds for single men. BMC is part of the St. Vincent de Paul Village and adjacent to the Joan Kroc Center (JKC), which provides services to the homeless individuals and families. The land and improvements of both BMC and JKC are presently owned by the Owner. In December 1999, the Agency purchased affordability covenants of the 150 transitional housing beds at BMC for $1,000,000, and entered into an Agreement Affecting Real Property ("Original AARP") with the Owner. The Original AARP, dated December 23, 1999, restricts 150 transitional beds at 50 percent of Area Median Income (AMI) for 30 years from the date of recordation (December 28, 1999).

The Developer plans to demolish the existing two-story structure and develop a 12-story building to expand its current operations by adding 64 new affordable housing units (including 49 permanent supportive housing units), one manager's unit, and a day care center for children residing in St. Vincent de Paul Village, in addition to replacing the 150 transitional housing beds. The project will increase the square footage of the existing transitional housing facilities by approximately 8,500 square feet in a better-organized and more functional space. In July 2009, the Agency entered into an OPA with the Owner to assist with the development of the Project with a loan not to exceed $7,300,000.

Following execution of the OPA, the Owner formed 15th & Commercial, L.P., a limited partnership, with an affiliate of Chelsea Investment Corporation to jointly develop the Project. The Developer successfully secured 9% tax credit allocation in September 2009. However, due to the current adverse market conditions, the Developer has been unable to secure a tax credit investor for the Project and decided to pursue the ARRA funding, which will allow the Developer to exchange the allocated tax credits for a grant administered by CTCAC. The Developer submitted an application to CTCAC in November 2009. The award will be automatic for this project type and will be announced in December 2009.

The executed OPA needs to be amended to reflect the changes in the project financing and requirements by other lenders. The proposed Agreement has been prepared and attached to this report as Attachment C. Per the tax credit regulations, the Developer must start construction by February 8, 2010. To meet this deadline, the proposed Agreement must be approved by the Agency in January 2010.

EQUAL OPPORTUNITY - This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

DISCUSSION:

Project Description – The existing BMC structure is located on the southern one third of the block bounded by Commercial, 15th, 16th and L streets. A site map is included with this report as Attachment A. Adjacent to the St. Vincent de Paul Village, where the proposed site is located, are the Paul Mirabile Center, owned and operated by the Owner, and Studio 15, the Agency-funded affordable housing project (275 units) developed by Affirmed Housing Group (completed in April 2009).

The new 12-story building will accommodate different uses, including transitional housing (150 beds), 64 affordable housing units, 1 manager's unit, three guest rooms for visiting staff and a child day care/school facility that is currently located in the JKC. The building would segregate uses by floor with separate entries and circulation corridors. The child care facility/school will occupy the first, second and third floor. The transitional housing will be located on the fourth through seventh floors. Sixty-four affordable units and a manager's unit will occupy floors 8-11 and three guest rooms will be located on the 12^{th} floor. The Developer will be constructing a separate one-story building for toddlers as part of the child care facility next to the 12-story building. The new building will provide one level of underground parking with 15 spaces of additional staff parking (not required) and one space for the resident manager (required). One hundred-fifty transitional beds and 64 living units will be restricted to individuals earning no more than 40 percent of AMI. Of the 64 living units, 49 will be permanent supportive housing units for individuals with disabilities who are homeless or at risk of homelessness.

Project Financing

The Developer recently revised the project budget to be incorporated into the Agreement. Table A compares the revised budget (November 2009) to the original budget included in the OPA (July 2009).

Based on the actual subcontractor bids, shell construction costs have been reduced by $2.5 million from the July 2009 project budget. However, the submitted revised budget includes increases to other hard and soft cost line items, completely offsetting the shell cost savings. The major cost increases are listed as follows:

1) A $454,000 increase in hard cost contingency to meet the minimum contingency requirement by US Bank (5% of total construction contract).

2) A $370,000 increase to the Low Voltage System, a security system to be provided by the Developer outside of the general contract. The detailed costs of the Low Voltage System are shown in Table B. During the Agency hearing in July 2009, concerns were raised by some of the City Council members regarding security for the users of the Child Care Facility based on the fact that the Project mixes different uses including transitional housing for single men. The Developer proposes to relocate the security kiosk from its existing location within the Father Joe's Villages to the ground floor of the new building to address the Council's security concerns. However, staff considers the costs to be excessive and the existing proposed security cameras and other monitoring equipment to be sufficient, and therefore recommends that the budget for the item remain at $700,000 as included in the original budget.

3) A $348,000 increase in the Legal and Accounting line item to reflect the additional legal fees required to work with 12 different funding sources including new programs such as Section 1602 Program, Transit Oriented Development Program and Infill Incentive Grant Program. While this amount exceeds the costs for similar projects, other projects have not involved this quantity of different funding sources.

4) A $1,206,000 increase in the Architecture and Engineering budget. The original design for the Project was approved by the Corporation prior to staff processing the Developer's request for Agency funding. The costs of the original design far exceeded any other Agency funded residential project. (A cost comparison of recent affordable housing projects approved by the Corporation is shown in Table C.) Staff has carefully evaluated each of the Architecture and Engineering line items reflecting increases, details of which are included in this report as Attachment D. Much of the Architecture and Engineering cost increase ($700,900) is due to value engineering requested by staff prior to approval of the OPA. The remaining cost increases reflect the actual costs that were underestimated or erroneously omitted in the original budget. Staff does not support Agency funding the

entire cost of value engineering and recommends a 50/50 sharing of such costs with the Developer, by a reduced Developer Fee.

And finally, the total financing costs have been reduced by $95,000, primarily due to the lower interest costs during construction ($145,000) resulting from the favorable disbursement schedule of the ARRA funding.

In summary, there have been significant reductions in the shell construction costs ($2.5 million). However, such savings are proposed by the Developer to be completely offset by the increases in other hard cost line items (Low Voltage System, hard cost contingency) and soft cost line items (architecture and engineering, legal and accounting).

Table A: Development Budget Comparison: July 2009 and November 2009

	Original Budget (July 2008)	Revised Budget (Nov 2009)	Change
Acquisition	**$5,500,000**	**$5,500,000**	**$0**
Hard Costs	**$41,982,000**	**$40,521,000**	**($1,461,000)**
Shell Construction	*$33,690,000*	*$31,197,000*	*($2,493,000)*
Low Voltage System	*$700,000*	*$1,070,000*	*$370,000*
Owner's Hard Cost Contingency	*$1,357,000*	*$1,811,000*	*$454,000*
Soft Costs	**$6,586,000**	**$8,139,000**	**$1,553,000**
Architecture & Engineering	*$2,200,000*	*$3,406,000*	*$1,206,000*
Legal and Accounting	*$276,000*	*$624,000*	*$348,000*
Financing Costs	**$3,162,000**	**$3,067,000**	**($95,000)**
Interest During Construction	*$1,492,000*	*$1,347,000*	*($145,000)*
Total Development Costs	**$58,729,000**	**$58,726,000**	**($3,000)**

Table B: Low Voltage System Budget Details

Telephone and Data Communications	***$274,220***
CATV System	$6,078
Voice System Cabling	$63,060
Data Cabling & MDF/IDF Backbone Infrastructure	$205,082
Security Alarm and Monitoring System	***$795,780***
Security Alarm System Cabling and Outlets	$212,818
Cameras at Various Locations (175 Total)	$238,362
Central Monitoring Equipment & Communications	$344,600
TOTAL	**$1,070,000**

Table C: Cost Comparison of Recent Affordable Housing Projects (Per Square Foot GBA)

	15th&Comm April 09	July 09	Nov 09	Ten Fifty B (Res.Only)	Cedar Gateway	Ninth& Broadway
Hard Costs	**$378**	**$374**	**$361**	$275	$277	$311
Soft Costs	**$69**	**$59**	**$72**	$55	$57	$71
Financing Costs	**$40**	**$28**	**$27**	$27	$27	$31
Total excl. Land	**$487**	**$461**	**$460**	$357	$361	$413

Staff's Suggested Changes to the Developer's Proposed Budget

As discussed above, staff does not support the budget increase to the Low Voltage System ($370,000) and 50% of the value engineering costs included in the Architecture and Engineering budget ($350,426), which reduces the gap (the Agency subsidy) by $720,426. However, the Agency subsidy is not allowed to be reduced at this point to maintain the scoring in the tax credit application (the project was awarded tie breaker points based on the Agency subsidy amount of $7,300,000). Therefore, staff recommends that the Agency require the Developer to reduce the costs of Low Voltage System by $370,000 and the developer fee by $350,426, and increase the hard and soft cost contingencies by the respective amount to maintain the same gap amount. The Agency subsidy should be reduced at permanent closing when the final cost certification is provided by the Developer. The staff's recommended changes to the Developer's budget, which were approved for recommendation to the Agency by the Corporation Board on November 18, 2009, are shown in Table D.

Table D: Staff's Recommended Changes to the Developer's Revised Budget

	Developer's Budget	Staff Recommendation	Difference
Acquisition	$5,500,000	$5,500,000	$0
Hard Costs	$40,056,000	$40,056,000	$0
Low Voltage System	***$1,070,000***	***$700,000***	***($370,000)***
Owner's Hard Cost Contingency	***$1,811,210***	***$2,181,210***	***$370,000***
Soft Costs	$8,139,000	$8,139,000	$0
Architecture & Engineering	*$3,405,823*	*$3,405,823*	*$0*
Developer Fee	***$1,400,000***	***$1,049,574***	***($350,426)***
Owner's Soft Cost Contingency	***$250,000***	***$600,426***	***$350,426***
Financing Costs	$3,067,000	$3,067,000	$0
Total Development Costs	$58,726,000	$58,726,000	$0

Financing Sources

The Developer secured diverse funding sources to finance the Project. The following table compares the final funding sources (November 2009) to the original sources included in the OPA (July 2009). As explained in the previous section of the report, tax credits will be replaced with a grant of ARRA funds from CTCAC. The amount of the Mental Health Services Act Program funding has been adjusted to the amount included in the final commitment. The amount of the total available sources matches the revised total development costs.

Comparison of Sources: July 2009 and November 2009

	Original (July 2009)	Revised (Nov 2009)	Change
Tax Credit Equity (9%)	$19,980,000	$0	($19,980,000)
ARRA Grant	$0	$20,000,000	$20,000,000
Mental Health Services Act Program	$2,380,000	$2,357,000	($23,000)
TOD Housing Program	$6,638,000	$6,638,000	$0
Infill Incentive Grant Program	$3,089,000	$3,089,000	$0
CALReUSE Remediation Program	$583,000	$583,000	$0
San Diego Housing Commission	$3,500,000	$3,500,000	$0
First 5 Commission	$6,968,000	$6,968,000	$0
Affordable Housing Program	$1,500,000	$1,500,000	$0
CDBG	$291,000	$291,000	$0
EHAP	$1,000,000	$1,000,000	$0
Deferred Land Contract	$5,500,000	$5,500,000	$0
Agency Subsidy	**$7,300,000**	**$7,300,000**	**$0**
Total	$58,729,000	$58,726,000	($3,000)

A revised project pro forma, prepared by Keyser Marston Associates, is attached to this report as Attachment B.

Back Up Funding Source for Proposition 1C Programs

As a condition of closing, the construction lender (US Bank) requires the Developer to provide a letter of credit in the amount sufficient to cover the combined amounts of the state commitments for the Proposition 1C programs (TOD Housing Program, Infill Incentive Grant Program and CAL ReUSE Remediation Program). This requirement is based on US Bank's concerns about the state's intent and/or ability to sell sufficient bonds and fund the commitments made to the Project. The Owner is in the process of obtaining a letter of credit from a private source to satisfy US Bank's requirement. In the event that the state cannot fund its commitment by the time of construction loan conversion, the Owner will utilize the letter of credit to pay off the construction loan upon Project completion. In this event, amendments to the existing OPA would be required and the Agency board will be asked to review changes to the financing and potential subordination of Agency loan to the new funding source. This letter of credit would also provide additional security to the Agency loan in the event state fund is withdrawn.

<u>Disposition of Property</u>

At construction closing, the Owner (S.V.D.P. Management, Inc.) will convey the project site to the Developer (15^{th} & Commercial, L.P. – S.V.D.P. Management, Inc. is its managing general partner and an affiliate of Chelsea Investment Corporation is its administrative managing partner) subject to a seller carry back note. The Owner will also enter into an option agreement with the Developer to allow the Owner's repurchase of the Project upon expiration of the tax credit compliance period (15 years). The proposed Agreement incorporates the new ownership structure and allows transfer of the Project from the Developer back to the Owner at year 15.

<u>Participation by Agency</u>

The OPA must be amended to incorporate the new project financing, ownership structure and various requirements by other lenders. The proposed Agreement includes the following major revisions to the terms and conditions of the OPA:

- Delete references to "Tax Credit Equity", "Tax Credit Equity Investor" and "Tax Credit Limited Partnership", and add the definition of and related provisions on CTCAC financing under ARRA.

- Allow assignment of the OPA from the Owner to the Developer and consent to future reconveyance of the Project and assignment of the OPA from the Developer back to the Owner at the expiration of the tax credit compliance period.

- Modify the Project Budget as recommended by staff in the previous section of this report.

- Modify the Method of Financing to reflect the updated sources and uses.

- Reduce the amount of developer fee from $1,400,000 to $1,049,574. To the extent there are cost savings upon completion of the Project, the Developer is allowed to recover the Developer Fee up to $1,400,000, before applying the savings to repay the Agency loan.

- Allow subordination of the Agency Deed of Trust, securing a $7,300,000 loan, to the ARRA deed of trust securing a $20,000,000 grant. CTCAC regulations require that the locality's loan be subordinated to the CTCAC grant/loan unless the locality's loan is more than twice the CTCAC grant/loan. (The OPA already allows subordination of the Agency loan to the construction loan and TOD loan.)

- Allow subordination of the Agency Agreement Affecting Real Property (AARP) to the TOD Regulatory Agreement, as required by the California Code of Regulations (Title 25, Division 1, Chapter 7, Subchapter 19, Section 8315). Such subordination is consistent with California Health and Safety Code Section 33334.14. The Agency AARP will be senior to all liens except for the TOD Regulatory Agreement and Inclusionary Housing Agreement. The Agreement provides for the potential subordination of the Agency AARP to the CTCAC financing documents associated with the ARRA funding, to the extent consistent with California Health and Safety Code Section 33334.14. However, at this time, it is not anticipated that CTCAC will require such subordination.

- Reduce the maximum asset management fee from $17,500 to $12,500 annually, considering that there will be no limited partner (tax credit investor) in the Project. The Agency's Affordable Housing Guidelines limit the combined asset management fees for the general partner and limited partner at $17,500, of which up to $12,500 is recommended to be distributed to the general partner. The fee is subject to annual increases of up to the lower of 2.75% or an annual increase in the Consumer Price Index (CPI).

- *Disbursements of Agency Loan During Construction*

  The executed OPA requires that disbursements of the Agency funds be made pari passu (in proportion to each loan amount) with the construction lender (US Bank). Pari passu disbursement is a preferred method of disbursement recommended by the Agency's Affordable Housing Guidelines ("Guidelines") to minimize the Agency's risk during construction by sharing disbursements with a construction lender. However, it is not a requirement by the Guidelines, which allow the Agency to determine the disbursement schedule on a project-by-project basis. US Bank previously approved pari passu disbursement for the Ten Fifty B project in 2007. However, the bank suggested that it may not work for this project based on the current market conditions and complexity of the financing structure.

  On November 18, 2009, the Corporation board recommended approval of a change to the disbursement schedule originally included in the OPA, allowing the portion of the

Agency loan attributable to the transitional housing component to be disbursed prior to construction loan disbursements. Based on the cost estimates, 47.38% of the total residential costs are attributable to the transitional housing component. Therefore, the proposed Agreement allows up to $3,458,740 of the Agency loan (47.38% of $7,300,000) to be disbursed prior to the construction loan, not subject to the pari passu disbursement requirement. The remaining balance less 20% retention, up to $2,381,260, shall still be subject to the pari passu disbursement requirement, and shall be disbursed in proportion to the construction loan disbursements. Half of the retention in the amount of $730,000 (10% of Agency loan) shall be released upon construction completion and the other half in the amount of $730,000 shall be released upon permanent loan closing.

Proposed Schedule of Performance

Action	Completion Date
Redevelopment Agency review	January 2010
Construction closing	January 2010
9% tax credit deadline to start construction	February 8, 2010
Complete Construction	Summer-Fall 2011

Project Benefits – The proposed Project would provide:

- Forty-nine supportive housing units combined with on-site/off-site supportive services for the special needs population who are homeless or at risk of being homeless;
- Replacement of 150 transitional beds for single men; and
- Increase in supply of living units (64 units) for individuals earning less than 40 percent AMI.

PROJECT DESCRIPTION

The following is a summary of the project:

Site Area	60,329 sq. ft.
Maximum Floor Area Ratio (FAR) Permitted Proposed FAR	3.0 2.93
FAR Bonuses Proposed	None
Stories/Height	12 stories/140 feet
Amount of Child Day Care/School Space	19,408 sq. ft.
Type of Housing	150 transitional housing beds, 64 affordable living units, 1 manager unit (1 BD)
Total Number of Units/Total Residential sq. ft.	65 units plus 150 beds (75 dorms) / 48,292 sq. ft.

Types of Units (sizes)	75 dorms -150 beds (244 sq. ft.) 64 living units (300 sq. ft.) 1 one-bedroom (714 sq. ft.)
Projected Rental Rates	$246* – $540 for living units (based on 2009 income limits)
Number of Units Demolished	75 units (150 beds) – To be replaced on one to one basis.
Inclusionary Housing Ordinance Compliance/ Number of Affordable Units	Provision of 64 affordable apartments
Parking Required Proposed	1 space 16 spaces
Assessor's Parcel Nos.	535-622-06

* For MHSA units, rents will be charged as 30% of tenants' actual incomes.

Environmental Impact – This activity is covered under the 2006 Final Program Environmental Impact Report (FEIR) and a Secondary Study conducted for the Project dated September 2007 (findings adopted by the City Council by Resolution No. 303174 on November 13, 2007 and similar reliance upon the Secondary Study by the Redevelopment Agency by Resolution No. 04439 on July 28, 2009). The effects of the proposed activity were adequately addressed in the FEIR and Secondary Study, and the proposed activity is within the scope of the development program described in the FEIR. The revisions to the OPA pertain to modifications in the financing structure for the Project and thus do not implicate any new environmental concerns that are not already addressed in the FEIR and the Secondary Study. Therefore, pursuant to CEQA Guidelines Section 15168, no further environmental documentation is required.

CONCLUSION: The proposed Project meets the goals identified in the Community Plan. Staff requests that the Agency approves the proposed Agreement.

Respectfully submitted,

Eri Kameyama
Associate Project Manager

Concurred by:

Frank J. Alessi
Executive Vice President & Chief Financial Officer

Attachments: A – Site Map
B – Revised Project Proforma by KMA
C – First Implementation Agreement
D – Details of the Changes in Architecture & Engineering Budget

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