

OVERSIGHT BOARD REVIEW AND CONSIDERATION FOR APPROVAL OF VARIOUS
OBLIGATIONS FROM THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE

April 9, 2012

Page 2

RECOMMENDATION

Staff recommends that the Oversight Board:

- Individually consider, approve, and affirm the obligations listed above and include these obligations as part of the Recognized Obligation Payment Schedule.



JIM DELLALONGA
Department Administrative Officer

Attachments

Recommended for Approval



Matthew Fertal
Director

ROPS Item 7

Hyatt Regency OPA

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: George L. Tindall
From: Matthew Fertal
Dept: Director
Dept: Community Development
Subject: **OWNER PARTICIPATION**
AGREEMENT: GATWAY PROPERTIES
Date: November 24, 1998

OBJECTIVE

The purpose of this report is to present for Agency consideration the Owner Participation Agreement between the Agency and Gatway Properties for the proposed conversion of the existing 10-story office building on the Alicante Plaza property, located at the northwest corner of Harbor Boulevard and Chapman Avenue, to an approximately 279-room, all-suites hotel.

BACKGROUND

The master-planned Alicante Plaza development was constructed in 1986. The development includes a 14-story, 400-room hotel (currently operated as the Hyatt Alicante), a 10-story office building, and a freestanding restaurant (Pepper's). While the hotel has been very successful, the property owner, Gatway Properties, has struggled to keep the office building occupied since the time that the Disney Corporation completed its move from the building in 1994. Western Dental currently occupies two floors of the building and the Hyatt Hotel uses the first floor for conference space. The remainder of the building is vacant, and has been for several years.

Gatway is concerned about its ability to achieve and maintain adequate occupancy levels in the office building due to the fact that the property is not located within a recognized corporate office center. In comparison, there is considerable demand for additional hotel rooms in this market area. The demand is being fueled by the Disney and Convention Center expansions. Consequently, Gatway is proposing to convert the existing office building to a 279-room, all-suites hotel.

ANALYSIS/FINANCIAL IMPACT

While the proposed new hotel is projected to maintain high occupancy levels, the achievable room rates in Central Orange County and for this project (estimated to be \$115 per night) will not support the estimated \$21.5 million cost to convert the building. Consequently, Gatway is proposing to share a portion of the new transient occupancy tax (T.O.T.) and tax increment revenues generated from the new hotel. At the meeting of October 27, 1998, the Agency reviewed Gatway's proposal and directed staff to negotiate an Owner Participation Agreement which would allow Gatway to participate in project revenues over a 17-year period. The Owner Participation Agreement (OPA) has been prepared and its major terms are summarized below.

1. **Scope of Development**

The existing 10-story office building will be converted to an approximately 279-room, all-suites hotel. The conversion will require the complete reconstruction of the interior of the building. No exterior modification to the building is required. Gatway is also proposing to completely remodel and refurbish the ground floor of the existing atrium. The construction of the new rooms will also require either the construction of a new outdoor pool adjacent to the building or the reconstruction and enlargement of the pool which is on the second level of the existing hotel. All of the above-described improvements are referred to in the OPA as the "Rehabilitation". Gatway is responsible for funding all costs associated with the Rehabilitation.

2. **Schedule of Performance**

The OPA will not take effect until and unless Gatway decides to undertake the Rehabilitation. Gatway will have until June 30, 2000 to determine if they wish to do so. Gatway may terminate the OPA for any reason up to that time. Conversely, if Gatway is not prepared to start construction of the Rehabilitation by June 30, 2000, the Agency may terminate the OPA. However, Gatway may extend indefinitely the June 30, 2000 date for the start of construction by: (1) Submitting a lender's commitment letter for financing the Rehabilitation; and, (2) Obtaining the City's approval for the construction plans required to complete the Rehabilitation. The OPA requires that the Rehabilitation be completed by December 1, 2002. If Gatway fails to meet this deadline, they would be in default of the OPA and the Agency would not be required to make any of the payments described in Paragraph 4, below.

3. **Agency Purchase of Operating Covenant**

The OPA provides that the Agency purchase a covenant requiring Gatway and their successors to continuously operate the converted building as a full-service, all-suites hotel for 32 years. The covenant requires that the new hotel be operated as a Hyatt or a comparable upscale, full-service hotel which has a national reservation system and hotels of similar quality to Hyatt, such as Marriott, Westin, Sheraton or Hilton. Hyatt has expressed a strong desire to operate the new rooms, and Gatway and Hyatt are in the process of negotiating a long-term management agreement.

4. **Developer's Participation in Project Revenues**

In consideration of the 32-year operating covenant described above, and to provide sufficient cash flow to the developer to make the project economically feasible, the OPA provides that Gatway receive seventy-five percent (75%) of the net new T.O.T. and tax increment generated from the new hotel building during its first 17 years of operation. The Agency and City will retain all the new sales tax and twenty-five percent (25%) of the new T.O.T. and tax increment from the new hotel building during the first 17 years and 100% of project revenues thereafter. Over the life of the project, the Agency receives

65%, and Gatway receives 35% of the total revenue generated from the conversion. If the operating covenant discussed above is breached, the project revenue payments to the developer will cease.

5. **Prohibition on Property Tax Appeal**

The OPA prohibits Gatway from taking any action to decrease the assessed valuation of the new hotel building below its new value after the Rehabilitation is complete ("Appeal Limitation Base"). The Appeal Limitation Base will increase each year by the lesser of two percent (2%) or the actual increase in assessed valuation imposed by the County.

6. **Environmental Review**

At their meeting of November 10, 1998, the Garden Grove Planning Commission approved the minor modification application for the conversion of the building and the proposed construction of the new outdoor pool. The Planning Commission also considered and approved a Negative Declaration which addressed both the minor modification and the Owner Participation Agreement. Consequently, no separate environmental review or approvals are required by the Agency for the project.

In terms of project benefits, the proposed Rehabilitation will convert a marginally productive office building into a first class hotel. The addition of the new suite rooms will strengthen the Hyatt's operations and allow them to remain competitive in this market area. New employment opportunities will be provided and the City and Agency will benefit from new T.O.T., sales, and tax increment revenues.

RECOMMENDATION

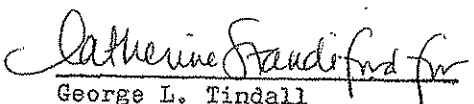
Based upon the information presented above, staff recommends that:

- The Agency approve the OPA between the Agency and Gatway Properties for the proposed conversion of the 10-story office building on the Alicante Plaza property, located at the northwest corner of Harbor Boulevard and Chapman Avenue, to an approximately 279-room, all-suites hotel, and authorize the Chairman and Secretary to execute the necessary documents.


MATTHEW FERTAL, Director
Community Development

Attachment: Owner Participation Agreement
h:daveb\gatrpt.doc)

Recommended for Approval


George L. Tindall
Director

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: George L. Tindall
Dept: Director
Subject: **AMENDMENT TO OWNER
PARTICIPATION AGREEMENT:
TARSADIA HOTELS**

From: Matthew Fertal
Dept: Community Development
Date: January 25, 2000

OBJECTIVE

The purpose of this report is to present for Agency consideration Amendment Number One to the Owner Participation Agreement between the Agency and Tarsadia Hotels for the conversion of the existing 10-story office building on the Alicante Plaza property to an approximately 279-room hotel.

BACKGROUND

A. Existing Agreement:

In November of 1998, the Agency approved an Owner Participation Agreement (OPA) with Gateway Properties for the conversion of the office building to an all-suites hotel. The property was subsequently purchased by Tarsadia Hotels, who assumed all of Gateway's rights under the OPA. Tarsadia executed the Assignment Agreement as Angeli, LLC and Poonam, LLC. The major terms of the OPA are summarized below:

Scope of Development

The existing 10-story office building will be converted to an approximately 279-room, all-suites hotel. The ground floor of the existing atrium will be completely remodeled and refurbished. The developer is responsible for funding all costs associated with the rehabilitation/conversion, which was estimated at the time the OPA was approved to be \$21.5 million.

Agency Purchase of Operating Covenant

The OPA provides that the Agency purchase a covenant requiring Tarsadia and their successors to continuously operate the converted office building as a full-service, all-suites hotel for 32 years. The covenant requires that the new hotel be operated as a Hyatt or a comparable upscale, full-service hotel which has a national reservation system and hotels of similar quality to Hyatt, such as Marriott, Westin, Sheraton or Hilton.

Developer's Participation in Project Revenues

In consideration of the 32-year operating covenant described above, and to provide sufficient cash flow to the developer to make the project economically feasible, the OPA provides that Tarsadia receive seventy-five percent (75%) of the net new T.O.T. and tax increment generated from the hotel building during its first 17 years of operation, with a cap of \$19.8 million. If actual project revenues exceed estimated projections and Tarsadia receives \$19.8 million in total assistance before the expiration of the 17-year period, the annual payments would cease. The Agency and City will retain all the new sales tax and twenty-five percent (25%) of the new T.O.T. and tax increment from the hotel building during the first 17 years and one hundred percent (100%) of project revenues thereafter. If the operating covenant discussed above is breached, the project revenue payments to the developer will cease.

Base Year Tax Amount

The Agreement provides that Tarsadia share only in the new T.O.T revenues above what was being generated before the completion of the conversion/renovation. To ensure this, the Agreement provides that Tarsadia share only 75% of all T.O.T revenues above \$906,000, which represents the average, annual T.O.T revenue which was generated from the hotel in 1996 through 1998. The base year tax amount is increased one percent (1%) a year for the term of the Agreement.

ANALYSIS/FISCAL IMPACT

B. Developer's Efforts to Date

Since the approval of the OPA, Tarsadia has been working to finalize a Management Agreement with Hyatt to manage the new rooms, and with their architects and engineers to better estimate the cost of constructing the conversion and renovations to the property. Through these efforts, Tarsadia has concluded that, without the construction of a big ballroom/conference center which will allow Hyatt to compete for national conference business, Hyatt has declined to manage the new rooms. A significant attraction to Tarsadia in converting the office building to a hotel was Hyatt's management of both hotels and the efficiencies created thereby. Tarsadia has fairly refined estimates that show the cost of constructing a new, 30,000 square foot conference facility will be approximately \$8 million. In addition, the overall cost of converting the rooms and renovating the property has increased over their preliminary estimates by as much as \$6 million. This increases Tarsadia's total construction cost from approximately \$21.5 million to \$35.5 million.

C. Proposed Amendment

In consideration of the increased conversion cost and the cost of constructing the new conference center, Tarsadia is proposing an amendment to the OPA as follows:

Scope of Development

The Scope of Development will be revised to require the construction of a new conference facility of not less than 25,000 square feet. The requirement that all the new rooms be suites will be removed. A majority of the new rooms will be of a suites design, but Hyatt has suggested that not all the rooms be suites. The OPA currently requires not less than 261 rooms. At Hyatt's request, additional conference space may be added on the second floor of the existing building, which would reduce the room count. The amendment will require not less than 240 guest rooms.

Increase in the Cap on Total Participation

With the construction of the new conference facility, Hyatt is projecting higher room rates and occupancies which increases the amount of T.O.T revenue that will be generated in comparison to the original proposal. Tarsadia is proposing that their participation in 75% of the new T.O.T and property tax revenues over a 17-year period remain unchanged; however, they are proposing to increase the cap on the total amount of assistance over the 17-year period from \$19.8 million to \$33 million. This will allow them to recoup the additional cost of construction over time.

Decrease Base Tax Amount

The existing number (\$906,000) only averages three prior years and includes 1997, which was a banner year for the hotel in terms of T.O.T. revenue. Accordingly, Tarsadia feels the prior base tax amount is unrealistically inflated. They are proposing to average the annual T.O.T revenue from 1996 through projected 1999, which would lower the base tax amount to approximately \$870,000. The number would still increase one percent (1%) a year for the term of the Agreement.

D. Environmental Review

The Amendment to the OPA does not constitute a "Project" under the provisions of the California Environmental Quality Act (CEQA). Accordingly, an Exemption will be filed for the Amendment. All of the entitlement applications required by the developer to construct the project (e.g., the Site Plan Application) will be subject to environmental review pursuant to CEQA.

RECOMMENDATION

Based upon the information presented above, staff recommends that the Agency:

- approve Amendment Number One to the Owner Participation Agreement between the Agency and Tarsadia Hotels and authorize the Director and Secretary to execute the Amendment.

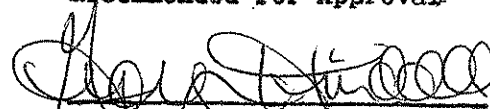
MATTHEW FERTAL, Director
Community Development



By: 
David Belmer
Economic Development Manager

Attachment: Amendment to Owner Participation Agreement

Recommended for Approval


George L. Tindall
Director

ROPS Item 8

Residence Inn DDA

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: George L. Tindall

From: Matthew Fertal

Dept: Director

Dept: Community Development

Subject: **OWNER PARTICIPATION
AGREEMENT: RIGG HOTEL, LLC**

Date: December 12, 2000

OBJECTIVE

The purpose of this report is to present for Agency consideration the Owner Participation Agreement between the Agency and Tarsadia Hotels (doing business as RIGG Hotel, LLC) for the development of an approximately 200 room hotel on a 2.7 acre site located on the west side of Harbor Boulevard, north of the Plaza Alicante (see attached Site Map).

BACKGROUND

In September of this year, Tarsadia Hotels (Developer) submitted a proposal to develop an approximately 200 room hotel on the 2.7 acre site referenced above. The project site is owned by the Developer. The site formerly provided required parking for the Plaza Alicante hotel and office building. The conversion of the office building to hotel rooms significantly reduced the overall parking requirement for the Alicante property, which allowed the site to be "carved out" or separated for the proposed development. The Developer's proposal included a request to share in project revenues for seventeen years.

After considering the proposal and the benefits to be derived from the project, the Agency directed staff to negotiate an Owner Participation Agreement (OPA) to participate in the development.

ANALYSIS

Pursuant to Agency direction, an Owner Participation Agreement has been prepared for the project. The major terms of the Agreement are summarized below.

A. Scope of Development

The Developer anticipates the construction of an approximately 200 room hotel. The OPA requires the construction of not fewer than 165 rooms. The Agency has the ability under the OPA to review and approve the exterior architecture, the building height and number of floors, and the on-site circulation and landscaping to ensure that the hotel and site improvements are consistent in quality and design with the hotels on Sites A and B. The existing parking area will

be completely reconstructed as part of the development. The estimated development value of the project is approximately \$25 million. All the cost of the development will be funded by the Developer.

B. Agency Purchase of Operating Covenant

The OPA provides that the Agency purchase a covenant (Operating Covenant) which obligates the Developer and their successors to continuously operate the hotel pursuant to a franchise, license, management agreement or other arrangement with a hotel chain which has a national reservation system for 34 years. The Operating Covenant also requires that the hotel be initially opened for business as a Marriott Residence Inn or its equivalent.

C. Developer's Participation in Project Revenues

In consideration of the Operating Covenant, and to provide sufficient cash flow to the Developer to make the project financable and economically feasible, the OPA provides that the Developer receive 75% of the new property tax and 75% of the Transient Occupancy Tax (T.O.T.) generated from the hotel during the first 17 years of operation. The Agency and City will retain any sales tax and twenty five of the property tax and T.O.T. during the first 17 years and 100% of all project revenues thereafter. The developer assistance payments would cease for any period in which the building is not occupied and operated as a hotel.

D. Environmental Review

The proposed project meets the categorical exemption findings under Section 15332 of the California Environmental Quality Act (CEQA). Section 15332 provides that an in-fill development is categorically exempt if it meets all the required findings: (1) the project is consistent with the General Plan, (2) the project site is five acres or less, (3) the development site does not contain any endangered species, (4) the project does not result in any significant affects on traffic, air quality, noise or water quality, and (5) the project can be adequately served by all required utilities. A traffic study for the development concluded that the project does not result in any significant traffic impacts. All other conditions of Section 15332 have been satisfied. Consequently, staff is recommending that a Notice of Exemption be filed for the project.

E. Project Benefits


The proposed project will result in the development of a mid-rise, quality hotel on a site which is currently used for surplus parking. The new hotel will be consistent in scope and quality with the mid-rise hotels recently developed on Sites A and B. The development furthers the City's goal of transforming the Harbor Corridor into a major tourist destination with quality developments that enhance the City's economic base. The project will add a \$25 million development with no up-front investment on the part of the City or Agency. Net of the developer assistance payments in the first seventeen years, the project will produce averaged annual total

revenues for the City/Agency of \$300,000. After the Developer's assistance payments have ended, averaged total revenues to the City/Agency from the project will approximate \$2 million per year. Over the life of the development, the City/Agency will receive approximately 67% of all project revenues. Additionally, the project will generate jobs during construction and permanent jobs with the operation of the hotel.

RECOMMENDATION

Based upon the information presented above, staff recommends that:


- The Agency approve the OPA between the Agency and RIGG Hotel, LLC, substantially in the form attached, for the development of an approximately 200 room hotel on the 2.7 acre site located on the west side of Harbor Boulevard, north of Chapman Avenue, and authorize the Director and Secretary to execute the Agreement, and
- The Agency direct staff to file a Notice of Exemption for the project.

MATTHEW FERTAL, Director 
Community Development

By: 
David Belmer
Economic Development Manager

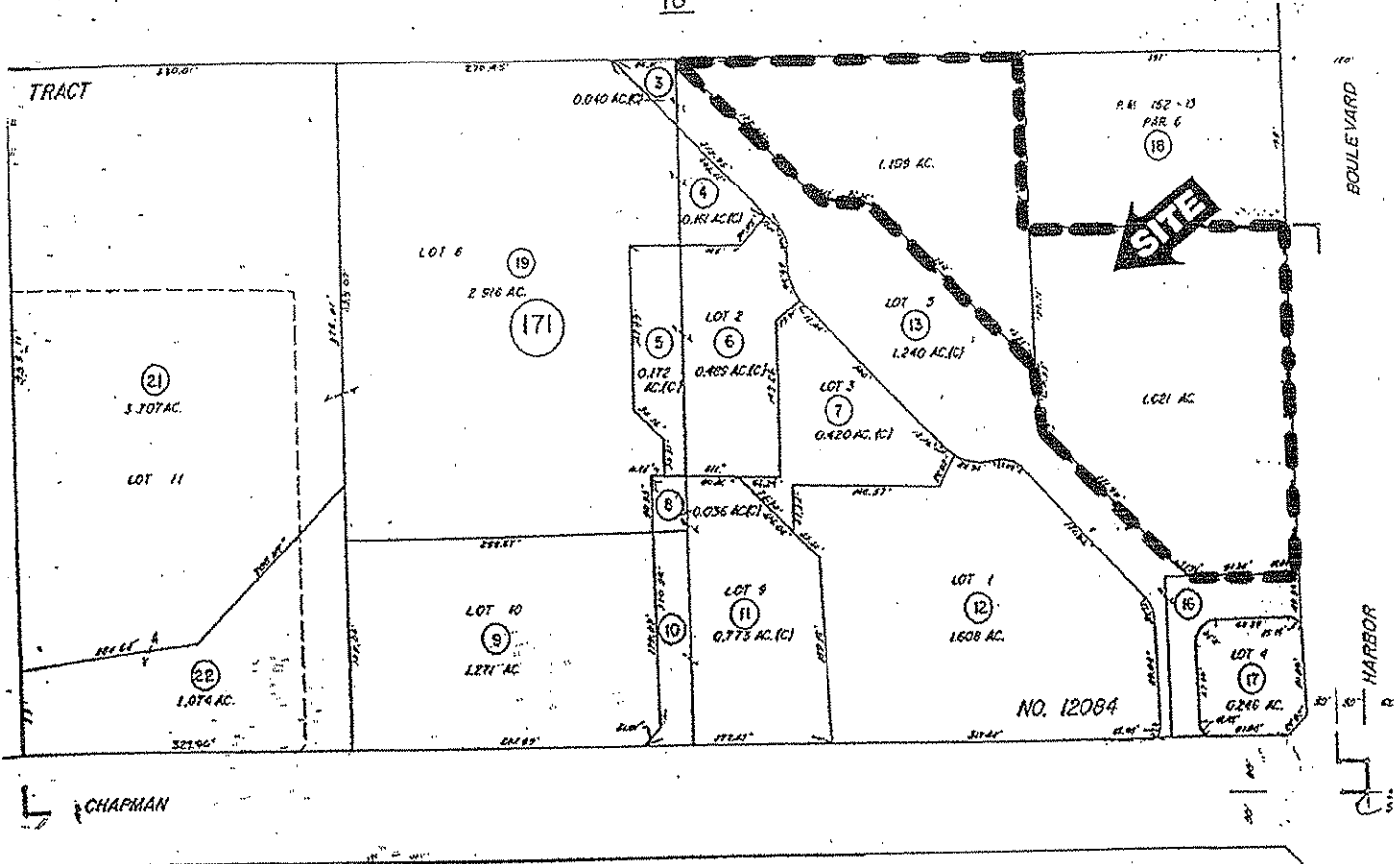
Attachments: Site Map
Owner Participation Agreement

Recommended for Approval


George N. Tindall
Director

SITE MAP

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ROPS Item 9

Sheraton Hotel DDA

or McWhinney/Stonebridge owns or has legal possession of any of the parcels which comprise the site. If the DDA is approved, the Agency will begin appraising the properties, then seek Agency direction to acquire the parcels.

B. Scope of Development

The DDA with McWhinney/Stonebridge (as "Palm Court Lodging, LLC"; or the "Developer") requires the development of two business quality, limited service hotels, which must be operated as Marriott products. The hotels must be a minimum of six stories, with a minimum of 500 rooms (275 rooms-Marriott Courtyard Inn Hotel and 225 rooms-Springhill Suites Hotel), and must include a pool and exercise facility, main lobby area, and porte-cochere at the main entrance.

C. Primary Agency Responsibilities

The Agency is responsible for the cost of acquisition, relocation of existing occupants, and the demolition of the remaining improvements for the Site. The estimated cost to the Agency for the acquisition and clearance of the site is approximately \$7 million. The Agency will prepare a parcel map to consolidate the site into one parcel, which will be conveyed to the Developer. The Agency is responsible for the cost of constructing all required street improvements up to the back of the curb face and sewer and water line improvements, if required.

The Agency must provide additional financial assistance to McWhinney/Stonebridge, provided that McWhinney/Stonebridge has complied with certain conditions outlined in the Agreement. The Agency assistance will be paid in installments, and will not exceed a cumulative total of \$5.5 million. The installment assistance will be payable based on the Net Revenues generated by the Project annually.

D. Purchase Price in the Form of a Promissory Note

McWhinney/Stonebridge will execute a Developer Promissory Note in favor of the Agency to formalize the obligation to repay to the Agency the Acquisition Costs in the event that the Marriott Developers does not uphold its covenant to continuously operate a conforming hotel project on the site for ten (10) years from the closing date. The Promissory Note is provided to ensure that the project generates net property tax increment, sales tax, and transient occupancy tax revenues equal to the purchase price between seven to ten years, net of any Agency Assistance Payments to the Developer.

E. Developer Credits Against the Promissory Note

During each of the first seven years after the opening of the hotel, the Developer will receive annual credits against the principal amount owing under the Promissory Note. The annual credits will be equal to the net property tax increments, sales tax, and transient occupancy tax revenues received and retained by the Agency/City from the development and operation of the hotel, net of any Agency assistance payments and Developer loan repayment. The Developer

will only receive the annual credits if the hotel has been operated continuously during the preceding year in compliance with all terms of the DDA.

F. Agency Assistance Payments

In addition to the credits against the Promissory Note, the Developer will receive annual Agency assistance payments during each of the first seven years of the operation of the hotel, up to a maximum of \$5.5 million (\$4.1 million present value).

G. Fair Re-use Value

The Agency's economic consultant, Keyser Marston Associates (KMA), has completed a detailed pro forma and re-use analysis for the development. The analysis examines project development costs in relation to expected operating revenues to determine the supportable land value or developer purchase price. The KMA analysis concludes that the proposed contribution of the land with no cash payment represents the fair re-use value of the Site, and that the proposed Agency assistance payments are required in order for the hotel to achieve financial feasibility from an operations perspective during the first seven years.

H. Project Costs/Benefits

As shown on the attached Summary (33433) Report, it is estimated that the Agency will expend approximately \$7 million to meet its acquisition, site clearance, and development obligations under the DDA for the 5.5 acre Site. Including the net present value of the Agency assistance payments (estimated at \$4,100,000), the total cost of the Agreement to the Agency is \$11,100,000. However, the Agency will receive net property tax increment revenue over the life of the project of approximately \$5.4 million (present value). When these revenues are factored in, the net cost of the Agreement to the Agency is reduced to approximately \$5.7 million.

Project benefits include the significant amount of net transient occupancy tax (TOT) revenue which will be generated by the project. It is expected that the project will generate approximately \$1,900,000 in combined annual revenue. Additional project benefits include job creation in the project area and a master-planned project which will help anchor the Harbor Corridor Hotel/Entertainment District.

I. Schedule of Performance

The Developer must submit their site plan application for review by the Planning Commission within 30 days of the approval of the DDA. Their construction plans must be submitted within 45 days of the City Council's approval of the site plan application. Escrow for the conveyance of the Site must occur by an outside date of July 1, 2002.

J. Environmental Review

Based upon the potential for significant environmental affects, staff determined that a Mitigated Negative Declaration should be prepared for the master-planned, hotel/restaurant project. The

Draft Mitigated Negative Declaration and the Mitigation Monitoring Program were prepared, advertised, and made available for public review. Any responses to written comments have been incorporated into the final Mitigated Negative Declaration, which is attached for City Council and Agency review. The City Council and Agency will adopt the Mitigated Negative Declaration by adopting the attached City and Agency resolutions.


RECOMMENDATION

Based upon the information presented above, staff recommends that:

- The City Council approve the attached Resolution of the City Council approving the Disposition and Development Agreement between the Agency and Palm Court Lodging, LLC.
- The Agency approve the attached Resolution of the Agency for Community Development approving the Disposition and Development Agreement between the Agency and Palm Court Lodging, LLC.
- The Agency authorize the Chairman and Secretary to execute the DDA and all other documents necessary to implement the Agreement.
- The Agency determine that the preliminary site plan meets the objectives of the Redevelopment Plan for the Community Project.

MATTHEW FERTAL, Director
Community Development



By: Greg Brown 
Project Manager

Attachments:

1. Proposed Disposition and Development Agreement
2. Site Map
3. Site Plan
4. Summary Report
5. Mitigated Negative Declaration
6. City Council Resolution Approving the DDA & Adopting Mitigated Negative
7. Agency Resolution Approving the DDA & Adopting Mitigated Negative Declaration

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City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: Matthew Fertal
 Dept: Director
 Subject: **HARBOR HOTELS PHASE III
 (SITE B2) ASSIGNMENT OF DDA
 TO KAM SANG COMPANY, INC.**

From: Glen Krieger
 Dept: City Manager
 Date: April 27, 2004

OBJECTIVE

The purpose of this report is to request that the Agency approve an assignment (Attachment No. One) of the Disposition and Development Agreement (DDA) with McWhinney-Stonebridge to Kam Sang Company, Inc., for the development of the 5.5 acre site located south of the Crown Plaza Hotel.

BACKGROUND/DISCUSSION

On June 26, 2001, the Garden Grove Agency for Community Development (Agency) and City Council approved a Disposition and Development Agreement (DDA) with Palm Court Lodging, LLC, for the development of two limited service, all suites hotels along the west side of Harbor Boulevard, between Chapman Avenue and Twintree Avenue. On December 11, 2001, the Agency authorized staff to initiate the acquisition of the parcels that comprise the development project. To date, eleven (11) properties have been acquired on a willing seller basis. Seven (7) parcels remain.

Due to several reasons, including the events of September 11th, the "soft opening" of Disney's California Adventure and the economic downturn in the economy, McWhinney-Stonebridge has not moved forward with the project. Although recently economic conditions have improved in the state, McWhinney-Stonebridge feels they are well represented in the market and are focusing their efforts and resources on their projects in Colorado. Therefore, they are willing to assign the DDA rights to Kam Sang. Kam Sang believes that the timing is right to secure hotel franchises and that the market can absorb additional hotel rooms in 2005-06 based on market studies. Language in the DDA provides for assignment of the agreement with approval by the Agency.

Kam Sang has been in discussions with two (2) major hospitality companies and has preliminary interest from those companies. Kam Sang will also submit new

development pro formas and corporate financial information as soon as the new flags are identified.

Kam Sang, Inc.

Kam Sang is an Arcadia, California based development company that was founded in 1977. According to information provided by Kam Sang, the company has hundreds of millions of dollars in commercial assets, including hotel, office, retail centers and the popular restaurant chain, Tokyo Wako. The company has grown into a multi-billion dollar operation with offices throughout North America, Hong Kong and Taiwan.

Current hotel properties under management include a Marriott Residence Inn, La Mirada, the Holiday Inn, Anaheim, and a Marriott Courtyard in Baldwin Park. Recently, Kam Sang has started construction on an Embassy Suites Hotel in Glendale, a fourteen (14) story, 272-room development that was assisted by the Glendale Redevelopment. Kam Sang is a qualified hotel developer/operator and is eager to bring additional hotels to Garden Grove.

Other Issues

With respect to the 2002 Certificates of Participation (COP) that were issued to finance B2 site acquisitions, the COPs included prepaid interest, which requires that the first \$560,000 payment be made on August 15, 2004. Kam Sang has agreed to advance the funds for the first payment to the Agency. Those funds would be returned to Kam Sang most likely at a point in time after the project starts construction. A second installment of \$940,000 is due in February of 2005. Kam Sang has also agreed to advance this amount.

FINANCIAL IMPACT

There is no financial impact from this action, other than to transfer the specific terms of the original DDA (along with certain new proposed terms outlined in the assignment agreement), which included Agency financial assistance based on a certain set of assumptions.

RECOMMENDATIONS


Based on the foregoing, staff recommends that the Agency:

- Approve the assignment of the Disposition and Development Agreement between the Agency and Palm Court Lodging, LLC, dated June 26, 2001, to Kam Sang Company, Incorporated;

Harbor Hotel Phase III (Site B2)
Assignment of DDA to Kam Sang Company, Inc.
April 27, 2004
Page 3

- Authorize the Agency Director and Secretary to execute the agreement on behalf of the Agency when appropriate.

GLEN KRIEGER 
Economic Development Manager

By: Greg Brown 
Project Manager

Attachment

MM(h:Staff/BrownG/kam sang staff report B2 DDA assign.doc)

**SUMMARY REPORT PURSUANT TO
SECTION 33433
OF THE
CALIFORNIA COMMUNITY REDEVELOPMENT LAW
ON A
DISPOSITION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
AND
PALM COURT LODGING, LLC.**

The following Summary Report has been prepared pursuant to Section 33433 of the California Health and Safety Code. This report sets forth certain details of the proposed Disposition and Development Agreement (Agreement) between the Garden Grove Agency for Community Development (Agency) and Palm Court Lodging, LLC. (Developer).

The Agency will assemble a 5.5-acre site near the southwest corner of Harbor Boulevard and Chapman Avenue (Site), for the subsequent creation of two hotels. The Agreement requires the Agency to convey the Site to the Developer, and to provide direct financial assistance to the Developer to effectuate the development of two business quality, limited service hotels (Project).

This Summary Report is based upon information contained within the Agreement; and is organized into the following seven sections:

- I. **Salient Points of the Agreement:** This section describes the Developer's and the Agency's major responsibilities.
- II. **Cost of the Agreement to the Agency:** This section details the cost of the Agreement to the Agency.
- III. **Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted Under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted under the existing zoning and the requirements imposed by the redevelopment plan.

- IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section estimates the value supported by the Site based on the required use and with the conditions and covenants required by the Agreement.
- V. **Consideration Received and Comparison with the Fair Reuse Value:** This section describes the compensation to be received by the Agency, and the reasons for any difference between the compensation and the fair reuse value.
- VI. **Blight Elimination:** This section describes the blighting conditions on the Developer Site, and explains how the Agreement will alleviate the blighting influence.
- VII. **Conformance with the AB1290 Implementation Plan:** This section explains how the Agreement complies with the redevelopment strategy identified in the Agency's adopted AB 1290 Implementation Plan.

This report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

I. **SALIENT POINTS OF THE AGREEMENT**

The Agreement required the Agency to convey the Site to the Developer at no cost. In return, the Developer must construct two business quality, limited service, hotels.

The Agreement imposes extraordinary development restrictions on the Project, which impact the proposed hotels' feasibility. As such, the Agreement requires the Agency to provide financial assistance to the Developer to mitigate the economic impact caused by the controls.

A. **Developer Responsibilities**

In addition to the Developer responsibilities outlined in the Salient Points of the Agreement summary, the Developer must accept the following responsibilities:

1. The Developer must construct and operate the hotels at the quality level embodied by the Marriott Courtyard Inn Hotel and Springhill Suites Hotel. The Project must include the following:
 - a. each hotel must include a minimum of six stories;

- b. the two hotels must include a combined total of at least 500 rooms (approximately 275 rooms-for the Marriott Courtyard Inn Hotel and approximately 2245rooms-Springhill Suites Hotel);
 - c. the minimum guest room development standards are:
 - i. the rooms must average at least 315 square feet of area for the Courtyard; and 400 square feet for the Springhill Suites.
 - ii. the Developer must expend no less than \$12,500 per room for the installation and construction of furniture, fixtures and equipment (FF&E), including sleeping quarters for the Courtyard and \$10,000 per room for the Springhill Suites.
 - d. a central lobby area;
 - e. a swimming pool, and;
 - f. an indoor exercise facility.
2. The Developer must pay for site improvement costs including:
- a. off-site improvements (inside the back of the curb face) required by the Agency, the City of Garden Grove (City) and any other governmental entity. These improvements include; sidewalks, driveways, street lights, and signs consistent with the Harbor Boulevard Streetscape Improvement Plan. The cost of new parkway landscape, including irrigation and planting materials, textured and enhanced sidewalk, and curb and gutter along the Harbor Boulevard street frontage of the Site, will be evenly shared by the Developer and the Agency:
 - b. the connection of all public utilities serving the Project
 - c. the undergrounding of all on-site utilities required to serve the Project;
 - d. all site preparation costs, including grading, soil compaction and any over-excavation that may be required. The Developer and the Agency must each fund 50% of any extraordinary costs incurred in site preparation, and;
 - e. landscaping and hardscaping consistent with the theme proposed for the 5.5-acre Site.

3. The Developer must grant all necessary utility easements and rights for the development of the Site.
4. The Developer must enter into a Reciprocal Easement Agreement for the Site that provides easements for ingress, egress and parking with the neighboring Crowne Plaza Hotel and with any future development to the west of the Site. The Developer must also pay the agreed upon pro rata share of the development, maintenance and operation costs for the Site's common areas.
5. The Developer must advance one-half of the estimated costs to assemble the site to the Agency. This amount will be repaid according to the terms described in the Agreement.
6. The Developer must repay the Agency's Site acquisition costs in the event that the Marriott developer does not uphold its covenant to continuously operate a conforming hotel project on the Site. This obligation must be evidenced by a Developer Promissory Note in favor of the Agency.

B. Agency Responsibilities

In addition to the Agency responsibilities outlined in the Salient Points of the Agreement summary, the Agency must accept the following responsibilities:

1. The Agency must complete a Phase 1 Environmental Assessment and any testing recommended in the assessment.
2. The Agency is responsible for up to \$100,000 in environmental clean-up costs. Any costs in excess of \$100,000 is the responsibility of the Developer.
3. The Agency must pay for all off-site public improvements, to the back of the curb face, required by the City and the Traffic Analysis and Parking Management Plan, including:
 - a. a left-turn lane into the Project for north bound traffic on Harbor Boulevard, and;
 - b. a right-turn/deceleration lane into the main driveway entrance to the Project on Harbor Boulevard.
4. The Agency must vacate, abandon or relocate all existing utilities on the site that would conflict with the Project.

5. The Agency must provide direct financial assistance to the Developer, provided that the Developer has complied with certain conditions outlined in the Agreement. The Agency assistance will be paid in installments, and will not exceed a cumulative total of \$5.5 million (present value of \$4.1 million). The installment assistance will be calculated based on the Net Public Revenues generated by the Project annually.¹

¹ Net Public Revenues are defined as 100% of the Property Tax Increment and transient occupancy tax revenue generated by the Project.

II. COST OF THE AGREEMENT TO THE AGENCY

The Agency costs to implement the Agreement include costs to acquire land, relocate tenants, demolish existing improvements, remediate hazardous materials and prepare the Site for development. The Agency must also bear the cost of providing direct financial assistance to the Developer.

The Agency will receive the Property Tax Increment generated by the Project, which will partially defray the Agency cost to implement the Agreement. In addition, the City will receive the transient occupancy tax (TOT) revenues generated by the Project, which are projected to produce substantial General Fund revenues over time.

A. Out-of-Pocket Costs

The projected out-of-pocket costs to be incurred by the Agency are:

1. The Agency must fund the following costs immediately following the execution of the Agreement:
 - a. Site assemblage costs at \$3.5 million;
 - b. Environmental costs at a maximum of \$100,000, and;
 - c. Off-site improvements at \$110,000.²
2. The Developer is required to advance to the Agency \$3.5 million of the Site assemblage costs. The Agency must repay this advance plus 8% interest over a 15-year amortization period. The Agency cost is as follows:
 - a. The cost in nominal dollars is \$6.1 million.
 - b. The cost in present value terms is \$3.5 million.

The total out-of-pocket costs are estimated at \$9.8 million in nominal terms. This equates to \$7.2 million in present value terms.

² The off-site improvement costs are estimated at \$20,000 per acre, which equates to \$110,000 for the Site.

B. Agency Cost Recovery

1. The Agreement allows the Agency to use a scheduled portion of the Net Public Revenues generated by the Project to recoup some of the Agency's out-of-pocket costs. The schedule included in the Agreement is:

	Base Agency Allocation ³
1 st Annual Period	\$467,000
2 nd Annual Period	467,000
3 rd Annual Period	467,000
4 th Annual Period	467,000
5 th Annual Period	467,000
6 th Annual Period	467,000
7 th Annual Period	467,000
Total Payments	\$3,269,000
Present Value of Payments	\$2,273,000

2. If the Net Public Revenues exceed the amounts defined in "Subsection 1", the Developer is entitled to receive the following financial assistance payments:

	Direct Financial Assistance ⁴
1 st Annual Period	\$1,100,000
2 nd Annual Period	1,000,000
3 rd Annual Period	900,000
4 th Annual Period	900,000
5 th Annual Period	900,000
6 th Annual Period	400,000
7 th Annual Period	300,000
Total Payments	\$5,500,000
Present Value of Payments ⁵	\$4,060,000

3. If the Agency's out-of-pocket costs have not been completely recouped after the Developer has received \$5.5 million in Direct Financial Assistance, the Agency

³ This amount can never exceed the amount of Net Public Revenues generated by the Project.

⁴ This can never exceed the Net Public Revenues remaining after the Base Agency Allocation.

⁵ The present value is calculated based on a 10% discount rate.

can allocate 100% of the remaining Net Public Revenues to the repayment of the Agency's out-of-pocket costs.

Keyser Marston Associates, Inc. (KMA), the Agency's financial consultant, prepared a cash flow analysis to project the New Public Revenues over time. The cash flow analysis projects that the \$5.5 million in Direct Financial Assistance will be fully disbursed within the first seven years of operation, and that the Agency will receive the payments as scheduled in the Agreement.

C. Property Tax Increment Revenues

The Agency will receive Property Tax Increment revenue from the Project based on the increased valuation of the Site. The Agency's cash flow analysis projects that these revenues total \$20.1 million in nominal terms, and \$7.2 million in net present value terms. This projection is based on the assumption that the Project is completed in 2003, and that Property Tax Increment can be collected in the redevelopment project area until 2023. The revenue stream was discounted to present value at a 10% discount rate.

D. Net Agency Cost

The net Agency cost to implement the Agreement are estimated as follows:

<u>Agency Costs</u>	<u>Nominal Dollars</u>	<u>Net Present Value</u>
Out-of-Pocket Acquisition Costs	\$3,500,000	\$3,500,000
Developer Advance Repayment	6,100,000	3,500,000
Environmental Costs	100,000	100,000
Off-site Improvement Costs	110,000	110,000
Direct Financial Assistance Payments	5,500,000	4,060,000
Total Agency Cost	\$15,310,000	\$11,270,000
(Less) Property Tax Increment Revenue	(20,100,000)	(7,200,000)
Net Agency Revenue/(Cost)	\$4,790,000	(\$4,070,000)

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

Section 33433 of the California Health and Safety Code requires the Agency to identify the value of the interest being conveyed at the highest and best use allowed by the Site's zoning and the requirements imposed by the redevelopment plan. The valuation must be based on the assumption that near-term development is required, but the

valuation does not take into consideration any extraordinary use and/or quality restrictions being imposed on the development by the Agency.

The Agency recently engaged an appraiser to value a commercial parcel in the immediate vicinity of the Site. This appraisal established the value at \$20 per square foot of land area. When this value is applied to the Site, the value totals \$4.8 million.

IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED

In a report dated June 11, 2001, KMA presented an economic analysis of the Project. This analysis determined that given the currently achievable room rates and occupancy levels for Central Orange County extended-stay hotels, the Site has a negative reuse value. The KMA analysis also concluded that the provision of \$5.5 million in Direct Financial Assistance (\$4.1 million in present value terms) is required to make the Project financially feasible, and therefore does not provide a windfall profit to the Developer.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE FAIR REUSE VALUE.

The Agreement requires the Agency to convey the Site to the Developer at no cost, and to provide the Developer with direct financial assistance projected to have a present value of \$4.1 million. The KMA analysis concluded that the Site does not support any land value. The KMA analysis also concluded that the proposed Direct Financial Assistance does not provide a windfall profit to the Developer. Thus, KMA concluded that the Agency is receiving fair compensation for the interests being conveyed.

VI. BLIGHT ELIMINATION

The 5.5-acre Site, which will be subdivided to create two hotels, is currently occupied by aging commercial-retail structures and single-family residences. Development of the proposed hotels on the Site will eliminate blight at this location by replacing underutilized property with new quality hotel development.

VII. CONFORMANCE WITH THE AB1290 IMPLEMENTATION PLAN

The primary AB1290 Implementation Plan program objective for the Garden Grove Community Project is to eliminate conditions which negatively impact economic development of the community by acquiring, removing, consolidating and rehabilitating substandard properties. To that end, the Agency Plans to convey the Site to the Developer for hotel development.

The Implementation Plan also establishes a priority objective of increasing the community's economic base by encouraging new investment in the redevelopment project area. The Implementation Plan explicitly lists ensuring the optimum generation of General Fund revenues by facilitating the development of commercial properties as an Agency goal. As such, the Project, which will provide new commercial development and the subsequent generation of TOT revenues, will achieve goals specifically defined in the Implementation Plan.

ROPS Item 27

Waterpark Hotel DDA

City of Garden Grove
INTER-DEPARTMENT MEMORANDUM
Garden Grove City Council
and
Garden Grove Agency for Community Development

To: Matthew Fertal
Dept: Director
Subject: DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) WITH GARDEN GROVE MXD, LLC

From: Chet Yoshizaki
Dept: Economic Development
Date: May 12, 2009

OBJECTIVE

The purpose of this report is to request the Garden Grove Agency for Community Development (the "Agency") and the Garden Grove City Council (the "City") to conduct a joint public hearing and consider approval of a Disposition and Development Agreement (the "Agreement") between the Agency and Garden Grove MXD, LLC, a Colorado Corporation (the "Developer") for the construction of an approximately six hundred (600) room water park hotel, and approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants.

BACKGROUND/DISCUSSION

Garden Grove MXD, LLC, is an entity of McWhinney which is a diversified real estate company headquartered in Loveland, Colorado. McWhinney offers development services from acquisition and planning to entitlement. McWhinney offers expertise in developing large-scale master-planned communities, commercial and mixed-use development, acquisition and investment in land and real estate activities, and in public/private partnerships with municipalities.

McWhinney was a partner with Stone Bridge Companies and was the pioneer that developed three (3) InternationalWest hotels including the Hilton, Hampton Inn, and Homewood Suites, as well as four (4) restaurants including, Bucca di Beppo, Outback Steakhouse, Red Robin, and Joe's Crab Shack.

Following a comprehensive "Request for Proposal", the Agency chose McWhinney as the developer for the InternationalWest Central Hub. Since that time, McWhinney has worked with the Agency, community, and staff to design a project that achieves the Agency's goals while remaining responsive to the market demands.

On October 18, 2007, the Agency entered into a 270-day Exclusive Negotiation Agreement with McWhinney for the development of an approximately 41-acre resort project. Subsequently, the site was limited to 10.3 acres. The Developer has proposed a concept plan that includes the following: A new full-service water park hotel with six hundred (600) rooms and will feature fifteen thousand (15,000) square feet of meeting and business space. The program will also include a minimum of eighteen thousand (18,000) square feet of restaurant along with a parking structure.

Summary of the Disposition and Development Agreement (DDA) Deal Points

The DDA (Attachment 5) contains the business terms for implementing the project. It establishes the obligations, responsibilities, and benefits between the Agency and Garden Grove MXD, LLC. The Agreement is based on the business terms approved by the Agency.

1. Acquisition and Disposition of Property:

- o Developer shall deposit with the Agency the sum of Fifty Thousand Dollars (\$50,000) (the "Deposit").
- o The Agency will be responsible for acquiring the entire 10.3-acre site.
- o The Agency will convey fee title to 10.3-acre site.
- o The Agency's approval of a financing commitment by an institutional lender is required prior to conveyance.

2. Condition of Property Conveyed/Indemnity:

- o The Agency will remove all structures and deliver the site in a clean and level condition.
- o The Agency will pay an amount not to exceed \$250,000 for remediation of identified hazardous materials.

3. Agency Assistance:

- o Amount equal to approximately fifty percent (50%) of the Tax Increment, Transient Occupancy Tax, and Sales Tax Revenues for a period of twelve (12) years after the commencement of operation of each hotel.

4. Agency Contribution to Parking Structure:

- o Concurrently with the Closing, the Agency will deposit in account with a bank mutually acceptable to the Agency and Developer, and in the name of Developer, subject to a first priority lien of the Construction Lender, the total sum of Five Million Dollars (\$5,000,000) for the Parking Structure.

5. Project Assessed Valuation:

- o The Developer, and its successors in interest, shall not appeal the assessed value of the Project so as to achieve a total assessed value, after completion, of less than Two Hundred Million Dollars (\$200,000,000).

6. Prevailing Wages:

- o With respect to the construction of the Developer Improvements on the Site set forth herein and in the Scope of Work, Developer and its contractors and subcontractors shall pay prevailing wages and employ apprentices in compliance with Labor Code Section 1770, *et seq.*, and shall be responsible for the keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements.

7. Right of First Refusal Agreement:

- o Because the Developer is making a significant economic commitment to the Site and Project Area through the development of the Developer Improvements, Developer has requested that it be granted a right to first refusal with respect to that certain property adjacent to the Site, described in Exhibit L attached hereto and incorporated herein by reference, referred to therein as the "Right of First Refusal Area" and herein as the "Property".

8. 2008-2009 Differential:

- o If the Developer imposes a Parking Structure Fee, and (i) the City imposes a Qualified BID Assessment and/or (ii) the City increases its TOT Rate so that the effect of either (i) and/or (ii) is to decrease the 2008-2009 Differential, then the Agency will pay to the Developer each year, commencing with the year the Developer first receives Covenants Consideration, and so long as, and to the extent such TOT Differential remains, but in no event later than July 9, 2032 (as may be extended if the term of the Redevelopment Plan is extended by amendment, but not longer than forty (40) years from Completion) an amount equal to the total room revenues for each such year multiplied by the difference between the 2008-2009 Differential and the TOT

Differential for such year, (the "Applicable Differential"). If and to the extent the Applicable Differential becomes less than two percent (2%) either by virtue of changes in TOT Rates by the City of Anaheim and/or the City or the Qualifying BID Assessment is reduced or terminates, payment hereunder shall be adjusted accordingly. Notwithstanding the above, the Covenants Consideration shall be based on the TOT Rate of thirteen percent (13%).

Reuse Value of a Property

Horwath HTL, ("Horwath"), economic consultants to the Agency, concluded that the Project's development costs fall within industry standards for a project of this type. Horwath has also provided financial feasibility analysis on various components of the Project, including the effective land payment to the Agency, profit participation, private development costs, valuation of private components, overall net cost to Agency, public parking costs, and overall project budget.

Horwath has prepared a Summary Report in accordance with Section 33433 of the California Community Redevelopment Law (Attachment 6) in order to inform the Agency and the public about the transaction. As such, Horwath has determined that the consideration is not less than the fair market value at its highest and best use.

The reuse value of a property is defined as the fair market value in accordance with the covenants, conditions and easements governing sale or lease of the property as contained in the DDA (Attachment 5) between the Agency and the Developer. It is the highest cash price that the property would command in the open market for the specified purpose under the development conditions established by the Agency and for the purpose of development of the proposed Project, and is not speculative.

Assuming the scope of development as proposed by the Developer and the development costs (excluding land cost), compared to the estimated income and development values that can be reasonably expected from the Project components, Horwath estimates the Project generates a negative reuse value ever after Agency assistance of \$24,000,000. This financial gap is consistent with general urban hotel development in the current market, resulting in significant barriers to entry with financial gaps noted in many developments.

Projects Cost Summary

Estimated Land Acquisition, Relocation, Demolition, and Environmental	\$15,823,435
<u>Contribution to Parking Structure</u>	<u>\$5,000,000</u>
Total Agency Investment	\$20,823,435

Project Benefits

Developer agrees that should the hotel be sold prior to the end of the assistance period, the assistance payments will remain with the hotel. An operating covenant will also be placed on the development to ensure its continuous operation as a hotel, with minimum standards for property maintenance.

The first year annual projected revenues that accrue from the project include:

- o Total Development value estimated annual Tax Increment: \$ 991,200
- o Estimated annual Transient Occupancy Tax (TOT): \$4,035,623
- o Estimated annual Hotel Food and Beverage Sales Tax: \$ 162,805
- o Estimated annual Restaurant Sales Tax: \$ 126,000
- o Annual Total Tax Increment, TOT, Sales Tax: \$5,315,628
- o A projected (500-800) in both temporary and new permanent jobs.

COMMUNITY VISION IMPLEMENTATION

- Improving the City's economic base through development of tax-generating uses where appropriate.

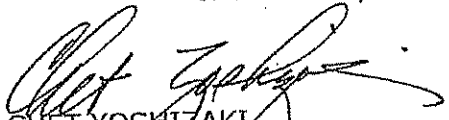
FINANCIAL IMPACT

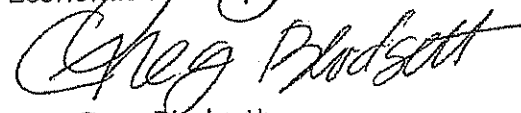
- The financial impact to the Agency, is limited to the amount of the Transient Occupancy Tax and Property Tax Increment assistance package of \$20.8 million dollars over ten (10) years, as determined by the Agency's economic consultant. This amount represents approximately fifty percent (50%) of the anticipated tax revenues generated from the project. The Agency is estimated to be paid back \$20.8 million within seven (7) years from the net revenues generated from the project.

RECOMMENDATION

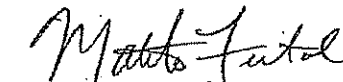
Staff recommends that the Agency take the following actions:

- Conduct the joint public hearing;
- Adopt a Resolution approving:
 1. The DDA between the Agency and Garden Grove MXD, LLC.
 2. City Council of the City of Garden Grove consenting to the approval by the Agency of a DDA by and between the Agency and Garden Grove MXD, LLC, and
 3. Authorize the Agency Director to execute any pertinent documents in order to fully execute this DDA.


CHET YOSHIZAKI
Economic Development Director


By: Greg Blodgett
Senior Project Manager

Approved for Agenda Listing

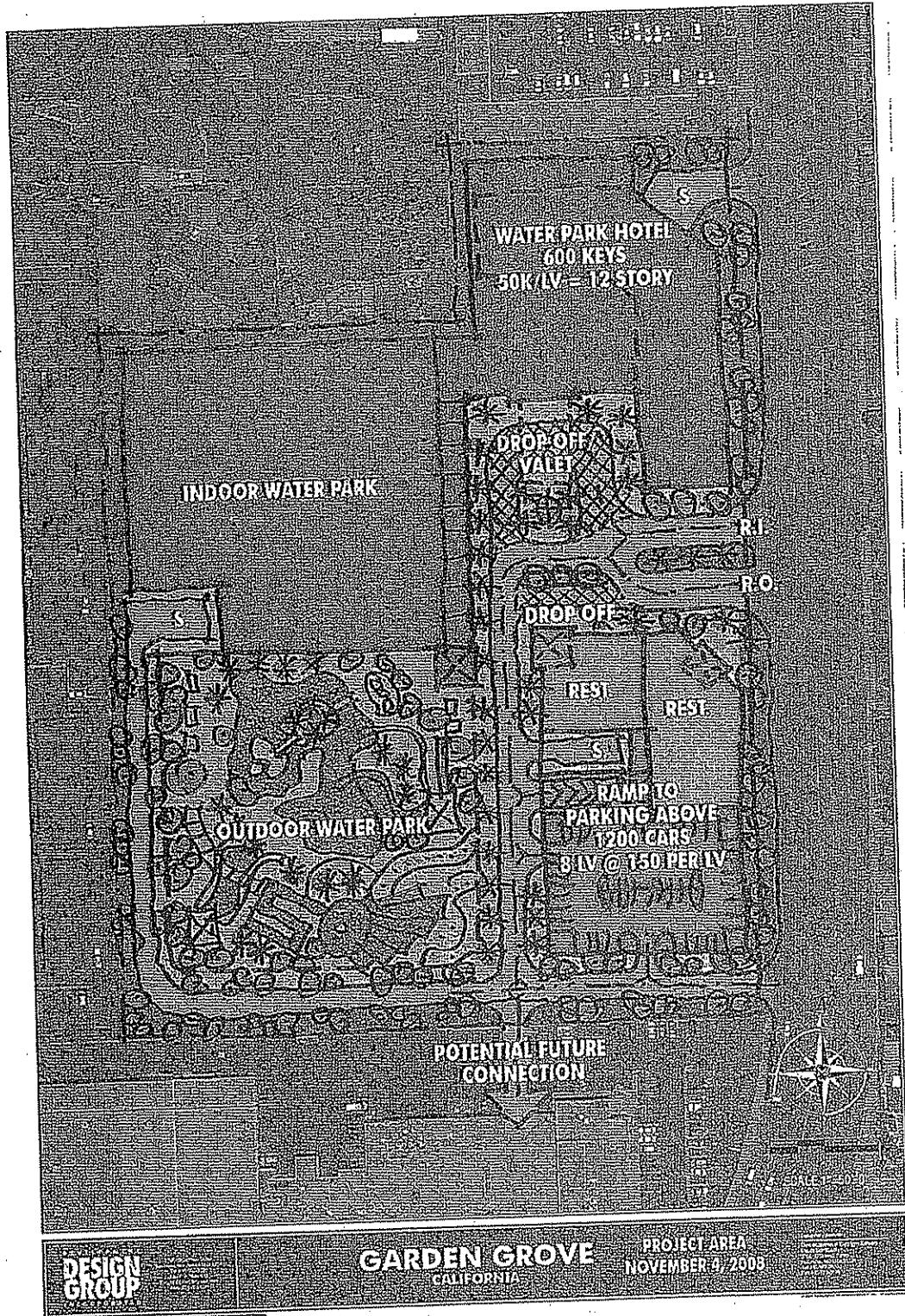

Matthew Fertal
Director

- Attachment 1: Site Map
- Attachment 2: Conceptual Plan
- Attachment 3: Agency Resolution
- Attachment 4: City Resolution
- Attachment 5: Disposition and Development Agreement
- Attachment 6: Summary Report 33433

SITE MAP



CONCEPTUAL SITE PLAN



**SUMMARY REPORT PURSUANT TO
 SECTION 33433
 OF THE
 CALIFORNIA COMMUNITY REDEVELOPMENT LAW
 ON A
 DISPOSITION AND DEVELOPMENT AGREEMENT
 BY AND BETWEEN THE
 GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
 AND
 GARDEN GROVE MXD, LLC.**

The following Summary Report has been prepared pursuant to Section 33433 of the California Health and Safety Code. This report sets forth certain details of the proposed Disposition and Development Agreement ("Agreement") between Garden Grove MXD, LLC ("Developer"), and the Garden Grove Agency for Community Development ("Agency").

The Agency has assembled approximately 10.3 acres of land located at 12721, 12621, and 12591 Harbor Boulevard ("Agency Property"). The Agreement requires the Agency to convey Agency Properties to the Developer for the subsequent development of a Water Park Hotel or Hotel with a minimum of six hundred (600) rooms, with an expansion of up to two hundred (200) additional rooms, with up to three (3) acres of indoor and/or outdoor water park as a component to the Hotel, and approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants and a parking structure ("Project"). The transaction also requires the Agency to provide financial assistance to the Developer to effectuate the development of the Project.

The following Summary Report is based upon information contained in the Agreement and is organized into the following seven sections:

- I. **Salient Points of the Agreement:** This section summarizes the major responsibilities imposed on the Developer and the Agency by the Agreement.
- II. **Cost of the Agreement to the Agency:** This section details the total cost to the Agency associated with implementing the Agreement.
- III. **Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted for the Agency Property and the requirements imposed by the Redevelopment Plan.
- IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Agency Property based on the required scope of development and other conditions and covenants required by the Agreement.

- V. **Consideration Received and Comparison with the Established Value:** This section describes the compensation to be received by the Agency and explains any difference between the compensation to be received and the established highest and best use value of the Agency Property.
- VI. **Blight Elimination:** This section describes the existing blighting conditions on the Agency Property, and explains how the Agreement will assist in alleviating the blighting Influence.
- VII. **Conformation with the AB1290 Implementation Plan:** This section describes how the Agreement achieves the goals identified in the Agency's adopted AB 1290 Implementation Plan.

This report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

I. **SALIENT POINTS OF THE AGREEMENT**

A. **Project Description**

The Project includes approximately six hundred (600) rooms with an expansion of up to two hundred (200) additional rooms, with up to three (3) acres of indoor and/or outdoor waterpark, approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants and a parking structure ("Project"). The Project shall include water elements, hardscape/streetscape, monument signage, and lighting. All square footage and room counts are approximate and may be adjusted based on current market conditions subject to approval by both parties. The terms of the phasing of the Project are to be determined.

B. **Developer Responsibilities Under the Agreement**

The Agreement requires the Developer to accept the following responsibilities:

1. The Developer shall deposit with the Agency a good faith deposit in the sum of Fifty Thousand Dollars (\$50,000). If the Developer terminates the negotiation for any reason, then the Agency will keep the good faith deposit. Upon the Developer commencing construction on the Developer Improvements, the good faith deposit shall be refunded to the Developer.
2. The Developer has agreed to accept possession of the Site on the closing date on an "as is" basis.
3. The Developer shall have the right of access to the Agency Property, and to the Third Party Property for the purpose of making necessary or appropriate inspections, including geological, soils and/or additional environmental assessments. If Developer determines that there are hazardous materials in, on, under or about the Agency Property,

including the groundwater, or that the Agency Property is or may be in violation of any Environmental Law, or that the condition of the Agency Property is otherwise unacceptable to Developer, then the Developer shall notify the Agency and Escrow Holder prior to the Due Diligence Date.

4. The Developer shall pay the recording cost of the Grant Deed and other closing documents, one-half (1/2) the premium for the CLTA Policy, the additional premium for the ALTA Policies and Endorsements, if any, half of the escrow fees charged by the Escrow Agent, and Developer's share of prorations.
5. The Developer shall retain operational control over the management, development and construction of the Developer Improvements (subject to the right of non-managerial members, partners, or shareholders, as applicable, to exercise voting rights with respect to so-called "major decisions") and the Developer has not less than five percent (5%) interest in profit and losses in the Project.
6. The Developer shall construct and maintain, at its expense, one or multiple parking structures to accommodate required parking which will serve the Project. The parking structure shall remain open and available to the public.
7. The Developer shall submit, within the time frame set forth in the Schedule of Performance, and the Agency Director or his designee shall approve, within the time periods set forth in the Schedule of Performance, preliminary building elevations, final building elevations, construction drawings, landscape plans, and related documents required for the development of the Agency Property. The City shall have the right to review and approve all Construction Drawings. In addition to processing Construction Drawings through the City, the Agency shall have the right to review and approve the Construction Drawings as to their compliance with the description of Developer Improvements as set forth herein, and their consistency with the approved Design Review and the Land Use Approvals.
8. The Developer shall, at its sole cost and expense, secure any and all land use and other entitlements, and approvals which the City may require for the construction and operation of the Developer Improvements, design review by the Agency and/or any other entitlements, permits or approvals required by any other governmental agency.
9. The Developer shall submit the Construction Drawings, commence and complete all construction of the Developer Improvements, and satisfy all other obligations and conditions of this Agreement, which are the obligation of Developer within the times established therefore in the

Schedule of Performance. The Schedule of Performance is subject to revision from time-to-time as mutually agreed upon in writing by Developer and the Agency Director.

10. The Developer shall submit to the Agency for the reasonable approval by the Agency's Director actual cost for the Developer Improvements, which sets forth the proposed Development Cost in reasonable detail. The Agency may, at its cost, obtain an evaluation of the proposed Development Budget from an independent construction cost estimator, and may consider such independent evaluation in evaluating and approving the Development Budget.
11. The Developer shall obtain and maintain as well as its contractor or contractors covering all activities relating to construction of Developer Improvements at the Agency Property until the issuance of the Release of Construction Covenants a comprehensive general liability insurance in the amount no less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) in the aggregate for claims arising out of bodily injury, personal injury and property damage. Coverage will include contractual, owners, contractors' protective policy and products and completed operations. In addition, an excess policy in an amount of Four Million Dollars (\$4,000,000) covering the same terms and conditions will remain in force during the term of the Project.
12. The Developer shall obtain and maintain comprehensive automobile liability insurance in the amount of One Million Dollars (\$1,000,000), combined single limit per occurrence (bodily injury and property damage liability) and will remain in force during the term of the Project.
13. The Developer shall obtain and maintain workers' compensation insurance as required by law and will remain in force during the term of the Project.
14. The Developer shall submit to Agency evidence that Developer has equity capital and/or a lender commitment from an institutional lender for the construction of the Developer Improvements.
15. The Developer shall carry out the design, construction and operation of the Project in conformity with all Governmental Requirements.
16. The Developer shall build the improvements and its contractors and subcontractors shall pay prevailing wages and employ apprentices in compliance with Labor Code Section 1770, *et seq.*, and shall be responsible for the keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements

of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements.

17. The Developer will provide Agency with the twenty (20) hotel room nights per year, including water park passes associated therewith free of charge, and will allow the Agency to use the conference and/or banquet facilities and services at the Hotel on at least three (3) occasions per year (an "occasion" means an event lasting up to two (2) days) at a fifteen percent (15%) discount from the lowest rate charged during the past twelve (12) months on a space available basis, excluding services or goods provided by third parties.
18. The Developer shall construct all on-site landscape and hardscape improvements as well as the off-site landscape and hardscape improvements adjacent to the Agency Property, between the Property Line and the back of curb. All such improvements shall be constructed in accordance with the Harbor Boulevard Streetscape Improvement Plan (InternationalWest Landscaping Theme). Improvements include the west side of Harbor Boulevard from the most south boundary portion of the Agency Property to the most north boundary portion of the Agency Property.
19. The Developer shall complete the first phase of the Developer improvements within twenty-four (24) months after commencement of construction.
20. The Developer shall be responsible for utility installations for the Project and hookups to public utility lines. All utility service for the Project shall be installed underground or concealed within buildings and any mechanical, electrical, fire sprinkler or plumbing equipment that may be at ground level shall be aesthetically screened except where not permitted by the Garden Grove Municipal Code.

C. Agency Responsibilities Under the Agreement

1. The Agency will convey the Agency Property to the Developer at no cost.
2. The Agency agrees to use its commercially reasonable efforts to acquire by negotiation the Third Party Property, subject to the terms, covenants and conditions of the Agreement and convey all Third Party Property to the Developer at no cost.
3. The Agency shall pay the recording cost of the Grant Deed and other closing documents, one-half (1/2) the premium for the CLTA Policy, half of the escrow fees charged by the Escrow Agent, and Agency's share of prorations.

4. Subject to the Agency Improvement Costs, the Agency shall have acquired the Site and relocated all occupants from the Agency Property in compliance with all applicable federal, state and local laws and regulations concerning displacement and relocation.
5. Subject to the Agency Improvement Costs, the Agency shall have demolished and cleared from the Agency Property all existing structures and improvements including foundations, remediation of any environmental hazards necessary to address any Recognized Environmental Concerns identified in a Phase II Environmental Site Assessment on the Agency Property, the proper disposal and mitigation of lead-based paint, asbestos and other environmental hazards pursuant to the requirements of the Department of Health Services in compliance with all applicable federal, state and local laws and regulations with respect to demolition and/or disposal and mitigation as described above.
6. Subject to the Agency Improvement Costs, the Agency shall complete all offsite infrastructure, including CEQA mitigation, adequate utilities and utility capacity, roadway and traffic improvements, traffic mitigation measures required by the City to accommodate the project and offsite landscape work to link the project with the existing improvements for the existing Sheraton Hotel on Harbor Boulevard south to northeast corner of the Agency Property.
7. The Agency shall deposit in account with a bank mutually acceptable to the Agency and Developer, and in the name of Developer, subject to a first priority lien of the Construction Lender the total sum of Five Million Dollars (\$5,000,000) to be utilized by Developer for payment towards the construction of the Parking Structure.
8. Subject to Budget Conformance, the Agency shall be responsible for providing all off-site infrastructure including adequate utilities and utilities capacity, roadway and traffic improvements, and traffic mitigation measures required by the City to accommodate the Project.
9. The Agency shall pay to the Developer annually for a period of ten (10) years from each hotel opening an amount equal to fifty percent (50%) of the annual transient occupancy tax (including, if applicable, fees in lieu of transient occupancy tax for time share hotels), subject to the Developer providing adequate consideration, including without limitation the items described in Agency Use of Hotel Facility and other Operating Covenants.
10. The Agency shall pay an amount equal to approximately fifty percent (50%) of the Tax Increment, Transient Occupancy Tax, and Sales Tax Revenues for a period twelve (12) years to the Developer after the commencement of operation of each hotel.

11. If the Developer imposes a Parking Structure Fee, and (i) the City imposes a Qualified BID Assessment and/or (ii) the City Increases its TOT Rate so that the effect of either (i) and/or (ii) is to decrease the 2008-2009 Differential, then the Agency will pay to the Developer each year, commencing with the year the Developer first receives Covenants Consideration, and so long as, and to the extent such TOT Differential remains, but in no event later than July 9, 2032 (as may be extended if the term of the Redevelopment Plan is extended by amendment, but not longer than forty (40) years from Completion) an amount equal to the total room revenues for each such year multiplied by the difference between the 2008-2009 Differential and the TOT Differential for such year, (the "Applicable Differential"). If and to the extent the Applicable Differential becomes less than two percent (2%) either by virtue of changes in TOT Rates by the City of Anaheim and/or the City or the Qualifying BID Assessment is reduced or terminates, payment hereunder shall be adjusted accordingly. Notwithstanding the above, the Covenants Consideration shall be based on the TOT Rate of thirteen percent (13%).
12. The base year assessed value for the approximate 10.3-acre site is Two Hundred Million Dollars (\$200,000,000). (Orange County Assessors 2008 value). The Agency will share in the tax increment above 2008 property tax base value.
13. The Agency shall review and approve the hotel operator and brand or franchisor for the hotel as well as the franchise agreement or management agreement between the franchisor and Developer.
14. The Agency shall be responsible for the continuation of the Harbor Boulevard Streetscape Improvement Plan (International West Landscaping Theme) commencing from the northeast corner of the Agency Property to the southwest corner of Twintree Lane (south side of Twintree Lane) on the west side of Harbor Boulevard and includes the center median of Harbor Boulevard.
15. The Agency shall pay for and the Developer will prepare and process the tentative and final parcel map. Recently, the City has updated its General Plan in which consists an environmental document, which contemplates the proposed development.
16. As long as the Agreement, or negotiation of the Agreement, has not been terminated, the Agency shall provide the Developer the first opportunity, subject to Agency's compliance with its Owner Participation Rules, on all future development and re-development opportunities within the Community Redevelopment Project Area within the International West Resort District between Twintree Lane and Garden Grove Boulevard on the west side of Harbor Boulevard.

II. COST OF THE AGREEMENT TO THE AGENCY

The costs incurred by the Agency to implement the Agreement is Twenty Million Eighth Hundred Twenty Three Thousand Four Hundred Thirty Five Dollars (\$20,823,435) and include the cost to acquire the Site (relocation costs, demolition costs, and costs for hazardous materials abatement), CEQA documentation, site preparation, administrative costs, and the Agency costs for other public improvements.

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

California Health and Safety Code Section 33433 requires the Agency to identify the value of the interests being conveyed at the highest use allowed the Agency Property's zoning and by the requirements imposed by the Redevelopment Plan. The highest and best use for the Agency Properties is a large scale, hotel or entertainment oriented use.

IV. ESTIMATED REUSE VALUE OF INTERESTS TO BE CONVEYED

In a report dated April 23, 2009, Horwrath HTL ("Horwrath"), the Agency's real estate advisor, prepared a reuse valuation analysis of the Project. Based upon the financial terms and conditions imposed by the Agreement, Horwrath analysis concluded that the fair reuse value of the Agency Property has a negative Twenty Four Million Dollars (\$24,000,000) value.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

The Agreement requires the Agency to convey the Agency Property to the Developer at no cost and to provide the Developer with direct financial assistance. The Developer is required to provide public parking in a structure on the site, develop a Water Park Hotel or Hotel with a minimum of six hundred (600) rooms with an expansion of up to two hundred (200) additional rooms, with approximately three (3) acres of indoor and/or outdoor water park as a component to the Hotel, approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants and a parking structure. The Agency is also imposing extraordinary land use controls on the Site, i.e., the quality of the Project must be comparable to noted high-end commercial developments in the greater Los Angeles area (The Grove and the Commons at Calabasas). As indicated previously, the Horwrath analysis concluded that the Agency Property has a negative land value. Thus, Horwrath concluded that the consideration to be received is equal to or greater than the established fair use value.

VI. BLIGHT ELIMINATION

The Agency Property, which will be used to develop the Project, is currently occupied with a non-fixed recreational vehicle park, retail store, and a vacant parcel. The development of the proposed Project on the Agency Property will eliminate blight at this location by replacing underutilized land with a new high quality hotel development.

VII. CONFORMANCE WITH THE AB 1290 IMPLEMENTATION PLAN

The primary AB 1290 Implementation Plan program objective for the Garden Grove Community Project is to eliminate conditions, which negatively impact economic development of the community by acquiring, removing, consolidating and rehabilitating substandard properties. To that end, the Agency plans to convey the Agency Property to the Developer for the development of the Project.

Furthermore, the Implementation Plan also establishes a priority objective of increasing the community's economic base by encouraging new investment in the redevelopment project area. The Implementation Plan explicitly lists ensuring that optimum generation of sales tax revenues by facilitating the reuse, rehabilitation and development of commercial properties as an Agency goal. The Project, which will provide new commercial development and the subsequent of transient occupancy tax and sales tax revenues within the redevelopment project area, conforms with the Implementation Plan, and will achieve goals specifically defined in the Implementation Plan.

Project is identified in the Implementation Plan as a potential project and program for the project area. As such the completion of the Project will be in conformance with the Implementation Plan.

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

*Garden Grove City Council
and
Garden Grove Agency for Community Development*

To: Matthew Fertal
Dept: City Manager/Director
Subject: FIRST AMENDED AND RESTATED
DISPOSITION AND DEVELOPMENT
AGREEMENT (DDA) WITH GARDEN
GROVE MXD, LLC

From: Chet Yoshizaki
Dept: Economic Development
Date: April 13, 2010

OBJECTIVE

The purpose of this report is to request the Garden Grove City Council (City Council) and the Agency for Community Development (Agency) to conduct a joint public hearing to consider the approval of the First Amended and Restated Disposition and Development Agreement (Agreement) by and between the Agency and Garden Grove MXD, LLC (Developer) and to consider the adoption of a Negative Declaration for the construction of a water park hotel with a minimum of six hundred (600) rooms, water park with a possible expansion of up to two hundred (200) additional rooms, approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants, and construct an approximately one thousand two hundred (1,200) space parking structure (Project).

BACKGROUND/DISCUSSION

On May 12, 2009, at a joint meeting of the City Council and the Agency, a Disposition and Development Agreement (DDA) was approved. Since the approval of the DDA, several of the salient points, the development costs, and project site have changed.

Due to extreme conditions in obtaining bank financing in today's lending market, past agency assistance formulas involving sharing of tax revenue over a period of years is not viable. Instead, the banks are requiring that the Agency Assistance be provided in a lump sum, due no later than the opening of the hotel. Consequently, the proposed revision reflects a different structure to provide assistance than previous hotel deals.

FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT
(DDA) GARDEN GROVE MXD, LLC

April 13, 2010

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Reuse Valuation

Based on new cost and revenue numbers provided by the Developer, Horwath, Hospitality and Leisure, LLC (Horwath), the Agency's economic consultant concluded that the Project's development costs compared to the estimated income and development values reasonably expected from the project, generates a negative reuse value of Forty-One Million Dollars (\$41,000,000). This financial gap is consistent within industry standards for hotel projects of this quality.

Summary Report (Health and Safety Code 33433)

In accordance with Section 33433 of the California Health and Safety Code, Horwath prepared a Summary Report to inform the City Council, Agency and the public about the transaction. The Summary Report includes the following: the cost of the Agreement to the Agency; the estimated fair market value of the property; the estimated fair reuse value of the property; the consideration to the Agency, and an explanation of how the sale or lease will assist in the elimination of blight. Horwath has determined that the consideration is not less than the reuse value.

Amendments to the DDA

The following provisions are the amendments to the DDA:

1. **Covenant Consideration.** Agency shall pay the Developer all cash sum of forty-seven million dollars (\$47,000,000) as follows: (a) five million dollars (\$5,000,000) concurrently with the commencement of construction of the parking structure, and (b) forty-two million dollars (\$42,000,000) thirty (30) days after the later of the date on which (i) the hotel opens for business or (ii) the certificate of occupancy for the Developer improvements.
2. **Non-Complete.** The Agency shall not enter into a Disposition and Development Agreement and/or assist another Water Park Hotel, within the City, for a period of six (6) years beginning January 1, 2010 or three (3) years from the opening of the Hotel, whichever comes first.
3. **Acquisition and Disposition of Property.** The Agency acquired additional property located at 12601 and 12602 Leda Lane, which is to be conveyed to the Developer.

Environmental Clearance

The CEQA clearance for the Agreement is the environmental impact report approved as part of the 2002 Redevelopment Plan Amendment. In addition, the

City of Garden Grove has determined that a Negative Declaration recognizing consistency with a previously approved environmental impact report for the City of Garden Grove adopted General Plan.

FINANCIAL IMPACT

- The financial impact to the Agency is the contribution of a Forty-Two Million Dollars (\$42,000,000) at the opening of the Water Park Hotel and Five Million Dollars (\$5,000,000) contribution to the construction of the Parking Structure. Except in the case of Hotel Expansion, the Agency will not be required to share in any transient occupancy and sales tax revenues and tax increment revenues (Total Tax Revenue). In the Project's first full year of operation, the Project is projected to generate eight million five hundred thousand dollars (\$8,500,000) of total tax revenue.

RECOMMENDATION

Staff recommends that the Agency take the following actions:

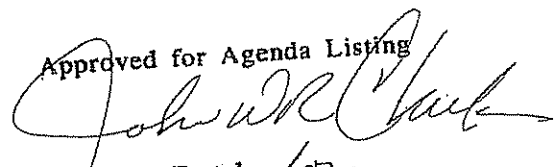
- Conduct the joint public hearing;
- Adopt a Resolution approving:
 1. The First Amendment to the Agreement between the Agency and Garden Grove MXD, LLC.
 2. Authorize the Agency Director to execute any pertinent documents in order to fully execute this Agreement.

Staff recommends that the City Council take the following actions:

1. City Council of the City of Garden Grove consenting to the approval by the Agency of an Agreement by and between the Agency and Garden Grove, MXD, LLC.


CHET YOSHIZAKI
Economic Development Director


By: Greg Blodgett
Senior Project Manager

Approved for Agenda Listing

Matthew Fertal
Director

FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT
(DDA) GARDEN GROVE MXD, LLC

April 13, 2010

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- Attachment 1: Garden Grove Agency for Community Development Resolution
- Attachment 2: City Council of the City of Garden Grove Resolution
- Attachment 3: Estimated Reuse Analysis – 800 Key Waterpark Hotel Site Proposed
for Development by McWhinney Enterprises – Constructed in Two
Phases
- Attachment 4: First Amended and Restated Disposition and Development
Agreement
- Attachment 5: Amended and Restated Summary Report Pursuant to Section 33433

mm(h:Staff/GBI/DDA-Garden Grove MXD LLC Amend sr 041310v3.doc)
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FIRST IMPLEMENTATION AGREEMENT WITH RESPECT TO THE
FIRST AMENDED AND RESTATED DDA WITH GARDEN GROVE MXD, INC.

June 28, 2011

Page 2

1. Section 301.3 of the DDA provides for the Agency (or to request the City to) initiate proceedings to form a CFD and use the proceeds of an issuance of the CFD Bonds to finance the construction of the Parking Structure. The Construction Lender may require that the CFD be formed prior to the Closing.

2. Section 408. Covenant Consideration. In consideration for the granting of the Covenants by the Developer to the Agency and provided Developer is not in Breach and/or Default hereunder or in default with respect to the special tax under the CFD, Agency shall pay to the Developer the all cash sum of Forty-Seven Million Dollars (\$47,000,000) ("Covenant Consideration") as follows: (a) Five Million Dollars (\$5,000,000) concurrently with the Commencement of Construction of the parking structure ("First Payment Date"), and (b) Forty-Two Million Dollars (\$42,000,000) on any date or dates the Agency permits release of such amount, acting in its sole and absolute discretion, but in no event later than the date which is thirty (30) days after the later of the date on which (i) the Hotel Opens for business, and (ii) the Certificate of Occupancy for the Hotel, ("Second Payment Date"). The parties acknowledge that, prior to the commencement of construction, the Agency intends to issue its tax allocation bonds (the "Tax Allocation Bonds") sized to net Forty-Two Million Dollars (\$42,000,000). Upon issuance of such Tax Allocation Bonds, the Agency shall hold and use the proceeds thereof pursuant to the bond documents governing the Tax Allocation Bonds.

3. Section 408.1 Termination of Covenant Consideration Obligation. Notwithstanding the foregoing, the obligation of the Agency under Section 408 to pay Covenant Consideration shall be subject to the terms of Section 408.1(d) above if, for any reason, both of the following conditions do not occur by the date that is two (2) years after the date of issuance of the Tax Allocation Bonds: (i) Close of Escrow and (ii) the Developer has the Construction Financing and such Construction Financing shall be funded or ready to fund in accordance with Sections 205.1(f) and 205.2(h) hereof.

ENVIRONMENTAL

On February 8, 2011, the City Council approved the planned unit development NO. PUD-126-10, enacting a new planned unit development and zoning regulations for the site of the water park hotel resort proposed to be located generally on the west side of Harbor Boulevard between Lampson Avenue and Garden Grove Boulevard in the City of Garden Grove. The development and zoning regulations will authorize the establishment of a water park themed hotel resort with ancillary restaurant, retail and meeting space on the approximately 12.2 acre site.

FINANCIAL IMPACT

The financial impact to the Agency is forty-seven million dollars (\$47,000,000).

RECOMMENDATION

It is recommended that the City Council:

- Conduct a joint Public Hearing;
- Adopt the attached Resolution approving the First Implementation Agreement with respect to the First Amended and Restated Disposition and Development Agreement

It is recommended that the Agency:

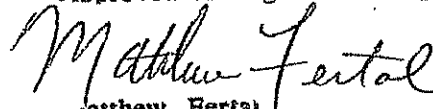
- Authorize the Agency Director to execute any pertinent document in order to fully execute the Agreement.


GREG BLODGETT
Senior Project Manager

Attachment 1: Resolution - City
Attachment 2: Resolution - Agency
Attachment 3: First Implementation Agreement

mm(h:Staff/GBI/Garden Grove MXD, Inc sr 062811v2.doc)

Approved for Agenda Listing


Matthew Fertal
Director

**GARDEN GROVE REDEVELOPMENT PROJECT
GARDEN GROVE, CALIFORNIA**

**SUMMARY REPORT
PERTAINING TO THE DISPOSITION
OF CERTAIN PROPERTY WITHIN THE
GARDEN GROVE COMMUNITY
PROJECT AREA**

**California Community Redevelopment Law
Section 33433**

**PURSUANT TO PROPOSED FIRST AMENDED AND RESTATED
DISPOSITION AND DEVELOPMENT AGREEMENT
BETWEEN
GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT
AND
GARDEN GROVE MXD, LLC**

**Garden Grove Agency for Community Development
Garden Grove, California**

April 2010

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**SUMMARY REPORT PURSUANT TO
SECTION 33433
OF THE
CALIFORNIA COMMUNITY REDEVELOPMENT LAW

FIRST AMENDED AND RESTATED DISPOSITION
AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
AND
GARDEN GROVE MXD, LLC.**

A. INTRODUCTION

The Garden Grove Agency for Community Development (Agency) entered into a Disposition and Development Agreement (Original Agreement) with Garden Grove MXD, LLC (Developer) on May 12, 2009 for the project described in Section I.A., Summary Report (Summary Report). The Agency is now entering into a First Amended and Restated Agreement (Agreement).

Before property acquired by a Redevelopment Agency can be conveyed to the Developer, the City Council and the Redevelopment Agency Board must approve such transaction after a joint public hearing in accordance with Section 33433 of the California Health and Safety Code. Section 33433 provides that a copy of the Agreement and the Summary Report, which describes and specifies certain information, must be available for public inspection prior to the public hearing.

A Summary Report has been prepared in accordance with the requirements of Section 33433. In addition to providing a general description of the project, this Summary Report describes the following:

- I. **Salient Points of the Agreement:** This section summarizes the major responsibilities imposed on the Developer and the Agency by the Agreement.
- II. **Cost of the Agreement to the Agency:** This section details the total cost to the Agency associated with implementing the Agreement.
- III. **Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted for the Site and the requirements imposed by the Redevelopment Plan.
- IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Site based on the required scope of development and other conditions and covenants required by the Agreement.

- V. **Consideration Received and Comparison with the Established Value:** This section describes the compensation to be received by the Agency and explains any difference between the compensation to be received and the estimated value based on the highest and best use of the Site.
- VI. **Blight Elimination:** This section describes the existing blighting conditions on the Site, and explains how the Agreement will assist in alleviating the blighting influence.
- VII. **Conformation with the AB1290 Implementation Plan:** This section describes how the Agreement achieves the goals identified in the Agency's adopted AB 1290 Implementation Plan.

I. SALIENT POINTS OF THE AGREEMENT

A. Project Description

The proposed development includes a Hotel with a minimum of six hundred (600) rooms with a possible expansion of up to two hundred (200) additional rooms (Hotel Expansion), an approximately three (3) acre indoor/outdoor water park, approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants and an approximately one thousand two hundred (1,200) space Parking Structure (collectively, the "Project") to be developed on an approximately 11.7-acre property (the "Site"). The Project shall include water elements, hardscape/streetscape, monument signage, and lighting. All square footage and room counts are approximate and may be adjusted based on current market conditions subject to approval by both parties. The terms of the phasing of the Project are to be determined.

The Agreement requires the Agency to acquire and convey the Site, relocate the existing tenants/businesses, demolish the existing improvements, and rough grade the Site at no cost to the Developer. In return, the Developer must construct the Project.

The Agreement imposes extraordinary development restrictions on the Project, which impact the proposed Hotel's feasibility. As such, the Agreement requires the Agency to provide financial assistance to the Developer to mitigate the economic impact caused by the controls.

B. Developer Responsibilities Under the Agreement

In addition to the Developer responsibilities outlined in the summary of the Salient Points of the Agreement summary, the Agreement requires the Developer to accept the following responsibilities as well as all previous responsibilities mentioned in the Summary Report prepared in connection with the Original Agreement:

1. Hotel Expansion. If the Developer commences construction of all or a part of the two hundred (200) rooms Hotel Expansion prior to the fifth (5th)

anniversary date of the date of the Agreement, the Developer shall be entitled to an amount equal to the following : (i) Fifty percent (50%) of the tax increment revenue generated from the Hotel Expansion, (ii) plus fifty percent (50%) of the net increase in transient occupancy tax revenues generated by the Hotel after the opening of the Hotel Expansion (iii) plus fifty percent (50%) of the net increase in sales tax generated by the Developer Improvements after the opening of the Hotel Expansion.

2. Time Extension. The schedule of performance allows for two (2) six month extensions, the first to occur on April 12, 2012 and the second on October 12, 2012 upon the happening of certain events.

C. Agency Responsibilities Under the Agreement

In addition to the Agency responsibilities outlined in the Salient Points of the Agreement summary, the Agency must accept the following responsibilities:

1. Covenant Consideration. The Agency shall pay the Developer all cash sum of forty-seven million dollars (\$47,000,000) as follows: (a) five million dollars (\$5,000,000) concurrently with the commencement of construction of the parking structure, and (b) forty-two million dollars (\$42,000,000) thirty (30) days after the later of the date on which (i) the Hotel opens for business or (ii) the certificate of occupancy for the Hotel.
2. Non-Compete. The Agency shall not enter into a Disposition and Development Agreement and/or assist another Hotel for a period of six (6) years beginning January 1, 2010.
3. Additional Property. The Agency acquired additional property located at 12601 and 12602 Leda Lane to be conveyed to the Developer for the proposed Project.

II. COST OF THE AGREEMENT TO THE AGENCY

The estimated costs incurred by the Agency to implement the Agreement are Sixty-Nine Million Two Hundred Ninety-Nine Thousand Dollars (\$69,299,000), and include the following:

Agency costs to acquire the Site (relocation costs, demolition costs, and costs for hazardous materials abatement), CEQA documentation, site preparation, administrative costs, and the Agency costs for other public improvements \$22,299,000. Agency to provide direct financial assistance to the Developer for the Project is \$47,000,000.

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST AND BEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

This section presents an analysis of the fair market value of the Site at its highest and best use.

In appraisal terminology, the highest and best use is that use of the Site that generates the highest property value and is physically possible, financially feasible, and legally permitted. Therefore, value at highest and best use is based solely on the value created and not whether or not that use carries out the redevelopment goals and policies for the City of Garden Grove. By definition, the highest and best use is that use which is physically possible, financially feasible, and legally permitted. The subject property is located in a Land Use District, the Harbor Corridor Specific Plan HCSP. The district allows for tourist related land uses including hotels, retail and entertainment land uses.

Horwath undertook a review of available appraisals and comparable land sales in order to determine the fair market value of Site. The appraisal was conducted by Lidgard and Associates, Inc. (Lidgard) with a date of value of November 13, 2009. Lidgard appraisal methodology relied on the comparable sales approach to value, with a conclusion range of value from \$36.15 to \$50.35 per SF of land. Horwath concluded the value of the Site (10.3 acres) as of April 23, 2009, to be \$22,400,000, or \$50 per SF of land.

IV. ESTIMATED REUSE VALUE OF INTERESTS TO BE CONVEYED

In an "Estimated Reuse Value Report" dated March 23, 2010, Horwath HTL Hospitality and Leisure, LLC ("Horwath"), the Agency's economic consultant, prepared a reuse valuation analysis of the proposed Project. Based upon the financial terms and conditions imposed by the Agreement, Horwath analysis concluded that the Project generates a negative reuse value inclusive of the Agency Assistance, of Forty-One Million Dollars (\$41,000,000).

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

The Agreement requires the Agency to convey the Agency Properties to the Developer at no cost and to provide the Developer with direct financial assistance. The Developer is required to provide public parking in a structure on the Site, develop a Water Park Hotel with a minimum of six hundred (600) rooms with a possible expansion of up to two hundred (200) additional rooms (Hotel Expansion), an approximately three (3) acre indoor/outdoor water park, approximately eighteen thousand (18,000) square feet of retail, including one (1) or more restaurants and an approximately one thousand two hundred (1,200) space Parking Structure, all on approximately 11.7-acres.

The Agency is also imposing extraordinary land use controls on the Site, i.e., the quality of the Project must be comparable to noted upper up-scale Great Wolf Lodge hotel (Grapevine, Texas). As indicated previously, the Horwath analysis concluded that the Agency Property has a negative land value. Thus, Horwath

concluded that the consideration to be received is equal to or greater than the established fair use value.

VI. BLIGHT ELIMINATION

The Redevelopment Plan (Plan) for the Garden Grove Community Project Area governs the Site. In accordance with Section 33490 of the California Community Redevelopment Law, the Plan contains the goals and objectives and the projects and expenditures proposed to eliminate blight within the Project Area.

The Site, approximately 11.7 acres, which will be used to develop the Project, is currently occupied with one (1) non-fixed recreational vehicle park, one (1) retail store, one (1) vacant parcel, and two (2) single-family homes. The development of the proposed Project on the Site will eliminate blight at this location by replacing substandard uses, underutilized land, uneconomic land uses, and obsolete structures with defective design in character and physical condition with a new high quality, mixed-use development. The Project will facilitate land assembly to prevent piecemeal development that would leave economic potential underachieved, re-plan, redesign and develop underdeveloped areas that are stagnant or improperly utilized, encourage private sector investment in development of the project areas, and strengthen hospitality, entertainment, retail and other commercial functions in the project areas

VII. CONFORMANCE WITH THE AB 1290 IMPLEMENTATION PLAN

The primary AB 1290 Implementation Plan program objective for the Garden Grove Community Project is to eliminate conditions, which negatively impact economic development of the community by acquiring, removing, consolidating and rehabilitating substandard properties. To that end, the Agency plans to convey the Site to the Developer for the development of the Project.

Furthermore, the Agency's Implementation Plan 2010 through 2014 (Implementation Plan) also establishes a priority objective of increasing the community's economic base by encouraging new investment in the redevelopment project area. The Implementation Plan explicitly lists ensuring that optimum generation of sales tax revenues by facilitating the reuse, rehabilitation and development of commercial properties as an Agency goal. The Project, which will provide new commercial development and the subsequent transient occupancy and sales tax revenues, and property tax increment within the redevelopment project area, conforms to the Implementation Plan, and will achieve goals specifically defined in the Implementation Plan.

The Project is identified in the Implementation Plan as a potential project and program for the project area. As such the completion of the Project will be in conformance with the Implementation Plan.

ROPS Item 29

Site C DDA

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

*Garden Grove City Council
and
Garden Grove Agency for Community Development*

To: Matthew Fertal
Dept: Agency Director
Subject: DISPOSITION AND DEVELOPMENT AGREEMENT WITH LAND & DESIGN, INC. AND RELATED ENVIRONMENTAL REVIEW

From: Economic Development
Date: June 14, 2011

OBJECTIVE

The purpose of this report is to provide information to the Garden Grove City Council (the "City") and the Garden Grove Agency for Community Development (the "Agency") in connection with a joint Public Hearing to consider the approval of a Disposition and Development Agreement (the "Agreement") between the Agency and Land & Design, Inc. (the "Developer") and the adoption of a Negative Declaration related thereto.

The Developer has proposed an Upper Upscale Hotel with approximately nineteen (19) stories and between three hundred (300) and four hundred rooms (400), including not less than ten thousand (10,000) square feet of meeting space (the "Upper Upscale Hotel"), as well as a minimum of ten thousand (10,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/entertainment, including one (1) or more restaurants (the "Retail/Restaurant/Entertainment Component"), and a Parking Structure. In addition, Developer has also proposed up to two (2) Limited/Select/Focus Service/Suites/Extended Stay type hotels (collectively, the "Limited Service Hotels" and each a "Limited Service Hotel"), consisting of approximately 125 - 200 rooms each (the "Project").

At a minimum, the Developer will be required to construct the following: the Retail/Restaurant/Entertainment Component, the Parking Structure plus (i) an Upper Upscale Hotel consisting of not less than 400 rooms, or (ii) an Upper Upscale Hotel of 300 or more rooms, plus not less than one (1) additional Hotel of not less than one hundred twenty-five (125) rooms, or (iii) two (2) Upper Upscale Hotels consisting in the aggregate of not less than four hundred fifty (450) rooms.

BACKGROUND/DISCUSSION

The Developer is a diversified real estate company headquartered in San Diego, California.

On March 22, 2011, the Developer submitted a conceptual site plan and profoma for Site C. Staff believes that the project's development program, including the Upper Upscale Hotel, including a conference center, is consistent with the City's and Agency's vision for this site. As a result, staff has prepared a proposed Disposition and Development Agreement (Attachment 1), which is attached for City Council and Agency review.

Summary of the Disposition and Development Agreement (AGREEMENT) Proposed Deal Points

The Agreement contains the business terms for implementing the Project. It establishes the obligations and responsibilities for both the Agency and the Developer. The Agreement terms are summarized as follows:

1. Land Purchase Price

The Agency will convey the site to the Developer free of encumbrances and at no cost. The Agency is required to pay for the cost of all off-site infrastructure required as a condition of development approval. The site is comprised of 14 parcels some of which are owned by the Agency ("Agency Parcels") and some of which are owned by third parties ("Third Party Property") as shown on Attachment 1. As a condition precedent to the closing, the Agency will seek to acquire the Third Party Property. The budget for the Agency Improvement Costs, including acquisition of the Third Party Property, is estimated to be \$15.8 Million, which includes the land acquisition, tenant relocation, and demolition of building structures.

2. Upper Upscale Covenant Consideration

The Developer will receive an amount equivalent to fifty-eight percent (58%) of the Annual Transient Occupancy Tax (TOT) generated through June 30, 2034, which is the sunset of the redevelopment project area. After the Developer receives an amount equal to fifty-eight percent (58%) of the TOT, the Agency will deduct an amount equal to fourteen and 29/100 percent (14.29%) of the Agency Improvement Costs each year until the total amount of the Agency Improvement Costs has been recouped by the Agency, the Developer will receive an amount equal to fifty percent (50%) of all TOT, Sales Tax and Net Increment Revenues for twelve (12) years from the date on which Completion of Construction occurs.

3. Limited Service/Select Service Covenant Consideration

The Developer will receive an amount equivalent to fifty percent (50%) Annual Transient Occupancy Tax (TOT), Sales Tax and Revenue and Net Tax Increment generated by the Limited Service Hotel(s) for a ten (10) year period.

4. The Sunbelt Property Lease (Mann)

The Developer will assume all terms and conditions of the lease between the Agency and Mann. The Developer will receive an amount equal to fifty percent (50%) of the Net Tax Increment Revenues and Sales Tax Revenues generated by the Sunbelt Property for a period of ten (10) years from the date on which Completion of Construction occurs.

5. Deposit

Developer will pay the Agency a Deposit of \$50,000, which Deposit may be used by the Agency to cover its costs in connection with implementation of this Agreement. The unexpended portion of the Deposit will be (1) returned to the Developer at the Close of Escrow; (2) returned to the Developer upon termination of the Agreement if the Agreement is terminated without default of the Developer; or (3) retained by the Agency in the event termination of the Agreement is a result of default by the Developer.

6. Site Remediation

The Agency will pay up to \$250,000 for site remediation if it is determined that site remediation is required.

7. Escrow

Escrow is scheduled to close on/or before June 15, 2012.

8. Closing-Time Extension

As long as the Franchise Agreement is still operative, the schedule of performance allows for two (2) - six (6) month extensions.

9. Reuse Valuation

Based on cost and revenue numbers provided by the Developer, Horwath, Hospitality and Leisure, LLC (Horwath), the Agency's economic consultant, concluded that the Project's development costs compared to the estimated income and development values reasonably expected from the Project, generates a negative reuse value inclusive of the Agency's assistance of Thirty Five Million Four Hundred Thousand Dollars (\$35,400,000). This financial gap is consistent within industry standards for a project of this type.

Summary Report

In accordance with Section 33433 of the California Health and Safety Code, Horwath prepared a Summary Report (Attachment 4) to inform the City Council, Agency and the public about the transaction. As such, Horwath has determined that the consideration is not less than the reuse value. The Summary Report includes the following: the cost of the Agreement to the Agency; the estimated fair market value of the property; the estimated fair reuse value of the property; the consideration to the Agency, and an explanation of how the sale or lease will assist in the elimination of blight. As such, Horwath has determined that the consideration is not less than the fair market value at its highest and best use.

Environmental Review

In conjunction with the preparation of the Agreement, staff has prepared and circulated a Negative Declaration in accordance with the California Environmental Quality Act. The analysis is based, in substantial part, on the Environmental Impact Report certified in conjunction with the 2002 Redevelopment Plan Amendment and the Environmental Impact Report certified in conjunction with the General Plan Update in 2008.

FINANCIAL IMPACT

- It is estimated that this project will generate new City and Agency revenue of \$4,400,000 annually when the Project is complete.

Upper Upscale Hotel Project Revenue	\$2.9 Million
First Limited Service/Select Service Hotel Project Revenue	\$750,000
<u>Second Limited Service/Select Service Hotel Project Revenue</u>	<u>\$750,000</u>
Grand Total Revenue	\$4.4 Million

- The Project is projected to generate approximately 750 to 1025 construction jobs and permanent and temporary hotel restaurant and retail jobs.

RECOMMENDATION

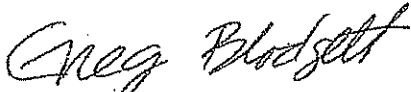
Staff recommends that the City Council:

- Conduct a joint Public Hearing with the Agency; and
- Adopt the attached Resolution (Attachment 2) consenting to the approval of the Disposition and Development Agreement between the Agency and Land & Design, Inc.

DISPOSITION AND DEVELOPMENT AGREEMENT
WITH LAND & DESIGN, INC. AND RELATED ENVIRONMENTAL REVIEW
June 14, 2011
Page 5

Staff recommends the Agency:

- Conduct a joint Public Hearing with the City Council; and
- Adopt the attached Resolution (Attachment 3) approving the Negative Declaration and the attached Disposition and Development Agreement with Land & Design, Inc. for the development of the 5-acre site in the City of Garden Grove known as Site C.
- Authorize the Agency Director to execute the Disposition and Development Agreement and any other pertinent documents to effectuate the Agreement.



By: GREG BLODGETT
Senior Project Manager

Attachment 1: Disposition and Development Agreement
Attachment 2: City Resolution
Attachment 3: Agency Resolution
Attachment 4: Summary Report
Attachment 5: Negative Declaration

mm(h:Staff/GBI/DDA-Land & Design Inc. sr 061411v3.doc)

Approved for Agenda Listing



Matthew Fertal
City Manager

**GARDEN GROVE REDEVELOPMENT PROJECT
GARDEN GROVE, CALIFORNIA**

**SUMMARY REPORT PERTAINING TO THE DISPOSITION
OF CERTAIN PROPERTY WITHIN THE
GARDEN GROVE COMMUNITY
PROJECT AREA**

**California Community Redevelopment Law
Section 33433**

**PURSUANT TO PROPOSED DISPOSITION AND DEVELOPMENT
AGREEMENT BETWEEN
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
AND
LAND & DESIGN, INC.**

**Garden Grove Agency for Community Development
Garden Grove, California**

June 14, 2011

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A. INTRODUCTION

The following Summary Report ("Summary Report") has been prepared pursuant to Section 33433 of the California Health and Safety Code. This report sets forth certain details of the proposed Disposition and Development Agreement ("Agreement") between Garden Grove Agency for Community Development ("Agency") and Land & Design, Inc. ("Developer").

In accordance with Section 33433 of the California Health and Safety Code, before any property acquired by a Redevelopment Agency in whole or part, directly or indirectly with tax increment moneys is conveyed to the Developer, the City Council and Redevelopment Agency Board must approve such transaction by resolution after a joint public hearing. The notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks prior to the hearing.

A Summary Report has been prepared in accordance with the requirements of Section 33433. The Agency shall make available for public inspection and copying at a cost not to exceed the cost of duplication the Summary Report no later than the time of publication of the first notice of hearing. In addition to providing a general description of the project, this Summary Report describes the following:

- I. Salient Points of the Agreement:** This section summarizes the major responsibilities imposed on the Developer and the Agency by the Agreement.
- II. Cost of the Agreement to the Agency:** This section details the total cost to the Agency associated with implementing the Agreement.
- III. Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted for the Site and the requirements imposed by the Redevelopment Plan.
- IV. Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Site based on the required scope of development and other conditions and covenants required by the Agreement.
- V. Consideration Received and Comparison with the Established Value:** This section describes the compensation to be received by the Agency and explains any difference between the compensation to be received and the estimated value based on the highest and best use of the Site.
- VI. Blight Elimination:** This section describes the existing blighting conditions on the Site, and explains how the Agreement will assist in alleviating the blighting influence.

VII. Conformation with the AB1290; Five-Year Implementation Plan:
This section describes how the Agreement achieves the goals identified in the Agency's adopted AB 1290, Five-Year Implementation Plan.

I. SALIENT POINTS OF THE AGREEMENT

A. Project Description

The property which is the subject of this Agreement is approximately five acres (5) acres located within the boundaries of the Project Area located at the northeast quadrant of Twintree Lane and Harbor Boulevard and is comprised of certain property owned by the Agency ("Agency Property") and property currently owned by third parties ("Third Party Property").

The Agreement provides for the Agency to transfer the Site to the Developer for the proposed development that includes a hotel with approximately nineteen (19) stories and between three hundred (300) and four hundred rooms (400), including not less than ten thousand (10,000) square feet of meeting space (collectively, the "Upper Upscale Hotel"), as well as a minimum of ten thousand (10,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/entertainment, including one (1) or more restaurants (the "Retail/Restaurant/Entertainment Component"), a Parking Structure, and as more specifically described in the Scope of Development (Exhibit C), and such other improvements as may be required by the Land Use Approvals (collectively, the "Upper Upscale Hotel Component"). In addition, Developer has also proposed up to two (2) Limited/Select/Focus Service/Suites/Extended Stay type hotels (collectively, the "Limited Service Hotels" and each a "Limited Service Hotel"), consisting of approximately 125 - 200 rooms each. The Limited Service Hotels are more specifically described in the Scope of Development. The Upper Upscale Hotel, the Limited Service Hotels, Retail/Restaurant/Entertainment Component, Parking Structure, and the other improvements required to be constructed on the Site pursuant to this Agreement and the Land Use Approvals are collectively referred to herein as the "Developer Improvements" or "Project," and individually "Separate Component(s)."

The Agreement requires the Agency to acquire and convey the Site, relocate the existing tenants/businesses along with carrying the cost of an existing lease for approximately two years, demolish the existing improvements, and rough grade the Site at no cost to the Developer. In return, the Developer must construct the Project.

The Agreement imposes development restrictions on the Project including quality levels, size and amenities, which impact the proposed Hotel's feasibility. As such, the Agreement requires the Agency to provide financial assistance to the Developer to mitigate the economic impact caused by the controls.

Agency Responsibilities Under the Agreement

Subject to the specific terms and conditions stated in the Agreement and outlined in the summary of the Salient Points, the Agency's key responsibilities are:

1. **Additional Property.** To acquire additional property currently owned by third parties located at 12302 Harbor, 12511, 12531, 12551, and 12571 Twintree Lane and to be conveyed to the Developer for the proposed Project.
2. **Agency Property.** To convey certain property owned by the Agency to the Developer for the proposed Project.
3. **Upper Upscale Hotel Covenant Consideration.** In consideration for the granting of the Covenants by the Developer to the Agency, Agency shall pay to the Developer annually, within thirty (30) days after receipt by the City of Transient Occupancy Tax attributable to the Upper Upscale Hotel, from the date on which Completion of Construction of the Upper Upscale Hotel occurs:
 - (a) through June 30, 2034, an amount equal to fifty-eight percent (58%) of the Transient Occupancy Tax Revenues which have been paid to and received by the City in each calendar year during such period with respect to the Upper Upscale Hotel(s); and
 - (b) for a period of twelve years, an amount equal to fifty percent (50%) of the Remaining Revenues in each calendar year during such period. Remaining Revenues means (i) an amount equal to the balance of the Transient Occupancy Tax attributable to the Upper Upscale Hotel after deducting the amounts described in (a) above (i.e., the remaining 42% of the Transient Occupancy Tax Revenues attributable to the Upper Upscale Hotel), (ii) Net Tax Increment Revenues attributable to the Upper Upscale Hotel Component in each calendar year during such period, and (iii) Sales Tax Revenues attributable to the Upper Upscale Hotel Components in each calendar year during such period, after deducting an amount equal to fourteen and 29/100 percent (14.29%) of the Agency Improvement Costs each such calendar year until the total amount of the Agency Improvement Costs has been reached.
4. **Limited Service Hotel Covenant Consideration.** In consideration for the granting of the Covenants by the Developer to the Agency, and with respect to each Limited Service Hotel on the Site, Agency shall pay to the Developer annually, for the period commencing on the date on which Completion of Construction of such Limited Service Hotel(s) has occurred and expiring ten (10) years thereafter, an amount equal to fifty percent (50%) of (i) the Transient Occupancy Tax Revenues which have been paid to and received by the City in each calendar year during such period with respect to each such Limited Service Hotel, (ii) the Net Tax Increment attributable to the Limited Service Hotel(s) in each calendar year during such period, and (iii) Sales Tax Revenues attributable to the Limited Service Hotel(s) in each calendar year

during such period. Such payments will be made to Developer within thirty (30) days after receipt of such revenues by the City or Agency, as applicable.

5. **Sunbelt Property Covenant Consideration.** In consideration for the granting of the Covenants by the Developer to the Agency, the Agency shall pay to the Developer annually with respect to the Sunbelt Property, from and after Completion of Construction of any portion of the Retail/Restaurant/Entertainment Component on the Sunbelt Property, an amount equal to fifty percent (50%) of the Net Tax Increment Revenues and Sales Tax Revenues attributable to Retail/Restaurant/Entertainment Component of the Sunbelt Property for a period of ten (10) years from the date on which Completion of Construction of each such portion of the Retail/Restaurant/Entertainment Components on the Sunbelt Property (i.e., there shall be separate 10-year payment periods for each such portion of the Retail/Restaurant/Entertainment Components on the Sunbelt Property), in each case as received by the City in each calendar year during such period. The payments required shall be prorated for any partial years at the beginning or end of the applicable periods and paid to Developer within thirty (30) days after receipt of such revenues by the City or Agency, as applicable.

Developer Responsibilities Under the Agreement

Subject terms and conditions to the specific stated in the Agreement and outlined in the summary of the Salient Points, the Developer's key responsibilities are:

1. Design and construct the specific Improvements as specified in the Scope of Development, the Land Use Approvals, and the approved Final Construction Plans.
2. Meet development milestones, including commencement and completion of construction, by the dates specified in the Schedule of Performance.

II. COST OF THE AGREEMENT TO THE AGENCY

The estimated costs incurred by the Agency to implement the Agreement are Fifteen Million Eighth Hundred Thousand Dollars (\$15,800,000), and include the following:

Agency costs to acquire the Site (relocation costs, demolition costs, and costs for hazardous materials abatement), CEQA documentation, site preparation, administrative costs, and the Agency costs for other public improvement's \$15,800,000. Agency to provide direct financial assistance to the Developer for the Project of \$15,800,000.

The Agency will receive the Property Tax Increment generated by the Project, which will partially defray the Agency cost to implement the Agreement. In addition, the City will receive the Transient Occupancy Tax (TOT) and Sales Tax Revenues

generated by the Project, which are projected to produce substantial General Fund revenues over time.

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST AND BEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

This section presents an analysis of the fair market value of the Site at its highest and best use.

In appraisal terminology, the highest and best use is that use of the Site that generates the highest property value and is physically possible, financially feasible, and legally permitted. Therefore, value at highest and best use is based solely on the value created and not whether or not that use carries out the redevelopment goals and policies for the City of Garden Grove. The subject property is located in a Land Use District, the Harbor Corridor Specific Plan HCSP. The district allows for tourist related land uses including hotels, retail and entertainment land uses.

Horwath Hospitality and Leisure, LLC ("Horwath"), the Agency's economic consultant, undertook a review of available appraisals and comparable land sales in order to determine the fair market value of Site. An appraisal was conducted by Lidgard and Associates, Inc. (Lidgard) on a portion of the Subject Site, which did not include the corner portion, with a date of value of March 31, 2009. Lidgard appraisal methodology relied on the comparable sales approach to value, with a conclusion range of value from \$43.00 to \$56.00 per SF of land (rounded). Subsequent to this appraisal, Lidgard provided sales as of April 2011. Horwath concluded the value of the Site (5.0 acres) as of May 9, 2011, to be \$10,900,000, or \$50.00 per SF of land, without consideration of costs such as the removal of current improvements on the Site.

In addition, a separate analysis of five Restaurant and Retail pad sites on a total of 2.422 acres by Keyser Marston Associates, Inc. concluded to an estimated \$50 per square foot for each parcel, or a total approximate land value of \$5,275,000. Added to this value were the Cost Savings from Sitework and Landscaping, for an Effective Land Payment of \$5,908,000. Subtracting Estimated Parking Costs by the Master Developer, resulted in Remaining Land Proceeds of \$2,624,000. This was considered to partially offset the negative Residual Reuse Value of the Hotel Site.

IV. ESTIMATED REUSE VALUE OF INTERESTS TO BE CONVEYED

In an "Option 1 - Estimated Reuse Value Report - Site C Proposed for Development by Land & Design, Inc. - Upper Upscale with Casitas, Select Service and All-Suite Hotels" dated June 9, 2011, Horwath prepared a reuse valuation analysis of the proposed Project. Based upon the financial terms and conditions imposed by the Agreement, Horwath analysis concluded that the Project generates a negative reuse value inclusive of the Agency Assistance, of Thirty-Six Million Dollars

(\$36,000,000). Adjusting for the partial offset from the Restaurant and Retail pad site(s), the Project generates a negative reuse value inclusive of the Agency Assistance, of Thirty-Three Million Four Hundred Thousand Dollars (\$33,400,000), rounded.

If the Developer chooses Option 2, which is a second full-service hotel with up to 225 rooms or two (2) Upper Upscale Hotels consisting of 450 in aggregate, in an "Option 2 - Estimated Reuse Value Report - Site C Proposed for Development by Land & Design, Inc. - Upper Upscale with Casitas and Upscale Full Service Hotel" dated June 9, 2011, Horwath prepared a reuse valuation analysis of the proposed Project. Based upon the financial terms and conditions imposed by the Agreement, Horwath analysis concluded that the Project generates a negative reuse value inclusive of the Agency Assistance, of Twenty Million Dollars (\$20,000,000). Adjusting for the partial offset from the Restaurant and Retail pad site(s), the Project generates a negative reuse value inclusive of the Agency Assistance, of Seventeen Million Four Hundred Thousand Dollars (\$17,400,000), rounded.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

The Agreement requires the Agency to convey the Agency Properties to the Developer at no cost and to provide the Developer with direct financial assistance.

The Developer is required to provide public parking in a structure on the Site, develop an Upper Upscale hotel with approximately nineteen (19) stories and between three hundred (300) and four hundred rooms (400), including not less than ten thousand (10,000) square feet of meeting space as well as a minimum of ten thousand (10,000) and a maximum of sixty-five thousand (65,000) square feet of retail/restaurant/entertainment, including one (1) or more restaurants, all as more specifically described in the Scope of Development (DDA - Exhibit C). In addition, Developer has also proposed up to two (2) Limited Service Hotels and each a "Limited Service Hotel", consisting of approximately 125 - 200 rooms each. The Limited Service Hotels are more specifically described in the Scope of Development. The Upper Upscale Hotel, the Limited Service Hotels, Retail/Restaurant/Entertainment Component, Parking Structure, and the other improvements required to be constructed on the Site pursuant to this Agreement and the Land Use Approvals are collectively referred to herein as the "Developer Improvements" or "Project," and individually "Separate Component(s)."

The Agency is also imposing extraordinary land use controls on the Site, i.e., the quality of the Project must be comparable to noted upper up-scale Westin Pasadena California. As indicated previously, the Horwath analysis concluded that the Agency Property has a negative reuse land value. Thus, Horwath concluded that the consideration to be received is essentially equal to the established fair use value.

VI. BLIGHT ELIMINATION

The Redevelopment Plan (Plan) for the Garden Grove Community Project Area governs the Site. In accordance with Section 33490 of the California Community Redevelopment Law, the Plan contains the goals and objectives and the projects and expenditures proposed to eliminate blight within the Project Area.

The Site, approximately 5 acres in size and encompasses fourteen (14) parcels, which will be used to develop the Project, is currently occupied with two (2) vacant and unimproved lots; four (4) lots that were formerly used as a trailer park (non-fixed recreational vehicle park) and are improved with vacant buildings (office, restroom, and laundry) that will be demolished; two (2) lots improved with a commercial building with the rear used as a trailer park (non-fixed recreational vehicle park) that will be demolished; four (4) lots improved with single-family homes that will be demolished; and two (2) lots comprising a portion of an unimproved backyard of two single-family home residences, which the residential structures are not part of this project. The development of the proposed Project on the Site will eliminate blight at this location by replacing substandard uses, underutilized land, uneconomic land uses, and obsolete structures defective in design character and physical condition, with a new high quality, mixed-use development. The Project will facilitate land assembly to prevent piecemeal development that would leave economic potential underachieved, re-plan, redesign and develop underdeveloped areas that are stagnant or improperly utilized, encourage private sector investment in development of the project areas, and strengthen hospitality, entertainment, retail and other commercial functions in the project areas.

VII. CONFORMANCE WITH AB 1290, FIVE-YEAR IMPLEMENTATION PLAN

The primary AB 1290 Implementation Plan program objective for the Garden Grove Community Project is to eliminate conditions which negatively impact economic development of the community by acquiring, removing, consolidating and rehabilitating substandard properties. To that end, the Agency plans to convey the Site to the Developer for the development of the Project.

Furthermore, the Agency's Implementation Plan 2010 through 2014 (Implementation Plan) also establishes a priority objective of increasing the community's economic base by encouraging new investment in the redevelopment project area. The Implementation Plan explicitly lists ensuring that optimum generation of sales tax revenues by facilitating the reuse, rehabilitation and development of commercial properties as an Agency goal. The Project, which will provide new commercial development and the subsequent transient occupancy and sales tax revenues, and property tax increment within the redevelopment project area, conforms to the Implementation Plan, and will achieve goals specifically defined in the Implementation Plan.

ROPS Item 20

Site B-2 DDA

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City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To:	George L. Tindall	From:	Matthew Fertal	
Dept:	Director	Dept:	Community Development	
Subject:	JOINT PUBLIC HEARING: DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) WITH PALM COURT LODGING, LLC.		Date:	June 26, 2001

OBJECTIVE

The purpose of this report is for the Agency and City Council to hold a joint public hearing to consider the Disposition and Development Agreement with Palm Court Lodging, LLC, (McWhinney/Stonebridge) for the development of two hotels on a 5.5 acre site located on the west side of Harbor Boulevard and immediately south of the Crowne Plaza Hotel. In addition, staff is requesting that the Agency review the attached site plan for conformance with the goals of the Redevelopment Plan and Agency's Implementation Plan.

BACKGROUND

Since October of 1999, Agency staff had been discussing with the Developer for additional hotel development near Harbor Boulevard and Chapman Avenue. On July 11, 2000 the Agency Board gave direction to staff to explore with McWhinney/Stonebridge for the development of two hotels based on a similar financial structure contained in the Site A and Site B hotel DDA's. At this time, the developer has proposed an eight story, 225 room Springhill Suites and a nine story, 275 room Courtyard Inn (both Marriott products) for a total of 500 rooms.

In accordance with Agency direction, McWhinney/Stonebridge submitted a preliminary site plan which accommodated the development of two hotels. After reviewing the preliminary site plan and proposed economic terms for the proposed development, staff and the Developer negotiated terms for a Disposition and Development Agreement.

ANALYSIS/FINANCIAL IMPACT

Staff and McWhinney/Stonebridge have negotiated a Disposition and Development Agreement (DDA). The salient terms of the DDA and project are summarized below.

A. Development Site

The 5.5 acres on which the hotel project is proposed (the "Site") is located on the west side of Harbor Boulevard, immediately south of the Crowne Plaza Hotel. Currently, neither the Agency

or McWhinney/Stonebridge owns or has legal possession of any of the parcels which comprise the site. If the DDA is approved, the Agency will begin appraising the properties, then seek Agency direction to acquire the parcels.

B. Scope of Development

The DDA with McWhinney/Stonebridge (as "Palm Court Lodging, LLC"; or the "Developer") requires the development of two business quality, limited service hotels, which must be operated as Marriott products. The hotels must be a minimum of six stories, with a minimum of 500 rooms (275 rooms-Marriott Courtyard Inn Hotel and 225 rooms-Springhill Suites Hotel), and must include a pool and exercise facility, main lobby area, and porte-cochere at the main entrance.

C. Primary Agency Responsibilities

The Agency is responsible for the cost of acquisition, relocation of existing occupants, and the demolition of the remaining improvements for the Site. The estimated cost to the Agency for the acquisition and clearance of the site is approximately \$7 million. The Agency will prepare a parcel map to consolidate the site into one parcel, which will be conveyed to the Developer. The Agency is responsible for the cost of constructing all required street improvements up to the back of the curb face and sewer and water line improvements, if required.

The Agency must provide additional financial assistance to McWhinney/Stonebridge, provided that McWhinney/Stonebridge has complied with certain conditions outlined in the Agreement. The Agency assistance will be paid in installments, and will not exceed a cumulative total of \$5.5 million. The installment assistance will be payable based on the Net Revenues generated by the Project annually.

D. Purchase Price in the Form of a Promissory Note

McWhinney/Stonebridge will execute a Developer Promissory Note in favor of the Agency to formalize the obligation to repay to the Agency the Acquisition Costs in the event that the Marriott Developers does not uphold its covenant to continuously operate a conforming hotel project on the site for ten (10) years from the closing date. The Promissory Note is provided to ensure that the project generates net property tax increment, sales tax, and transient occupancy tax revenues equal to the purchase price between seven to ten years, net of any Agency Assistance Payments to the Developer.

E. Developer Credits Against the Promissory Note

During each of the first seven years after the opening of the hotel, the Developer will receive annual credits against the principal amount owing under the Promissory Note. The annual credits will be equal to the net property tax increments, sales tax, and transient occupancy tax revenues received and retained by the Agency/City from the development and operation of the hotel, net of any Agency assistance payments and Developer loan repayment. The Developer

will only receive the annual credits if the hotel has been operated continuously during the preceding year in compliance with all terms of the DDA.

F. Agency Assistance Payments

In addition to the credits against the Promissory Note, the Developer will receive annual Agency assistance payments during each of the first seven years of the operation of the hotel, up to a maximum of \$5.5 million (\$4.1 million present value).

G. Fair Re-use Value

The Agency's economic consultant, Keyser Marston Associates (KMA), has completed a detailed pro forma and re-use analysis for the development. The analysis examines project development costs in relation to expected operating revenues to determine the supportable land value or developer purchase price. The KMA analysis concludes that the proposed contribution of the land with no cash payment represents the fair re-use value of the Site, and that the proposed Agency assistance payments are required in order for the hotel to achieve financial feasibility from an operations perspective during the first seven years.

H. Project Costs/Benefits

As shown on the attached Summary (33433) Report, it is estimated that the Agency will expend approximately \$7 million to meet its acquisition, site clearance, and development obligations under the DDA for the 5.5 acre Site. Including the net present value of the Agency assistance payments (estimated at \$4,100,000), the total cost of the Agreement to the Agency is \$11,100,000. However, the Agency will receive net property tax increment revenue over the life of the project of approximately \$5.4 million (present value). When these revenues are factored in, the net cost of the Agreement to the Agency is reduced to approximately \$5.7 million.

Project benefits include the significant amount of net transient occupancy tax (TOT) revenue which will be generated by the project. It is expected that the project will generate approximately \$1,900,000 in combined annual revenue. Additional project benefits include job creation in the project area and a master-planned project which will help anchor the Harbor Corridor Hotel/Entertainment District.

I. Schedule of Performance

The Developer must submit their site plan application for review by the Planning Commission within 30 days of the approval of the DDA. Their construction plans must be submitted within 45 days of the City Council's approval of the site plan application. Escrow for the conveyance of the Site must occur by an outside date of July 1, 2002.

J. Environmental Review

Based upon the potential for significant environmental affects, staff determined that a Mitigated Negative Declaration should be prepared for the master-planned, hotel/restaurant project. The

Draft Mitigated Negative Declaration and the Mitigation Monitoring Program were prepared, advertised, and made available for public review. Any responses to written comments have been incorporated into the final Mitigated Negative Declaration, which is attached for City Council and Agency review. The City Council and Agency will adopt the Mitigated Negative Declaration by adopting the attached City and Agency resolutions.


RECOMMENDATION

Based upon the information presented above, staff recommends that:

- The City Council approve the attached Resolution of the City Council approving the Disposition and Development Agreement between the Agency and Palm Court Lodging, LLC.
- The Agency approve the attached Resolution of the Agency for Community Development approving the Disposition and Development Agreement between the Agency and Palm Court Lodging, LLC.
- The Agency authorize the Chairman and Secretary to execute the DDA and all other documents necessary to implement the Agreement.
- The Agency determine that the preliminary site plan meets the objectives of the Redevelopment Plan for the Community Project.

MATTHEW FERTAL, Director
Community Development



By: Greg Brown 
Project Manager

Attachments:

1. Proposed Disposition and Development Agreement
2. Site Map
3. Site Plan
4. Summary Report
5. Mitigated Negative Declaration
6. City Council Resolution Approving the DDA & Adopting Mitigated Negative
7. Agency Resolution Approving the DDA & Adopting Mitigated Negative Declaration

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: Matthew Fertal
 Dept: Director
 Subject: **HARBOR HOTELS PHASE III
 (SITE B2) ASSIGNMENT OF DDA
 TO KAM SANG COMPANY, INC.**

From: Glen Krieger
 Dept: City Manager
 Date: April 27, 2004

OBJECTIVE

The purpose of this report is to request that the Agency approve an assignment (Attachment No. One) of the Disposition and Development Agreement (DDA) with McWhinney-Stonebridge to Kam Sang Company, Inc., for the development of the 5.5 acre site located south of the Crown Plaza Hotel.

BACKGROUND/DISCUSSION

On June 26, 2001, the Garden Grove Agency for Community Development (Agency) and City Council approved a Disposition and Development Agreement (DDA) with Palm Court Lodging, LLC, for the development of two limited service, all suites hotels along the west side of Harbor Boulevard, between Chapman Avenue and Twintree Avenue. On December 11, 2001, the Agency authorized staff to initiate the acquisition of the parcels that comprise the development project. To date, eleven (11) properties have been acquired on a willing seller basis. Seven (7) parcels remain.

Due to several reasons, including the events of September 11th, the "soft opening" of Disney's California Adventure and the economic downturn in the economy, McWhinney-Stonebridge has not moved forward with the project. Although recently economic conditions have improved in the state, McWhinney-Stonebridge feels they are well represented in the market and are focusing their efforts and resources on their projects in Colorado. Therefore, they are willing to assign the DDA rights to Kam Sang. Kam Sang believes that the timing is right to secure hotel franchises and that the market can absorb additional hotel rooms in 2005-06 based on market studies. Language in the DDA provides for assignment of the agreement with approval by the Agency.

Kam Sang has been in discussions with two (2) major hospitality companies and has preliminary interest from those companies. Kam Sang will also submit new

Harbor Hotel Phase III (Site B2)
Assignment of DDA to Kam Sang Company, Inc.
April 27, 2004
Page 2

development pro formas and corporate financial information as soon as the new flags are identified.

Kam Sang, Inc.

Kam Sang is an Arcadia, California based development company that was founded in 1977. According to information provided by Kam Sang, the company has hundreds of millions of dollars in commercial assets, including hotel, office, retail centers and the popular restaurant chain, Tokyo Wako. The company has grown into a multi-billion dollar operation with offices throughout North America, Hong Kong and Taiwan.

Current hotel properties under management include a Marriott Residence Inn, La Mirada, the Holiday Inn, Anaheim, and a Marriott Courtyard in Baldwin Park. Recently, Kam Sang has started construction on an Embassy Suites Hotel in Glendale, a fourteen (14) story, 272-room development that was assisted by the Glendale Redevelopment. Kam Sang is a qualified hotel developer/operator and is eager to bring additional hotels to Garden Grove.

Other Issues

With respect to the 2002 Certificates of Participation (COP) that were issued to finance B2 site acquisitions, the COPs included prepaid interest, which requires that the first \$560,000 payment be made on August 15, 2004. Kam Sang has agreed to advance the funds for the first payment to the Agency. Those funds would be returned to Kam Sang most likely at a point in time after the project starts construction. A second installment of \$940,000 is due in February of 2005. Kam Sang has also agreed to advance this amount.

FINANCIAL IMPACT

There is no financial impact from this action, other than to transfer the specific terms of the original DDA (along with certain new proposed terms outlined in the assignment agreement), which included Agency financial assistance based on a certain set of assumptions.

RECOMMENDATIONS


Based on the foregoing, staff recommends that the Agency:

- Approve the assignment of the Disposition and Development Agreement between the Agency and Palm Court Lodging, LLC, dated June 26, 2001, to Kam Sang Company, Incorporated;

Harbor Hotel Phase III (Site B2)
Assignment of DDA to Kam Sang Company, Inc.
April 27, 2004
Page 3

- Authorize the Agency Director and Secretary to execute the agreement on behalf of the Agency when appropriate.

GLEN KRIEGER 
Economic Development Manager

By: Greg Brown 
Project Manager

Attachment

MM(h:Staff/BrownG/kam sang staff report B2 DDA assign.doc)

**SUMMARY REPORT PURSUANT TO
SECTION 33433
OF THE
CALIFORNIA COMMUNITY REDEVELOPMENT LAW
ON A
DISPOSITION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT
AND
PALM COURT LODGING, LLC.**

The following Summary Report has been prepared pursuant to Section 33433 of the California Health and Safety Code. This report sets forth certain details of the proposed Disposition and Development Agreement (Agreement) between the Garden Grove Agency for Community Development (Agency) and Palm Court Lodging, LLC. (Developer).

The Agency will assemble a 5.5-acre site near the southwest corner of Harbor Boulevard and Chapman Avenue (Site), for the subsequent creation of two hotels. The Agreement requires the Agency to convey the Site to the Developer, and to provide direct financial assistance to the Developer to effectuate the development of two business quality, limited service hotels (Project).

This Summary Report is based upon information contained within the Agreement; and is organized into the following seven sections:

- I. **Salient Points of the Agreement:** This section describes the Developer's and the Agency's major responsibilities.
- II. **Cost of the Agreement to the Agency:** This section details the cost of the Agreement to the Agency.
- III. **Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted Under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted under the existing zoning and the requirements imposed by the redevelopment plan.

- IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section estimates the value supported by the Site based on the required use and with the conditions and covenants required by the Agreement.
- V. **Consideration Received and Comparison with the Fair Reuse Value:** This section describes the compensation to be received by the Agency, and the reasons for any difference between the compensation and the fair reuse value.
- VI. **Blight Elimination:** This section describes the blighting conditions on the Developer Site, and explains how the Agreement will alleviate the blighting influence.
- VII. **Conformance with the AB1290 Implementation Plan:** This section explains how the Agreement complies with the redevelopment strategy identified in the Agency's adopted AB 1290 Implementation Plan.

This report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

I. **SALIENT POINTS OF THE AGREEMENT**

The Agreement required the Agency to convey the Site to the Developer at no cost. In return, the Developer must construct two business quality, limited service, hotels.

The Agreement imposes extraordinary development restrictions on the Project, which impact the proposed hotels' feasibility. As such, the Agreement requires the Agency to provide financial assistance to the Developer to mitigate the economic impact caused by the controls.

A. **Developer Responsibilities**

In addition to the Developer responsibilities outlined in the Salient Points of the Agreement summary, the Developer must accept the following responsibilities:

1. The Developer must construct and operate the hotels at the quality level embodied by the Marriott Courtyard Inn Hotel and Springhill Suites Hotel. The Project must include the following:
 - a. each hotel must include a minimum of six stories;

- b. the two hotels must include a combined total of at least 500 rooms (approximately 275 rooms-for the Marriott Courtyard Inn Hotel and approximately 2245rooms-Springhill Suites Hotel);
 - c. the minimum guest room development standards are:
 - i. the rooms must average at least 315 square feet of area for the Courtyard; and 400 square feet for the Springhill Suites.
 - ii. the Developer must expend no less than \$12,500 per room for the installation and construction of furniture, fixtures and equipment (FF&E), including sleeping quarters for the Courtyard and \$10,000 per room for the Springhill Suites.
 - d. a central lobby area;
 - e. a swimming pool, and;
 - f. an indoor exercise facility.
2. The Developer must pay for site improvement costs including:
- a. off-site improvements (inside the back of the curb face) required by the Agency, the City of Garden Grove (City) and any other governmental entity. These improvements include; sidewalks, driveways, street lights, and signs consistent with the Harbor Boulevard Streetscape Improvement Plan. The cost of new parkway landscape, including irrigation and planting materials, textured and enhanced sidewalk, and curb and gutter along the Harbor Boulevard street frontage of the Site, will be evenly shared by the Developer and the Agency:
 - b. the connection of all public utilities serving the Project
 - c. the undergrounding of all on-site utilities required to serve the Project;
 - d. all site preparation costs, including grading, soil compaction and any over-excavation that may be required. The Developer and the Agency must each fund 50% of any extraordinary costs incurred in site preparation, and;
 - e. landscaping and hardscaping consistent with the theme proposed for the 5.5-acre Site.

3. The Developer must grant all necessary utility easements and rights for the development of the Site.
4. The Developer must enter into a Reciprocal Easement Agreement for the Site that provides easements for ingress, egress and parking with the neighboring Crowne Plaza Hotel and with any future development to the west of the Site. The Developer must also pay the agreed upon pro rata share of the development, maintenance and operation costs for the Site's common areas.
5. The Developer must advance one-half of the estimated costs to assemble the site to the Agency. This amount will be repaid according to the terms described in the Agreement.
6. The Developer must repay the Agency's Site acquisition costs in the event that the Marriott developer does not uphold its covenant to continuously operate a conforming hotel project on the Site. This obligation must be evidenced by a Developer Promissory Note in favor of the Agency.

B. Agency Responsibilities

In addition to the Agency responsibilities outlined in the Salient Points of the Agreement summary, the Agency must accept the following responsibilities:

1. The Agency must complete a Phase 1 Environmental Assessment and any testing recommended in the assessment.
2. The Agency is responsible for up to \$100,000 in environmental clean-up costs. Any costs in excess of \$100,000 is the responsibility of the Developer.
3. The Agency must pay for all off-site public improvements, to the back of the curb face, required by the City and the Traffic Analysis and Parking Management Plan, including:
 - a. a left-turn lane into the Project for north bound traffic on Harbor Boulevard, and;
 - b. a right-turn/deceleration lane into the main driveway entrance to the Project on Harbor Boulevard.
4. The Agency must vacate, abandon or relocate all existing utilities on the site that would conflict with the Project.

5. The Agency must provide direct financial assistance to the Developer, provided that the Developer has complied with certain conditions outlined in the Agreement. The Agency assistance will be paid in installments, and will not exceed a cumulative total of \$5.5 million (present value of \$4.1 million). The installment assistance will be calculated based on the Net Public Revenues generated by the Project annually.¹

¹ Net Public Revenues are defined as 100% of the Property Tax Increment and transient occupancy tax revenue generated by the Project.

II. COST OF THE AGREEMENT TO THE AGENCY

The Agency costs to implement the Agreement include costs to acquire land, relocate tenants, demolish existing improvements, remediate hazardous materials and prepare the Site for development. The Agency must also bear the cost of providing direct financial assistance to the Developer.

The Agency will receive the Property Tax Increment generated by the Project, which will partially defray the Agency cost to implement the Agreement. In addition, the City will receive the transient occupancy tax (TOT) revenues generated by the Project, which are projected to produce substantial General Fund revenues over time.

A. Out-of-Pocket Costs

The projected out-of-pocket costs to be incurred by the Agency are:

1. The Agency must fund the following costs immediately following the execution of the Agreement:
 - a. Site assemblage costs at \$3.5 million;
 - b. Environmental costs at a maximum of \$100,000, and;
 - c. Off-site improvements at \$110,000.²
2. The Developer is required to advance to the Agency \$3.5 million of the Site assemblage costs. The Agency must repay this advance plus 8% interest over a 15-year amortization period. The Agency cost is as follows:
 - a. The cost in nominal dollars is \$6.1 million.
 - b. The cost in present value terms is \$3.5 million.

The total out-of-pocket costs are estimated at \$9.8 million in nominal terms. This equates to \$7.2 million in present value terms.

² The off-site improvement costs are estimated at \$20,000 per acre, which equates to \$110,000 for the Site.

B. Agency Cost Recovery

1. The Agreement allows the Agency to use a scheduled portion of the Net Public Revenues generated by the Project to recoup some of the Agency's out-of-pocket costs. The schedule included in the Agreement is:

	Base Agency Allocation ³
1 st Annual Period	\$467,000
2 nd Annual Period	467,000
3 rd Annual Period	467,000
4 th Annual Period	467,000
5 th Annual Period	467,000
6 th Annual Period	467,000
7 th Annual Period	467,000
Total Payments	\$3,269,000
Present Value of Payments	\$2,273,000

2. If the Net Public Revenues exceed the amounts defined in "Subsection 1", the Developer is entitled to receive the following financial assistance payments:

	Direct Financial Assistance ⁴
1 st Annual Period	\$1,100,000
2 nd Annual Period	1,000,000
3 rd Annual Period	900,000
4 th Annual Period	900,000
5 th Annual Period	900,000
6 th Annual Period	400,000
7 th Annual Period	300,000
Total Payments	\$5,500,000
Present Value of Payments ⁵	\$4,060,000

3. If the Agency's out-of-pocket costs have not been completely recouped after the Developer has received \$5.5 million in Direct Financial Assistance, the Agency

³ This amount can never exceed the amount of Net Public Revenues generated by the Project.

⁴ This can never exceed the Net Public Revenues remaining after the Base Agency Allocation.

⁵ The present value is calculated based on a 10% discount rate.

can allocate 100% of the remaining Net Public Revenues to the repayment of the Agency's out-of-pocket costs.

Keyser Marston Associates, Inc. (KMA), the Agency's financial consultant, prepared a cash flow analysis to project the New Public Revenues over time. The cash flow analysis projects that the \$5.5 million in Direct Financial Assistance will be fully disbursed within the first seven years of operation, and that the Agency will receive the payments as scheduled in the Agreement.

C. Property Tax Increment Revenues

The Agency will receive Property Tax Increment revenue from the Project based on the increased valuation of the Site. The Agency's cash flow analysis projects that these revenues total \$20.1 million in nominal terms, and \$7.2 million in net present value terms. This projection is based on the assumption that the Project is completed in 2003, and that Property Tax Increment can be collected in the redevelopment project area until 2023. The revenue stream was discounted to present value at a 10% discount rate.

D. Net Agency Cost

The net Agency cost to implement the Agreement are estimated as follows:

<u>Agency Costs</u>	<u>Nominal Dollars</u>	<u>Net Present Value</u>
Out-of-Pocket Acquisition Costs	\$3,500,000	\$3,500,000
Developer Advance Repayment	6,100,000	3,500,000
Environmental Costs	100,000	100,000
Off-site Improvement Costs	110,000	110,000
Direct Financial Assistance Payments	5,500,000	4,060,000
Total Agency Cost	\$15,310,000	\$11,270,000
(Less) Property Tax Increment Revenue	(20,100,000)	(7,200,000)
Net Agency Revenue/(Cost)	\$4,790,000	(\$4,070,000)

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

Section 33433 of the California Health and Safety Code requires the Agency to identify the value of the interest being conveyed at the highest and best use allowed by the Site's zoning and the requirements imposed by the redevelopment plan. The valuation must be based on the assumption that near-term development is required, but the

valuation does not take into consideration any extraordinary use and/or quality restrictions being imposed on the development by the Agency.

The Agency recently engaged an appraiser to value a commercial parcel in the immediate vicinity of the Site. This appraisal established the value at \$20 per square foot of land area. When this value is applied to the Site, the value totals \$4.8 million.

IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED

In a report dated June 11, 2001, KMA presented an economic analysis of the Project. This analysis determined that given the currently achievable room rates and occupancy levels for Central Orange County extended-stay hotels, the Site has a negative reuse value. The KMA analysis also concluded that the provision of \$5.5 million in Direct Financial Assistance (\$4.1 million in present value terms) is required to make the Project financially feasible, and therefore does not provide a windfall profit to the Developer.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE FAIR REUSE VALUE.

The Agreement requires the Agency to convey the Site to the Developer at no cost, and to provide the Developer with direct financial assistance projected to have a present value of \$4.1 million. The KMA analysis concluded that the Site does not support any land value. The KMA analysis also concluded that the proposed Direct Financial Assistance does not provide a windfall profit to the Developer. Thus, KMA concluded that the Agency is receiving fair compensation for the interests being conveyed.

VI. BLIGHT ELIMINATION

The 5.5-acre Site, which will be subdivided to create two hotels, is currently occupied by aging commercial-retail structures and single-family residences. Development of the proposed hotels on the Site will eliminate blight at this location by replacing underutilized property with new quality hotel development.

VII. CONFORMANCE WITH THE AB1290 IMPLEMENTATION PLAN

The primary AB1290 Implementation Plan program objective for the Garden Grove Community Project is to eliminate conditions which negatively impact economic development of the community by acquiring, removing, consolidating and rehabilitating substandard properties. To that end, the Agency Plans to convey the Site to the Developer for hotel development.

The Implementation Plan also establishes a priority objective of increasing the community's economic base by encouraging new investment in the redevelopment project area. The Implementation Plan explicitly lists ensuring the optimum generation of General Fund revenues by facilitating the development of commercial properties as an Agency goal. As such, the Project, which will provide new commercial development and the subsequent generation of TOT revenues, will achieve goals specifically defined in the Implementation Plan.

ROPS Item 11

Katella Cottages DDA

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: Matthew Fertal

From: Susan Emery

Dept: Director

Dept: Community Development

Subject: **JOINT PUBLIC HEARING
FOR A DISPOSITION AND
DEVELOPMENT AGREEMENT
WITH LAING PACIFIC I, LLC**

Date: May 11, 2004

OBJECTIVE

The purpose of this report is for the Agency and City Council to hold a joint public hearing to consider a Disposition and Development Agreement (DDA) with Laing Pacific I, LLC on a proposal to pursue development of an approximately 42-unit single-family residential development on a 4.59-acre site located on the south side of Katella Avenue, just west of Gilbert Street. In addition, staff is requesting that the Agency review the attached site plan for conformance with the goals of the Redevelopment Plan and Agency Implementation Plan.

BACKGROUND

On February 5, 2004, staff brought to the Agency the proposal from Pacific Cities Real Estate Group (PCREG), to develop 42 single-family detached homes on the Katella/Gilbert site. Staff was given direction to move forward with negotiating a DDA with PCREG. Since this time, PCREG has formed a partnership with John Laing Homes and formed Laing Pacific I, LLC.

The Developer has secured "options to purchase" with five of the six property owners, which will be transferred to the Agency. The developer is currently finalizing acquisition details with the sixth property owner. Once the properties are purchased and the land is cleared, the property will be sold back to the Developer. Laing Pacific I, LLC will construct forty-two (42) single-family, two story, detached homes with minimum average lot sizes of 3,200 square feet. The Developer is requesting that the Agency consider entering into a DDA which addresses the following economic issues.

ANALYSIS/FINANCIAL IMPACT

The major economic issues surrounding this proposal are:

A. Development Site

The proposed site is made up of commercial buildings that are well over thirty years old. These buildings house approximately twenty-five businesses that are located on eleven parcels (three parcels are vacant and three of the property owners own multiple parcels). A majority of the buildings are not well maintained and are fairly unattractive.

B. Scope of Development

Laing Pacific I, LLC is proposing to build forty-two (42) single-family detached residential housing units on the site. The Developer will develop the site according to a previously approved site plan.

The development may be built in more than one phase; however the project will not exceed four phases. In order to ensure that each building phase has adequate infrastructure (parking, circulation, access, fire hydrants, fencing, water, sewer, electrical, etc.) to serve the residential units, the Developer is responsible for submitting construction drawings and a tentative map that addresses all of the above.

C. Salient Business Points

- The total site costs are estimated at \$8.78 million, including acquisition and relocation. In addition to transferring the options to purchase the properties, the developer will advance all of the acquisition costs. Once the properties are purchased and the land is cleared, the property will be sold back to the Developer.
- Laing Pacific I, LLC agrees to purchase the Site from the Agency for \$6.5 million.
- Agency repayment of the developer's residual advance, (the difference between the site acquisition costs less the developer's purchase price), will come from the revenues generated from the project over twenty (20) years. Laing Pacific I, LLC will receive 80% of the revenues generated by the project; those payments have a present value of \$1.55 million.
- The Developer is requesting the Agency to make its best efforts toward selling the increment stream via a tax-exempt note. There is no guaranteed or fixed annual payment and there will be no issuance costs paid by the Agency.

D. Project Costs/Benefits

As shown on the attached Summary Report (33433), the total projected cost to the Agency is 80% of the project-generated tax increments for twenty (20) years.

Project benefits include the replacement of an aging and underutilized commercial site as called for in the Agency's Five Year Implementation Plan. Social and economic benefits also accrue to the neighboring residential properties that have been impacted by the public alley behind the site and the almost continuous code enforcement problems including the accumulation of trash and debris.

E. Highest and Best Use/Fair Re-Use Value

Keyser Marston, the Agency's financial consultant, identified the value of the interests being conveyed at the highest and best use allowed by the Site's zoning and the requirements imposed by the Redevelopment Plan. The Agency obtained an appraisal that determined the highest and best use of the Site is for residential use. The appraisal set the value at \$31.50 to \$32.75 per square foot of land area. In addition, a reuse valuation analysis of the project was prepared based upon the financial terms and conditions imposed by the Agreement. That analysis concluded that the fair reuse value is \$6.5 million, or \$32.50 per square foot of land area. Laing Pacific I, LLC has agreed to pay \$6.50 million for the site or \$32.51 per square foot; this amount is equal to both the fair market value and the fair re-use value for the property.

F. Schedule of Performance

Construction plans must be submitted within 90-days of the City Council's and Agency's approval of the proposed DDA. The outside date for conveyance of the parcels from the Agency to Laing Pacific I, LLC is December 31, 2004.

G. Environmental Review

An initial study by the City's planning division determined there is no potential for significant environmental impacts. Based on this finding, staff prepared a negative declaration that was available for public review. The City Council and Agency previously approved the Negative Declaration at the same time that they approved the site plan.

H. Prevailing Wage

The Developer is requesting that the City and Agency waive the policy governing prevailing wages for this project. The Developer is stating that prevailing wage requirements on this project, and the cost of construction by approximately twenty percent, will render the project financially infeasible. Further, the Developer acknowledges that this project may be subject to the prevailing wage requirements contained in SB 975, which was passed by the state legislature.

RECOMMENDATIONS

Based on the information presented above, staff recommends that:

1. The City Council adopt the attached Resolution of the City Council approving the Disposition and Development Agreement between the Agency and Laing Pacific I, LLC.
2. The Agency adopt the attached Resolution of the Agency for Community Development approving the Disposition and Development Agreement between the Agency and Laing Pacific I, LLC.
3. The Agency authorize the Chairman and Secretary to execute the DDA and all other documents necessary to implement the Agreement.



SUSAN EMERY, Director
Community Development



By: Alison Moore
Project Manager

- Attachments:
1. Proposed Disposition and Development Agreement
 2. Site Map
 3. Summary Report
 4. City Council Resolution
 5. Agency Resolution

Approved for Agenda Listing



Matthew Fertal
Director

COPY

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew Fertal
From: Susan Emery
Dept: City Manager
Dept: Community Development
Subject: SUBSTITUTION OF PACIFIC CITIES REAL ESTATE GROUP AS THE DEVELOPMENT ENTITY OF THE KATELLA/GILBERT HOUSING DEVELOPMENT
Date: November 11, 2004

OBJECTIVE

The purpose of this memorandum is to transmit information to the City Council regarding the substitution of Developer to Pacific Cities Real Estate Group for the Katella/Gilbert Housing Development.

BACKGROUND/DISCUSSION

On May 11, 2004, the City Council and the Agency for Community Development entered into a Disposition and Development Agreement with Laing Pacific I, LLC for the development of forty-two (42) single-family homes located on Katella Avenue, just west of Gilbert Street. Pacific Cities Real Estate Group and John Laing Homes never solidified the limited liability company; however, Pacific Cities Real Estate Group has continued forward with the steps necessary to meet the Schedule of Performance as outlined in the DDA.

When the partnership with John Laing Homes did not occur, Pacific Cities Real Estate Group looked to find another reputable partner. Pacific Cities Real Estate Group has selected Brandywine Development to assign responsibility of the DDA. The DDA allows for transfer of ownership of the site to Brandywine Development, as a permitted transfer. Brandywine Development is well known in Garden Grove to produce quality single-family homes. They have been working closely with Pacific Cities Real Estate Group to adhere to all of the requirements outlined in the approved DDA.

Substitution of Pacific Cities Real Estate Group
As Developer of the Katella/Gilbert Housing Development
November 11, 2004
Page 2

SUMMARY

As allowed in the approved DDA, the Pacific Cities Real Estate Group will be assigning responsibility of the DDA to Brandywine Development.



SUSAN EMERY, Director
Community Development



By: Alison Moore
Project Manager

ROPS Item 12

Katella Cottages Note

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Garden Grove City Council
AND
Garden Grove Agency for Community Development

To: Matthew Fertal
Dept: City Manager/Director
Subject: AUTHORIZATION TO SELL NOTE—
REFINANCING OF EXISTING
OBLIGATION—KATELLA COTTAGES
(KATELLA-GILBERT) BRANDYWINE
DEVELOPMENT CORPORATION

From: Chet Yoshizaki
Dept: Economic Development
Date: October 23, 2007

OBJECTIVE

The purpose of this memorandum is for the Garden Grove Agency for Community Development (Agency) and City Council to consider authorizing the sale of a promissory note, as contemplated by a Disposition and Development Agreement (DDA) between the Agency and Pacific Cities Real Estate Group Inc., on May 11, 2004. The DDA was subsequently assigned to Katella Cottages LLC (Brandywine, Developer) on October 13, 2004. The DDA was originally approved to eliminate blighting conditions and replace with a 42-unit single-family residential development on a 4.59-acre site located on the south side of Katella Avenue, just west of Gilbert Street. This development is complete, with the last unit being sold in April 2007.

BACKGROUND/DISCUSSION

The DDA was structured as follows:

1. The Developer advanced all of the acquisition costs. Originally, the total site costs were estimated at \$8.78 million, including acquisition and relocation. Once the properties were purchased and the land cleared, the property was sold back to the Developer.
2. The Developer agreed to purchase the site from the Agency for \$6.7 million.
3. Agency agreed to repay the Developer's residual advance, (the difference between the site acquisition costs less the Developer's purchase price); this amount will come from the revenues generated from the project over

twenty (20) years. The Developer receives a promissory note for the repayment amount payable from amounts equal to eighty (80) percent of the tax increment revenues ("Site Tax Increment") generated by the project.

4. The Developer's acquisition costs exceeded the estimated cost and exceeded the purchase price by \$4.6 million. This occurred due to unexpected relocation and goodwill related claims.
5. Section 201.3 of the DDA requires the Agency to make good faith efforts toward refinancing a portion of the note via a tax-exempt refunding note. The source of repayment is limited to the site tax increment and all issuance costs will be paid from the proceeds of the Refunding Note. The principal amount of the developer note will be reduced by the principal amount of the Refunded Note.

As part of a private placement, or sale, of the Refunded Note, it will be discounted according to a yield rate estimated at 6.25%, and based on a not-to-exceed amount of \$2.6 million. The Developer expects to net approximately \$2.3 million through such a sale, less issuance costs.

COMMUNITY VISION IMPLEMENTATION

- Improving the City's economic base through development of tax-generating uses where appropriate.

The benefits in pursuing this project included the replacement of an aging and underutilized commercial site as called for in the Agency's Five Year Implementation Plan. Social and economic benefits also accrue to the neighboring residential properties that were affected by the former public alley behind the site and the almost continuous code enforcement problems including the accumulation of trash and debris.

FINANCIAL IMPACT

The financial impact to the Agency is limited to the obligation of and amount equal to 20 years of tax increment as required under the provisions of the DDA.

RECOMMENDATION

Staff recommends that the Garden Grove Agency for Community Development and the City Council take the following actions:

City Council Action:

- Adopt the attached City Council Resolution approving the execution by the Garden Grove Agency for Community Development of a Note Purchase Agreement and Promissory Note in an aggregate amount not to exceed \$2.6 million to refinance an existing promissory note of the Agency, and approving certain actions in connection therewith;

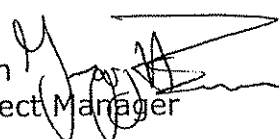
Agency Actions:

- Adopt the attached Garden Grove Agency for Community Development Resolution authorizing the execution by the Garden Grove Agency for Community Development of a Note Purchase Agreement and Promissory Note in an aggregate amount not to exceed \$2.6 million to refinance an existing promissory note of the Agency, and approving certain actions in connection therewith;
- Authorize the Agency Director and Secretary to execute all documents, including minor amendments, necessary to implement the Agreement.

In adopting these resolutions, the City and Agency will also approve the following:

- Note Purchase Agreement and 2007 Note;
- Implementation Agreement and Revised Developer Note.


CHET YOSHIZAKI
Economic Development Director

By: Greg Brown 
Senior Project Manager

Recommended for Approval


Matthew Fertal
General Manager

Attachment 1 – Agency Resolution
Attachment 2 – City Resolution
Attachment 3 – Note Purchase Agreement
Attachment 4 – 2007 Note
Attachment 5 – Implementation Agreement

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

***Garden Grove City Council
and
Garden Grove Agency for Community Development***

To:	Matthew Fertal	From:	Chet Yoshizaki	
Dept:	City Manager/Director	Dept:	Economic Development	
Subject:	MODIFICATION TO PROMISSORY NOTE - KATELLA COTTAGES (KATELLA-GILBERT) BRANDYWINE DEVELOPMENT CORPORATION		Date:	June 10, 2008

OBJECTIVE

By resolutions adopted October 23, 2007 ("2007 Resolutions") the Garden Grove Agency for Community Development (Agency) and Garden Grove City Council authorized the sale of a Promissory Note, as contemplated by a Disposition and Development Agreement (DDA) dated May 11, 2004 between the Agency and Pacific Cities Real Estate Group Inc., was subsequently assigned to Katella Cottages LLC (Brandywine Development Corporation (Developer)) on October 13, 2004. The DDA was originally approved to eliminate blighting conditions and replace with a 42-unit single-family residential development on a 4.59-acre site located on the south side of Katella Avenue, just west of Gilbert Street. This development is complete, with the last unit being sold in April 2007.

The purpose of this memorandum is to approve a modification to the terms of sale of the Promissory Note approved in the 2007 Resolutions, based on current market conditions.

BACKGROUND/DISCUSSION

The DDA was structured as follows:

1. The Developer advanced all of the acquisition costs. Originally, the total site costs were estimated at \$8.78 million, including acquisition and relocation. Once the properties were purchased and the land cleared, the property was sold back to the Developer.
2. The Developer agreed to purchase the site from the Agency for \$6.7 million.

MODIFICATION TO PROMISSORY NOTE - KATELLA COTTAGES

June 10, 2008

Page 2 of 3

3. Agency agreed to repay the Developer's residual advance, (the difference between the site acquisition costs less the Developer's purchase price); this amount will come from the revenues generated from the project over 20 years. The Developer receives a Promissory Note for the repayment amount payable from amounts equal to 80 percent of the tax increment revenues ("Site Tax Increment") generated by the project.
4. The Developer's acquisition costs exceeded the estimated cost and exceeded the purchase price by \$4.565 million (less an Agency price participation credit of \$136,727.00). This occurred due to unexpected relocation and goodwill related claims.
5. Section 201.3 of the DDA requires the Agency to make good faith efforts toward refinancing a portion of the Promissory Note via a tax-exempt refunding note. The source of repayment is limited to the site tax increment and all issuance costs will be paid from the proceeds of the Promissory Note. The principal amount of the Developer Note will be reduced by the principal amount of the Promissory Note.

As part of the private placement, or sale, of the Promissory Note, which has been arranged under existing market conditions, the Promissory Note will be discounted according to a yield rate estimated at 7.25%, and with an expected principal amount of \$2,015,000.00. The Developer will receive the available net proceeds from the sale after funding reserves and paying all costs of issuance, and has approved the terms of the sale and has requested the Agency to go forward. The amendment to the 2007 Resolutions is necessitated by existing market conditions which have dictated a higher yield on the Promissory Note than was contemplated by the 2007 Resolutions.

COMMUNITY VISION IMPLEMENTATION

Improving the City's economic base through development of tax-generating uses where appropriate.

The benefits in pursuing this project included the replacement of an aging and underutilized commercial site as called for in the Agency's Five-Year Implementation Plan. Social and economic benefits also accrue to the neighboring residential properties that were affected by the former public alley behind the site and the almost continuous code enforcement problems including the accumulation of trash and debris.

FINANCIAL IMPACT

The financial impact to the Agency is limited to the obligation of and amount equal to 20 years of tax increment as required under the provisions of the DDA.

RECOMMENDATION

Staff recommends that the Agency and the City Council take the following actions:

City Council Action:

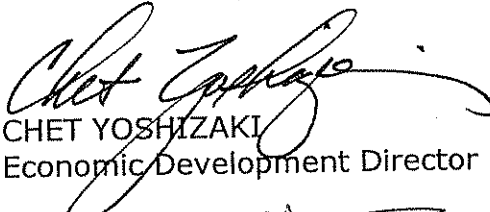
1. Adopt the attached City Council Resolution amending its 2007 Resolution to incorporate the changes approved by the Agency relative to the Promissory Note and related transactions;

Agency Actions:

1. Adopt the attached Agency Resolution amending its Resolution No. 664 authorizing the execution by the Agency of a Note Purchase Agreement and Promissory Note to refinance an existing Promissory Note of the Agency, and approving certain actions in connection therewith;
2. Authorize the Agency Director and Secretary to execute all documents, including minor amendments, necessary to implement the Agreement.

In adopting these resolutions, the City and Agency will also re-approve the following:

- Note Purchase Agreement and 2008 Promissory Note;
- Implementation Agreement and Revised Developer Note.


CHET YOSHIZAKI
Economic Development Director

By: Greg Brown 
Senior Project Manager

Attachment 1 – Agency Resolution
Attachment 2 – City Resolution
Attachment 3 – Note Purchase Agreement
Attachment 4 – 2008 Promissory Note
Attachment 5 – Revised Developer Note
Attachment 6 – Implementation Agreement

ROPS Item 17

Garden Grove Hyundai

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

Garden Gove Agency for Community Development

To: Matthew Fertal

From: Chet Yoshizaki

Dept: Director

Dept: Economic Development

Subject: ASSIGNMENT AND ASSUMPTION
AGREEMENT by and among UNION
DODGE, INC., U.S. FIRST
INVESTMENTS, INC., and GARDEN
GROVE HYUNDAI, INC.

Date: October 27, 2009

OBJECTIVE

The purpose of this staff report is to request the Garden Grove Agency for Community Development (Agency) consider a request from Union Dodge, Inc. and U.S. First Investments, Inc. (collectively referred to herein as "Union Dodge") for the Agency's consent to (1) the sale of certain real property on which the Union Dodge automobile dealership is located; and (2) the assignment of certain agreements between Union Dodge, Inc. and the Agency to Garden Grove Hyundai, Inc.

BACKGROUND

The Union Dodge automobile dealership is located at 9898 Trask Avenue in Garden Grove ("Site"). Union Dodge has been in operation since 1996. The Union Dodge automobile dealership was developed and operated pursuant to a Disposition and Development Agreement between the Agency and Union Dodge, Inc., dated as of December 17, 1998 ("DDA"). The DDA provided for the Agency's sale of the Site (a 20,732 square foot parcel of real property located at the southwest corner of Brookhurst Street and Trask Avenue) to Union Dodge and required Union Dodge to develop and operate the Union Dodge automobile dealership at the Site for fifteen (15) years (commencing June 30, 2000). The Grant Deed from the Agency to Union Dodge contained an operating covenant to effectuate this requirement. Pursuant to the DDA, Union Dodge conveyed an Option Agreement and Right of First Refusal to re-purchase the dealership facility to the Agency. The Option Agreement and Right of First Refusal provided that the term of the Option would expire on June 30, 2010 and the Right of First Refusal period would expire on June 30, 2015.

Union Dodge, Inc. and the Agency also entered into that certain Commercial Rehabilitation Agreement dated as of April 24, 2001, which provided for the Agency

October 27, 2009

Page 2

to make the Agency Rehabilitation Loan to Union Dodge in the amount of up to \$2,200,000, to assist the expansion of the Union Dodge dealership facility with a new service facility and additional vehicle storage. The Commercial Rehabilitation Agreement provided for annual loan disbursements to Union Dodge over a period of fifteen (15) years, conditioned upon continuous operation of the automobile dealership during each preceding year. The Commercial Rehabilitation Agreement further provided that repayment of each annual Agency Rehabilitation Loan disbursement would be forgiven if Union Dodge satisfied all of the requirements of the Commercial Rehabilitation Agreement during the entire previous year, including continuous operation of the Union Dodge dealership during that period, and if the sales and use tax revenues from the Union Dodge dealership during the prior year were at least Two Hundred Eighty Thousand Dollars (\$280,000).

On January 13, 2009, the Agency approved a First Amendment to Commercial Rehabilitation Agreement pursuant to which the Agency agreed to disburse the fifth and sixth installments of the Agency Rehabilitation Loan to Union Dodge (in the aggregate amount of \$270,000), and to forgive repayment of such fifth and sixth installments of the Agency Rehabilitation Loan, notwithstanding that the sales and use tax revenues from the Union Dodge dealership for the corresponding years were less than \$280,000 per year, because the average annual sales and use tax revenues received from the Union Dodge dealership during the previous six years exceeded \$280,000. In connection with the First Amendment to Commercial Rehabilitation Agreement, the Agency and Union Dodge entered into a First Amendment to Option Agreement and Right of First Refusal dated January 13, 2009, which extended the Agency's option to purchase the Site until June 30, 2015, and extended the Agency's Right of First Refusal with respect to the Site until June 30, 2020.

In implementation of the DDA and the Commercial Rehabilitation Agreement, Union Dodge and the Agency also entered into a Maintenance and Lot Tie Agreement, a Sign Easement Grant, a Promissory Note, and a Deed of Trust with Assignment of Rents (Short Form).

In June 2009, Dodge canceled its franchise agreement with Union Dodge.

DISCUSSION

In August 2009, Garden Grove Hyundai, Inc. ("Garden Grove Hyundai"), the owner of Garden Grove Hyundai, entered into a purchase agreement with Union Dodge to acquire the Site. Garden Grove Hyundai currently operates the Garden Grove Hyundai automobile dealership located at 10081 Garden Grove Boulevard pursuant to a month-to-month lease from the Agency. Garden Grove Hyundai would like to move its Garden Grove Hyundai dealership to the Site because of its proximity to the freeway. Garden Grove Hyundai projects that by relocating the Garden Grove

Hyundai dealership to the Site, new vehicle sales could increase by 20 to 30 percent.

In connection with its acquisition of the Site from Union Dodge, Garden Grove Hyundai has requested that Union Dodge also assign to Garden Grove Hyundai its rights (and obligations) under the DDA, the Grant Deed, the Commercial Rehabilitation Agreement (as amended), the Option Agreement and Right of First Refusal, the Maintenance and Lot Tie Agreement, the Sign Easement Grant, and the Deed of Trust with Assignment of Rents (Short Form) (collectively, the "Project Documents").

In response to Garden Grove Hyundai request, the Agency proposed an amendment to the original Agreement that amends the minimum sales tax amount to Two Hundred Forty Thousand Dollars (\$240,000). In addition the Agency revised the Agreement to provide for elimination of the provision to loan if they do not meet the minimum sales tax amount.

FINANCIAL IMPACT

The Agency will make the remaining disbursements of the Agency Rehabilitation Loan to Garden Grove Hyundai, Inc., if and to the extent required by the terms of the Commercial Rehabilitation Agreement. If Garden Grove Hyundai begins operating a Hyundai automobile dealership (selling new automobiles) at the Site on or before January 1, 2010, and continuously operates such dealership throughout the next seven (7) years (and satisfies all other conditions precedent set forth in Section 204 of the Commercial Rehabilitation Agreement and all other requirements of the DDA and the Commercial Rehabilitation Agreement continuously during such seven (7) years), Garden Grove Hyundai may be eligible to receive up to One Million One Hundred Ninety Thousand Dollars (\$1,190,000) in annual disbursements pursuant to the terms of the Commercial Rehabilitation Agreement, representing the ninth (9th) through the fifteenth (15th) disbursements of the Agency Rehabilitation Loan pursuant to Section 202 of the Commercial Rehabilitation Agreement.


COMMUNITY VISION IMPLEMENTATION


- Improve the City's economic base through the development of tax-generating uses where appropriate.
- Seek to improve the shopping, dining, and entertainment opportunities available to the Garden Grove community.

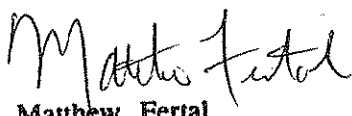
RECOMMENDATION

Staff recommends that the Agency:

- Consent to the attached Assignment and Assumption Agreement, and
- Authorize the Director to execute the Agency Consent attached to the Assignment and Assumption Agreement and other documents as necessary to implement the assignment on behalf of the Agency.

CHET YOSHIKAWA  for:
Economic Development Director


By: Greg Blodgett
Senior Project Manager

Recommended for Approval

Matthew Ferial
Director

Attachment 1: Assignment and Assumption Agreement

ROPS Item 18

Volkswagen of Garden Grove

initial seventy five thousand dollars (\$75,000) in annual sales tax, until Participant receives seven hundred thousand dollars (\$700,000) or ten (10) years elapses, whichever comes first.

While the DDA approved in 2000 will be terminated when the OPA is approved, certain provisions of the original DDA will remain in effect, including a property maintenance agreement, which requires the Participant to maintain the private and public improvements to the curblin(e)s and runs with the land.

The new partnership is in the process of replacing the existing electronic reader board sign with a modern sign. As the Agency currently has the ability to advertise on the existing sign until October of this year, the partnership intends to honor the balance of that agreement and will consider allowing us to continue using some reasonable amount of time on the new sign when the current sign agreement expires.


FINANCIAL IMPACT

- The financial impact of this transaction is limited to fifty percent (50%) of sales tax generated over seventy five thousand dollars (\$75,000) annually, with a ten (10) year earn-out period or a maximum of seven hundred thousand dollars (\$700,000).

RECOMMENDATION

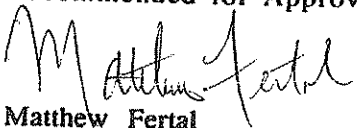
Staff recommends that the Agency:

- Adopt the attached Agency Resolution approving an Owner Participation Agreement between the Agency and County-Wide Rambler, Inc.


GREG BROWN for
Real Property Division Manager

Attachment 1: Resolution
Attachment 2: Owner Participation Agreement

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Recommended for Approval

Matthew Fertal
Director

ROPS Item 19

Lili Garden Plaza DDA

Revised
F

AGENDA ITEM NO. 5.b.

City of Garden Grove
INTER-DEPARTMENT MEMORANDUM
Garden Grove City Council
and
Garden Grove Agency for Community Development

To: Matthew Fertal
Dept: Director
Subject: DISPOSITION AND DEVELOPMENT AGREEMENT WITH SWEET HOMES DEVELOPMENT, LLC FOR PROPERTY LOCATED AT 12061 - 12081 GARDEN GROVE BOULEVARD

From: Economic Development
Dept:
Date: June 28, 2011

OBJECTIVE

The purpose of this report is to request the Garden Grove City Council (the "City") and the Garden Grove Agency for Community Development (the "Agency") to conduct a joint Public Hearing and consider a Disposition and Development Agreement (the "Agreement") between the Agency and Sweet Homes Development, LLC (the "Developer") for the development of fifty-three (53) residential condominiums and twenty-six (26) commercial condominiums with a four-story parking garage, with one level of subterranean parking on 12061, 12071, and 12081 Garden Grove Boulevard, west of Dungan Street and east of West Street (the "Site").

BACKGROUND/DISCUSSION

In 2005, the Developer acquired properties on 12071 and 12081 Garden Grove Boulevard for a mixed-use project. Since that time, Developer has attempted to acquire a third parcel, 12061 Garden Grove Boulevard owned by Heid Partners (the "Third Party Parcel") because of its relationship to the project site (Attachment 1). Although Developer has made several attempts to acquire the Third Party Parcel, these attempts have been unsuccessful. Therefore, Developer came to the Agency for assistance with acquiring the parcel. If acquired, the Agency will convey the Third Party Parcel to Developer at fair market value as determined by an appraisal.

Summary of the Agreement Deal Points

The Agreement (Attachment 5) contains the business terms for implementing the project. It establishes the obligations, responsibilities, and benefits between the Agency and Developer. In summary, the deal points of the Agreement are as follows:

DISPOSITION AND DEVELOPMENT AGREEMENT WITH
SWEET HOMES DEVELOPMENT, LLC FOR PROPERTY LOCATED AT
12061 - 12081 GARDEN GROVE BOULEVARD

June 28, 2011

Page 2

1. Acquisition of the Site:

- o Developer shall deposit with the Agency the sum of \$525,000 (Five Hundred Twenty-Five Thousand Dollars), the fair market value of the Third Party Parcel to be used for acquisition of the parcel.
- o The Agency will be responsible for attempting to acquire the 5,700 square feet Third Party Parcel.
- o If the Agency is unable to negotiate a purchase, the Agency will schedule a hearing to consider whether the Agency will acquire the Third Party Parcel using eminent domain. This Agreement does not obligate the Agency to use eminent domain, or acquire the property.

2. Disposition and Condition of Property Conveyed:

- o If acquired, the Agency will convey the Third Party Parcel as soon as is practical, but no later than ten (10) days after all conditions precedent to the conveyance are met.
- o If acquired, the Agency will convey the Third Party Parcel in an "as is" condition.

3. Tenant Relocation:

- o If the Third Party Parcel is acquired, the Agency will be responsible for compliance with State law regarding potential relocation of the tenant occupying the Third Party Parcel.

State law requires that prior to the disposition of property by a redevelopment agency, the legislative body must first consent to the sale by Resolution (Attachment 4) after a Public Hearing. Notice of the time and place of the Public Hearing must be published in a newspaper of general circulation at least once a week for at least two successive weeks, 15 days prior to the Public Hearing. Notice for this Public Hearing was published in the Garden Grove Journal newspaper on June 9, 2011 and June 16, 2011.

As is also required by State law, a Summary Report (Attachment 6) has been prepared, which provides, among other items, an explanation of why the sale of this property will assist in the elimination of blight.

FINANCIAL IMPACT

It is estimated that this project, once constructed, will generate new Agency revenue of \$300,000 to \$400,000 annually. The Agency will be responsible for potential costs if the price of acquiring the Third Party Parcel exceeds the fair

DISPOSITION AND DEVELOPMENT AGREEMENT WITH
SWEET HOMES DEVELOPMENT, LLC FOR PROPERTY LOCATED AT
12061 - 12081 GARDEN GROVE BOULEVARD
June 28, 2011
Page 3

market value of \$525,000. In addition, the Agency will be responsible for the costs associated with compliance with State relocation laws relating to the tenant occupying the Third Party Parcel.

RECOMMENDATION

Staff recommends that the City Council:

- Conduct the joint Public Hearing; and
- Adopt a Resolution consenting to the approval by the Agency of the Disposition and Development Agreement by and between the Agency and Sweet Homes Development, LLC.

Staff recommends the Agency:

- Adopt a Resolution approving the attached Disposition and Development Agreement with Sweet Homes Development, LLC for the development of the 1.77-acre site in the city of Garden Grove, located on the north side of Garden Grove Boulevard between West Street and Dungan Street at 12061 and 12081 Garden Grove Boulevard; and
- Authorize the Agency Director to execute the Agreement and any pertinent documents to effectuate the Agreement.

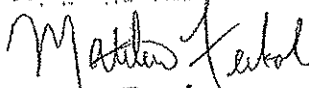


JIM DELLALONGA
Sr. Project Manager/Administrative Officer

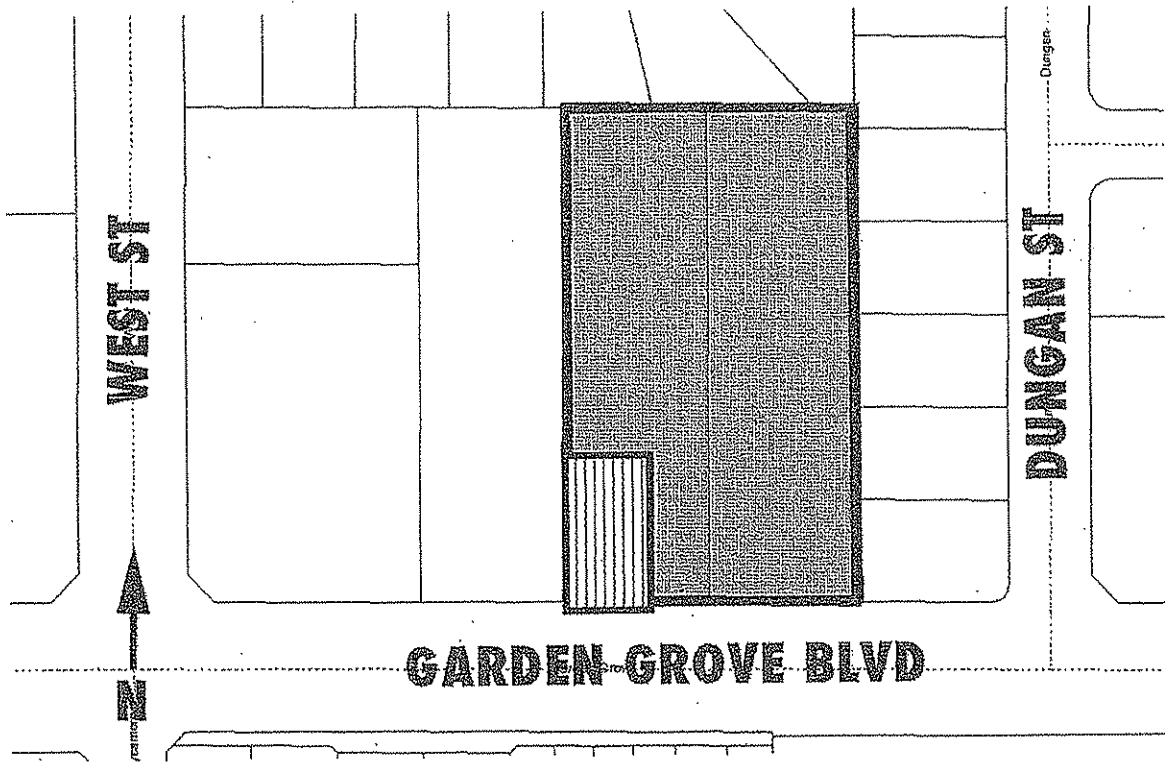
- Attachment 1: Site Map
- Attachment 2: Conceptual Plan
- Attachment 3: Agency Resolution
- Attachment 4: City Resolution
- Attachment 5: Disposition and Development Agreement
- Attachment 6: Summary Report 33433



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Approved for Agenda Listing



Matthew Ferial
Director

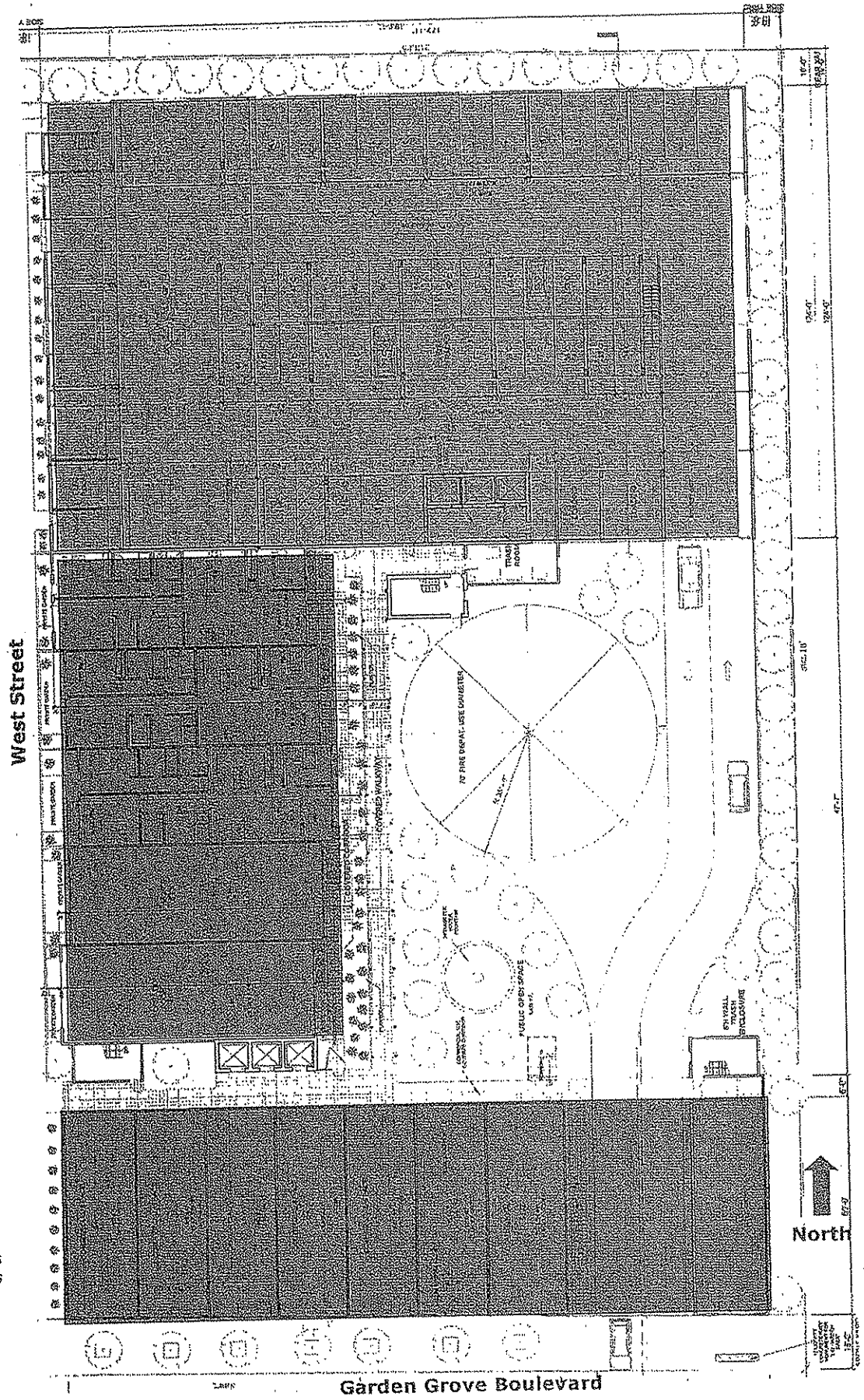


	Third Party Parcel
	Developer Parcel

4-Story Parking Structure
1 Level Subterranean

7-Story West Tower
Floors 1-7 Residential Condos

7-Story North Tower
Floors 1-3 Commercial Condos
Floors 4-7 Residential Condos



Garden Grove Boulevard

**GARDEN GROVE REDEVELOPMENT PROJECT
GARDEN GROVE, CALIFORNIA**

**SUMMARY REPORT PERTAINING TO THE PROPOSED SALE
OF CERTAIN PROPERTY WITHIN THE
GARDEN GROVE COMMUNITY
PROJECT AREA**

**California Community Redevelopment Law
Section 33433**

**PURSUANT TO PROPOSED DISPOSITION AND
DEVELOPMENT AGREEMENT
BETWEEN
GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT
AND
SWEET HOMES DEVELOPMENT, LLC**

**Garden Grove Agency for Community Development
Garden Grove, California**

June 2011

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IV. Estimated Value of the Interest to be Conveyed at the Use and with the Conditions, Covenants, and Development Costs Required by the Sale of the Third Party Parcel	6
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VII. Explanation of why the Sale of the Third Party Parcel will Assist with the Elimination of Blight	10
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I. INTRODUCTION

A. Purpose of Report

This Summary Report was prepared in accordance with Section 33433 of the California Community Redevelopment Law in order to inform the Garden Grove Agency for Community Development (Agency) and the public about the proposed transaction between the Agency and Sweet Homes Development, LLC (Developer). The Report describes and specifies:

1. The costs to be incurred by the Agency under the Disposition and Development Agreement (DDA);
2. Estimated value of the interest to be conveyed at the highest and best use permitted under the Redevelopment Plan;
3. The estimated value of the interest to be conveyed at the proposed use and with the conditions, covenants, and development costs required by the sale of the Third Party Parcel;
4. The compensation to be paid to the Agency pursuant to the proposed transaction;
5. An explanation of the difference, if any, between the compensation to be paid to the Agency under the proposed transaction, and the fair market value at the highest and best use consistent with the Redevelopment Plan; and
6. An explanation of why the sale of the Third Party Parcel will assist with the elimination of blight.

B. Summary of Findings

The Agency engaged its economic consultant, Keyser Marston Associates, Inc. (KMA), to analyze the proposed financial terms. KMA reviewed the DDA between the Agency and the Developer as of June 3, 2011. The KMA conclusions are summarized as follows:

- The estimated costs of the DDA to the Agency total \$50,000.
- The estimated fair market value of the interest to be conveyed at its highest and best use is \$525,000.

- The estimated fair re-use value of the interest to be conveyed is *negative* \$910,000.
- The estimated value of the compensation to be received by the Agency is \$525,000.

C. Description of Area and Proposed Project

Community Overview

The Developer intends to develop a mixed-use project consisting of 53 residential condominiums, 26 commercial condominiums, and a five (5) level above-grade parking structure with one (1) partial below-grade level (Project). The Project will be constructed on an approximately 1.77-acre site (Site) on the north side of Garden Grove Boulevard, east of West Street in the City of Garden Grove. The Site is comprised of the following properties:

Properties	Site Size
Third Party Parcel	0.13 Acres
Developer Parcel	1.64 Acres
Total	1.77 Acres

The Third Party Parcel is rectangular in shape and currently improved with one (1) retail building originally constructed in 1955 and renovated periodically. The Third Party Parcel is currently privately owned. The Agency intends to acquire the Third Party Parcel and convey it to the Developer.

Proposed Development

Table 1 describes the physical characteristics of the proposed development. The Project will consist of three seven-story buildings containing a total of 79 residential and commercial condominiums. The residential units will be comprised of 33 three bedroom units and 20 four bedroom units with an overall average of size of 1,947 SF. The 26 commercial condominiums will average 1,100 SF. There will be 315 parking spaces provided in a five-level above-grade parking structure, of which 24 spaces will be located on a partial subterranean level.

C. Proposed Transaction Terms

This section summarizes the salient aspects contained in the Disposition and Development Agreement (DDA) between the Agency and Developer.

- The Agency will attempt to purchase the Third Party Parcel for \$525,000. If the Agency is unsuccessful in negotiating a purchase price of \$525,000, the Agency will conduct hearings to determine if the use of eminent domain will be used to acquire the Third Party Parcel.
- The Agency will convey the Third Party Parcel to the Developer for \$525,000 (Purchase Price).
- The Developer will accept the Third Party Parcel in an "as is" condition.
- The Developer will acquire the necessary land use approvals for construction and operation of the Project.
- The Developer will construct 53 market-rate residential condominiums and 26 commercial condominiums on the Site.

II. COSTS OF THE DDA TO THE AGENCY

The estimated net costs of the DDA to the Agency total \$50,000 and include the following items:

Agency Costs (1)	Amount
Acquisition Costs – Third Party Parcel	\$525,000
Other Agency Third Party Soft Costs (2)	\$50,000
Total Agency Costs	\$575,000
(Less) Developer Purchase Price	(\$525,000)
Net Agency Costs	\$50,000

(1) Per Agency.

(2) Reflects costs such as relocation, legal and economic consultants, and appraisals.

III. ESTIMATED VALUE OF THE INTEREST TO BE CONVEYED AT THE HIGHEST AND BEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

This section presents an analysis of the fair market value of the Third Party Parcel at its highest and best use.

In appraisal terminology, the highest and best use is that use of the Third Party Parcel that generates the highest property value and is physically possible, financially feasible, and legally permitted. Therefore, value at highest and best use is based solely on the value created and not on whether or not that use carries out the redevelopment goals and policies for the City of Garden Grove. By definition, the highest and best use is that use which is physically possible, financially feasible, and legally permitted. The Third Party Parcel is located within the Transition Zone West land use district of the Harbor Corridor Specific Plan. The base underlying zone classifications include R-3 (multi-family residential) and C-1 (limited commercial). The primary permitted use is residential; commercial development is a secondary permitted use.

KMA undertook a review of available appraisals and comparable land sales in order to determine the fair market value of the Third Party Parcel. KMA first reviewed the appraisal undertaken for the Agency by Kurt J. Goepfner, ASA, CCIM (Goepfner) with a date of value of April 5, 2011. The appraisal states that the Third Party Parcel's optimal utility is in its current condition, as a commercial development. Goepfner relied on the comparable sales approach to value, with a conclusion of value for the Third Party Parcel of \$525,000, or \$214 per SF of gross building area (GBA).

In addition, KMA undertook its own review of selected sales of commercial buildings in the City of Garden Grove. Table 2 summarizes the KMA review of freestanding commercial building sales. The KMA survey focused on sales of buildings for the time period from January 2008 to the present. As shown in the table, sales prices ranged from \$157 to \$393 per SF GBA. The average and median sales prices were \$299 and \$306 per SF GBA, respectively. The appraised value determined by Goepfner falls below the average sales prices of the comparables. In general, KMA finds the comparable sales to be superior to the Third Party Parcel in terms of location, age of building, and timing of sale. On this basis, then, KMA concurs with the Goepfner appraisal finding of value for the Third Party Parcel.

KMA concludes that the fair market value of the Third Party Parcel at its highest and best use is \$525,000.

IV. ESTIMATED VALUE OF THE INTEREST TO BE CONVEYED AT THE USE AND WITH THE CONDITIONS, COVENANTS, AND DEVELOPMENT COSTS REQUIRED BY THE SALE OF THE THIRD PARTY PARCEL

Re-use value is defined as the highest price in terms of cash or its equivalent, which a property or development right is expected to bring for a specified use in a competitive open market, subject to the conditions, covenants, and development costs imposed by the DDA.

KMA analyzed the financial pro forma submitted by the Developer for the Project and modified pro forma inputs and assumptions based on our experience with comparable projects in Southern California.

Tables 3 to 5 present KMA's residual value analysis for the Project.

Estimated Development Costs

Table 3 summarizes the estimate of development costs for the Project. The Developer provided cost estimates for the construction of the Project. KMA reviewed these estimates in light of KMA's experience with comparable projects in Southern California. KMA has determined the cost estimates, as described below, to be reflective of today's marketplace. Total development costs, excluding acquisition are estimated to be \$40,279,000, or \$276 per SF of gross building area (GBA). These include the following:

- Direct construction costs, such as site preparation, parking structure, shell construction, tenant improvements, and contingency, are estimated to be \$30,099,000, or \$206 per SF GBA.
- Indirect costs, such as architecture and engineering, permits and fees, legal and accounting, taxes and insurance, developer fee, marketing and sales, and contingency, are projected to be \$7,366,000, or 24.5% of direct costs.
- Financing costs, consisting of loan fees, interest during construction, interest during sales, and homeowner association dues on unsold units, are estimated to be \$2,814,000 or 9.3% of direct costs.

Gross Sales Proceeds

Table 4 presents an estimate of the gross sales proceeds for the residential and commercial condominiums.

- Residential Condominiums: Sales proceeds for the residential units are projected to total \$26,193,000, with an average unit price of \$494,000.
- Commercial Condominiums: Sales proceeds for the commercial condominiums are projected to total \$6,708,000.

Total gross sales proceeds are shown below:

Total Gross Sales Proceeds	Amount
Residential Sales Proceeds	\$26,193,000
Commercial Sales Proceeds	\$6,708,000
Total Gross Sales Proceeds	\$32,901,000

Residual Land Value

The KMA methodology for the estimated residual land value is presented in Table 5. As shown, the estimated maximum warranted investment that could be supported by the Project is \$27,966,000. This figure represents the estimated gross sales proceeds from the condominiums, less a cost of sale of 3.0% of value and an allowance for developer profit of 12.0% of value.

The residual land value can be estimated as the difference between warranted investment (\$27,966,000) and total development costs (\$40,279,000). This difference is projected to yield a residual land value of *negative* \$12,313,000, or *negative* \$160 per SF land. Therefore, the Site, if offered on the open market, could yield a land value of *negative* \$160 per SF. The allocated portion for the 0.13-acre Third Party Parcel translates to a land value of *negative* \$910,000.

On this basis, then, KMA concludes that the fair re-use value of the Third Party Parcel is *negative* \$910,000.

V. THE COMPENSATION WHICH THE DEVELOPER WILL BE REQUIRED TO PAY

The estimated value of the compensation to be received by the Agency for the Third Party Parcel is \$525,000.

**VI. EXPLANATION OF THE DIFFERENCE, IF ANY, BETWEEN THE
COMPENSATION TO BE PAID TO THE AGENCY BY THE PROPOSED
TRANSACTION AND THE FAIR MARKET VALUE OF THE INTEREST TO BE
CONVEYED AT THE HIGHEST AND BEST USE CONSISTENT WITH THE
REDEVELOPMENT PLAN**

The fair market value of the interest to be conveyed at its highest and best use is estimated by KMA to be \$525,000.

The value of the compensation to be received by the Agency is \$525,000.

The compensation to be paid to the Agency is equal to the fair market value of the interest to be conveyed at its highest and best use.

VII. EXPLANATION OF WHY THE SALE OF THE THIRD PARTY PARCEL WILL ASSIST WITH THE ELIMINATION OF BLIGHT

The Redevelopment Plan (Plan) for the Garden Grove Community Project Area governs the Site. In accordance with Section 33490 of the California Community Redevelopment Law, the Plan contains the goals and objectives and the projects and expenditures proposed to eliminate blight within the Project Area. These blighting factors include:

- Buildings with deterioration, obsolescence, mixed character, and shifting uses.
- Subdivision and sale of lots of irregular form and shape for proper usefulness and development.
- Laying out lots in disregard of physical characteristics of the ground and surrounding conditions.

Implementation of the DDA can be expected to assist in the alleviation of blighting conditions through the following:

- Eliminate blighting influences including deteriorating buildings, uneconomic land uses, obsolete structures, and other environmental, economic and social deficiencies.
- Encourage private sector investment in development in the Project Area.
- Provide housing to satisfy the needs and desires of various age, income and ethnic groups of the community, maximizing the opportunity for individual choice.

VIII. LIMITING CONDITIONS

1. There are no known soil or subsoil problems, including toxic or hazardous conditions on the Site that need to be remediated in order to develop the Site.
2. The ultimate development will not vary significantly from that assumed in this Report.
3. The title of the property is good and marketable; no title search has been made, nor have we attempted to determine the ownership of the property. The value estimates are given without regard to any questions of title, boundaries, encumbrances, liens or encroachments. It is assumed that all assessments, if any are paid.
4. The Site will be in conformance with the applicable zoning and building ordinances.
5. Information provided by such local sources as governmental agencies, financial institutions, realtors, buyers, sellers, and others was considered in light of its source, and checked by secondary means.
6. If an unforeseen change occurs in the economy, the conclusions herein may no longer be valid.
7. The Project will adhere to the schedule of performance described in the DDA.
8. Both parties are well informed and well advised and each is acting prudently in what he/she considers his/her own best interest.

attachments

TABLE 1

PROJECT DESCRIPTION
LILI GARDEN PLAZA
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

I. Location	12077 Garden Grove Boulevard	
II. Site Area		
Developer Parcel	1.64 Acres	
Third Party Parcel	<u>0.13</u> Acres	
Total Site Area	1.77 Acres	
III. Gross Building Area (GBA)		
A. Residential		
Net Residential Area	103,176 SF	89%
Manager's Suite + Rec. Room	3,780 SF	3%
Common Areas/Circulation	<u>9,463</u> SF	<u>8%</u>
Total Residential GBA	116,419	100%
B. Commercial		
Net Commercial Area	28,585 SF	97%
Common Areas/Circulation	<u>941</u> SF	<u>3%</u>
Total Commercial GBA	29,526 SF	100%
C. Total Gross Building Area	145,945 SF	
IV. Unit Mix		Average
	<u>Number of Units</u>	<u>Unit Size</u>
Three Bedroom	33 Units	1,890 SF
Four Bedroom	<u>20</u> Units	<u>2,040</u> SF
Total/Average	53 Units	1,947 SF
V. Number of Stories	7 Stories	
VI. Construction Type	Type One B	
VII. Residential Density	30 Units/Acre	
VIII. Parking	5-Level Above-Grade Parking Garage (1 partial level below-grade)	
Parking Spaces	315 Spaces	
Parking Area	119,000 SF	378 SF/Space
Residential Parking Spaces	159 Spaces	3.0 Spaces/Unit
Commercial Parking Spaces	<u>156</u> Spaces	5.3 Spaces/1,000 SF Commercial
Total Parking Spaces	315 Spaces	

TABLE 2

RETAIL BUILDINGS SALES COMPARABLES IN GARDEN GROVE, JANUARY 2008 TO PRESENT
 LILI GARDEN PLAZA
 GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

<u>Sale Date</u>	<u>Address</u>	<u>Sale Price</u>	<u>Acres</u>	<u>Building Area</u>		<u>Year Built</u>	<u>Property Description</u>
				<u>SF</u>	<u>\$/SF</u>		
04/09/10	12692 Brookhurst Street	\$570,000	0.24	1,772	\$322	1954	Freestanding retail
08/20/09	12341 Harbor Blvd.	\$500,000	0.29	1,272	\$393	1977	Freestanding retail
11/11/08	12692 Garden Grove Blvd.	\$1,100,000	1.10	3,797	\$290	1951	Freestanding retail
09/17/08	10782 Garden Grove Blvd.	\$650,000	0.11	1,683	\$386	1907	Freestanding retail
07/01/08	12781 Josephine St.	\$1,125,000	0.19	4,542	\$248	1996	Freestanding retail
06/26/08	10681 Garden Grove Blvd.	\$850,000	0.26	5,415	\$157	1920	Freestanding retail
	Minimum	\$500,000	0.11	1,272	\$157	1907	
	Maximum	\$1,125,000	1.10	5,415	\$393	1996	
	Median	\$750,000	0.25	2,785	\$306	1953	
	Average	\$799,167	0.36	3,080	\$299	1951	

TABLE 3

**ESTIMATED DEVELOPMENT COSTS
LILI GARDEN PLAZA
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**

	<u>Totals</u>	<u>Per Unit</u> (2)	<u>Comments</u>
I. Direct Costs			
Off-Site Costs (1)	\$0	\$0	\$0 Per SF Site
Demolition/Site Preparation	\$925,000	\$11,709	\$12 Per SF Site
Parking	\$6,300,000	\$79,747	\$20,000 Per Space
Shell Construction - Residential	\$17,463,000	\$221,051	\$150 Per SF GBA - Residential
Shell Construction - Commercial	\$3,248,000	\$41,114	\$110 Per SF GBA - Commercial
Tenant Improvements	\$572,000	\$7,241	\$20 Per SF - Commercial
FF&E/Amenities	\$158,000	\$2,000	Allowance
Contingency	<u>\$1,433,000</u>	<u>\$18,139</u>	5.0% of Directs
Total Direct Costs	\$30,099,000	\$381,000	\$206 Per SF GBA
II. Indirect Costs			
Architecture/Engineering	\$1,505,000	\$19,051	5.0% of Directs
Permits & Fees (1)	\$2,189,000	\$27,709	\$15 Per SF GBA
Legal & Accounting	\$301,000	\$3,810	1.0% of Directs
Taxes & Insurance	\$987,000	\$12,494	3.0% of Value
Developer Fee	\$903,000	\$11,430	3.0% of Directs
Marketing/Sales - Residential	\$987,000	\$12,494	3.0% of Value
Marketing/Sales - Commercial	\$143,000	\$1,810	\$5 Per SF - Commercial
Contingency	<u>\$351,000</u>	<u>\$4,443</u>	5.0% of Indirects
Total Indirect Costs	\$7,366,000	\$93,241	24.5% of Directs
III. Financing Costs			
Loan Fees	\$604,000	\$7,646	2.0% of Directs
Interest During Construction	\$1,903,000	\$24,089	6.3% of Directs
Interest During Sales	\$282,000	\$3,570	0.9% of Directs
HOA Dues on Unsold Units	<u>\$25,000</u>	<u>\$316</u>	0.1% of Directs
Total Financing Costs	\$2,814,000	\$35,620	9.3% of Directs
IV. Total Costs Excluding Land	\$40,279,000	\$509,861	\$276 Per SF GBA

(1) Estimate; not verified by KMA or City.

(2) Reflects residential units (53) and commercial units (26) for a total of 79 units.

TABLE 4

GROSS SALES PROCEEDS
 LILI GARDEN PLAZA
 GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

	<u>Unit Size</u>	<u># of Units</u>	<u>\$/SF</u>	<u>Purchase Price</u>	<u>Total Sales</u>
I. Residential Sales Proceeds					
Three Bedroom Units	1,890 SF	33	\$250	\$472,500	\$15,593,000
Four Bedroom Units	<u>2,040 SF</u>	<u>20</u>	<u>\$260</u>	<u>\$530,000</u>	<u>\$10,600,000</u>
Total/Average	1,947 SF	53	\$254	\$494,200	\$26,193,000
II. Commercial Sales Proceeds					
Commercial Condominiums	1,099 SF	26	\$235	\$258,000	\$6,708,000
III. Total Gross Sales Proceeds					\$32,901,000

TABLE 5

**RESIDUAL LAND VALUE
LILI GARDEN PLAZA
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**

I. Gross Sales Proceeds		
Residential Sales Proceeds		\$26,193,000
Commercial Sales Proceeds		<u>\$6,708,000</u>
Total Gross Sales Proceeds		\$32,901,000
(Less) Cost of Sale	3.0% of Value	(\$987,000)
(Less) Developer Profit	12.0% of Value	<u>(\$3,948,000)</u>
Net Sales Proceeds		\$27,966,000
 II. Warranted Investment		
Net Sales Proceeds		\$27,966,000
(Less) Development Costs - Excluding Land		<u>(\$40,279,000)</u>
 III. Residual Land Value		
		(\$12,313,000)
Per Unit		(\$156,000) (1)
Per SF Site		(\$160)
<hr/>		
IV. Residual Land Value of Third Party Parcel		
Residual Land Value		(\$160) /SF
Third Party Parcel		5,700 SF
Residual Land Value - Third Party Parcel		(\$910,000)

(1) Reflects residential units (53) and commercial units (26) for a total of 79 units.

ROPS Item 26

GGUSD

Capital Facilities Agreement

CITY OF GARDEN GROVE
INTER-DEPARTMENT MEMORANDUM

Agency for Community Development

To: George L. Tindall

From: Gregory C. Devereaux

Dept.: Director

Dept.: Community Development

Subject: **CAPITAL FACILITIES**
AGREEMENT - GARDEN GROVE
UNIFIED SCHOOL DISTRICT

Date: August 25, 1992

OBJECTIVE

The purpose of this report is to request the Agency to conduct a public hearing to consider a Capital Facilities Agreement between the Garden Grove Agency for Community Development and the Garden Grove Unified School District relative to the proposed amendment to the redevelopment plan for the Garden Grove Community Project. Agency will also requested to adopt a resolution containing the required findings.

BACKGROUND

Since July 1991, the Agency has been involved in a process to amend the existing redevelopment plan for the Garden Grove Community Project. As part of this process the Agency is required to provide to the affected taxing entities financial information on the proposed Plan Amendment. The taxing entities then have the responsibility to evaluate the financial information and identify any financial burden or detriment caused by the proposed plan amendment. Prior to adopting the amendment to the redevelopment plan, the Agency is required to consult with the taxing entities and attempt to develop means which would alleviate any financial burden or detriment, in the event one should exist.

On February 11, 1992, the Agency approved a Preliminary Report on the proposed amendment to the Community Project Redevelopment Plan. The Preliminary Report contained the financial information from which the taxing entities were to identify their financial impacts. Upon receipt of the Preliminary Report the taxing entities have the right to call for the formation of a Fiscal Review Committee (FRC). The FRC was formed and held their first meeting on April 23, 1992. A Final Report of the FRC describing the financial impacts was prepared and submitted to the Agency on June 5, 1992. The Agency approved a response to the FRC Report on June 16, 1992, which completed the fiscal review process.

The Garden Grove Unified School District (GGUSD) is an affected taxing entity under the proposed Plan Amendment. GGUSD participated in the fiscal review process and submitted various documents indicating their estimated fiscal impact as a result of the Plan Amendment. Agency staff and legal counsel met numerous times with representatives of GGUSD in an attempt to determine the financial burden and detriment to GGUSD due to the Plan Amendment.

George L. Tindall
August 25, 1992
Page Two

As a result of the meetings, the Agency and GGUSD have negotiated an agreement which provides for the alleviation of the estimated financial burden and detriment to the District due to the Plan Amendment. The Agreement is attached for your review.

DISCUSSION

The proposed Capital Facilities Agreement between the Agency and Garden Grove Unified School District provides for the creation of a Special Fund to pay for all or a portion of certain District capital facilities which the Agency and the District agree would alleviate any financial burden or detriment caused by the Plan Amendment. Section 33445 of the Health and Safety Code authorizes the Agency to expend tax increment to fund capital improvements and facilities which are inside or outside the Redevelopment Project Area and are of benefit to such area. This can include funding the capital improvements and facilities of other public agencies.

The Special Fund shall be comprised of tax increment generated primarily as a result of the Plan Amendment. The Agency agrees to contribute to the Special Fund an amount equal to fifty (50) percent of GGUSD's share of tax increment (less the Agency's current or future set aside obligation) commencing in fiscal year 1997-98 from both the existing project area and the added area. The Agency also agrees to fund an additional fixed amount from the existing tax increment flow over the 40 year life of the Plan. Payments from that flow would begin in the '92-'93 fiscal year.

The Agreement contains a list of pre-approved capital facilities that GGUSD has identified as potential projects. In order to pre-approve these potential expenditures it is necessary for the Agency and the City to make findings that the proposed projects are of benefit to the Redevelopment Project Area. GGUSD agrees not to challenge the Plan Amendment nor the Environmental Impact Report on the Plan Amendment and further agrees to limit any challenge to future Agency assisted commercial development projects to direct impacts on existing school facilities, but shall not include overcrowding issues.

Section 33445 of the California Redevelopment Law requires the Legislative body to determine both of the following:

- (1) That the buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether the improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that the improvement is of benefit to an adjacent project area of the Agency.
- (2) That no other reasonable means of financing such buildings, facilities structures, or other improvements, are available to the community.

George L. Tindall
August 25, 1992
Page Three

Section 33679 of the California Redevelopment Law requires that before the Agency commits to use a portion of tax increment for the purpose of paying all or part of the value of the land for, and the cost of construction of, any publicly owned building the legislative body shall hold a public hearing. Attached is a summary which includes all of the following:

- (a) Estimates of the amount of such taxes proposed to be used to pay for such land and construction of any publicly owned building, including interest payments.
- (b) Sets forth the facts supporting the determinations required to be made by the legislative body pursuant to Section 33445.
- (c) Sets forth the redevelopment purpose for which such tax increment are being used to pay for the land and construction of such publicly owned building.

RECOMMENDATION

Staff recommends that the Agency Board adopt the attached resolution containing the necessary findings required under Sections 33445 and 33679. Staff further recommends that the Agency Board approve the proposed Capital Facilities Agreement between the Garden Grove Agency for Community Development and the Garden Grove Unified School District.

GC
GREGORY C. DEVEREAUX, Director
Community Development

By: *Matthew Fertal*
Matthew Fertal
Economic Development Manager

Approved for Agenda Listing

George L. Tindall
George L. Tindall
Director

Attachments: Summary pursuant to Sections 33445 and 33679
Resolution
Capital Facilities Agreement

GGUSDO1MF/AGENCY

SUMMARY OF PROPOSED PAYMENT OF COST OF LAND,
INSTALLATION, AND CONSTRUCTION OF PUBLICLY
OWNED BUILDINGS PURSUANT TO HEALTH AND SAFETY
CODE SECTION 33445 AND 33679

Section A

I. ESTIMATE OF THE AMOUNT OF SUCH TAXES PROPOSED TO BE USED TO PAY FOR SUCH LAND AND CONSTRUCTION OF ANY PUBLICLY OWNED BUILDING, INCLUDING INTEREST PAYMENTS [Section 33679(a) of the Health and Safety Code]

The buildings, facilities, structures or other improvements (collectively "Capital Facilities") as set forth in Exhibit "A" of the Capital Facilities Agreement ("Agreement") between the Garden Grove Unified School District ("District") and the Garden Grove Agency for Community Development ("Agency"), are owned and/or leased by the District. The District is the predominant K-12 and adult education school district authorized by the State of California to provide educational curriculum and facilities to the residents of the City of Garden Grove ("City"). Pursuant to Section 48204 of the Education Code, in addition to providing curriculum and facilities for residents of the City, the District, under certain conditions and requirements of the statutes, may provide such services and facilities for elementary school students, where one or both parents or legal guardian is employed within the boundaries of the District.

The Capital Facilities as Set forth in Exhibit "A" have an estimated cost over the 40-year term of the Redevelopment Plan of \$255,000,000, or a present value at a discount rate of 4.0% of \$93,000,000. The Agreement has been structured to ensure that the Capital Facility financial burden or detriment mitigation required by the implementation of the Plan is adequate through the financial provisions and formulas of the Agreement.

The primary provisions of the Agreement are as follows:

- 1) The Agency will set up a Special Fund to be administered by the Agency or a third party Trustee, in the sole discretion of the District, to be specifically utilized to finance Capital Facilities and deferred maintenance of District's facilities within the City of Garden Grove, together with specific payments to the District for annual administration of the fund (direct and indirect costs) of the capital facility and deferred maintenance projects. The cost of administering the Special Fund shall be paid by the District out of the proceeds of the Special Fund.
- 2) Beginning FY 1992-1993 through FY 1994-1995, the Special Fund will receive \$500,000 in tax increment.
- 3) Beginning FY 1995-1996 through FY 2006-2007, the Special Fund will receive \$1,000,000 in tax increment.

- 4) Beginning FY 2007-2008 and thereafter for the term of the Plan, the Special Fund will receive 10% of that portion of the District's share of tax increment from the territory of the original projects areas.
- 5) Beginning FY 1997-1998 and thereafter for the term of the Plan, the Special Fund will receive 50% of 80% of that portion of the District's share of tax increment from the territory added to the original project areas as a result of the Amendment. The 20% difference represents the housing set-aside fund which the Agency is required to set-aside pursuant to the redevelopment Law. Due to the State's present consideration of legislative amendments which may require additional set-asides in excess of the 20%, the Agreement provides for these additional set-asides to be deducted from the gross tax increment, to attain a "net" District share of tax increment.
- 6) Assuming conservative projections of growth in the project area and a conservative inflation rate, we estimate that the financial arrangement represents a present value to the Special Fund of approximately \$93,000,000 or a real dollar value over 40 years of approximately \$255,000,000.
- 7) Although there are conditions, requirements, and limitations which must be applied prior to the use of the Special Fund proceeds to finance Capital Facilities and deferred maintenance, these conditions, requirements, or limitations are either a) required by the California Community Redevelopment Law or other applicable State and Federal statutes; or b) provides for checks and balances between the Agency and District to insure that the terms of the Agreement are fulfilled by each party.
- 8) There are specific provisions which allow for the Agency to issue bonds on behalf of the District with the proceeds of the Special Fund a) in conjunction with an Agency bond; or b) as a separate school district benefit bond. In addition, there are specific provisions to allow the District to issue bonds with the proceeds of the Special Fund.
- 9) There is a secondary provision which allows existing debt of the Agency incurred prior to the effective date of the Agreement to be senior to the Agency's requirement to distribute tax increment from the territory from the original project area (i.e. the amounts set forth in paragraphs 3, 4, and 5 above), however, this is limited to a prior indebtedness amount not to exceed \$7,000,000 in annual debt repayments, and any unpaid amounts to the Special Fund due to the Agency's inability to make such payments due to this provision, would be paid in subsequent years together with accrued interest. The \$7,000,000 represents 1.20% of the Agency's present documented existing principal indebtedness.

- 10) The Agreement provides that if the Plan is modified by a Court, or if restrictions, conditions, penalties, etc. are imposed on the District or the Agency whereby the Agreement terms and conditions are adversely affected, the Agreement shall be renegotiated whereby the new Agreement provides reasonable remaining financial benefits to the District, and reasonable equivalent remaining tax increment funds to the Agency.
- 11) The Agreement provides that the District shall dismiss its litigation, shall not pursue additional litigation with regard to non-residential projects for which the Agency is a participant, senior citizen residential projects, residential projects in the Project Area of ten (10) units or less, and projects stated in an exhibit attached to the Agreement. The District has not given up its right to challenge residential projects of eleven units or more, the General Plan and amendments thereto, non-Agency participation non-residential projects outside the Project Area, and Agency participation non-residential projects outside the Project Area (on the grounds of direct impact, not school overcrowding).
- 12) The District has agreed not to make findings of overcrowded schools during the term of the Plan, as a result of the implementation of the Plan.
- 13) The District and Agency have agreed to indemnify each other for the other's breach of the Agreement. The District has agreed to indemnify the Agency for causes or actions arising out of the District's implementation of the projects financed by the Special Fund, for consequential damages to the Agency relating thereto, and for causes and actions asserted by a third party relating to the legal authority of the Agency to make payments to the fund in the manner described in the Agreement.
- 14) The attached District's Projects Under the Plan exhibit in the Agreement provides a broad definition of a) capital facility projects; b) deferred maintenance projects; c) emergency or temporary capital facility and deferred maintenance projects; and d) pre- and post-development direct and indirect expenditures. However, the District is required to adopt a Capital Facilities Master Plan and a Five-Year Deferred Maintenance Plan in compliance with State Law and the requirements of the applicable State departments, in order to utilize the proceeds of the Special Funds.
- 15) In lieu of the District or Agency pursuing disputes regarding the Agreement through normal litigation procedures and remedies, the Agreement provides that the parties will utilize specific procedure which uses a retired Judge of the Superior Court and process called Judicial Arbitration and Mediation Services ("JAMS"), which has been accepted by the California State Bar. The rulings through this process will be binding on the parties.

These provisions provide a cash flow of revenue to the Special Fund which will enable the expenditure of estimated taxes to be generally used as follows in order to attain the intent and purpose of the Agreement:

<u>COST CATEGORY</u>	<u>%</u>	<u>ESTIMATED TOTAL EXPENDITURES</u>	<u>ESTIMATED ANNUAL AVG. EXPENDITURES 40 YEARS</u>
LAND ACQUISITION EXPENDITURES	10.00%	\$ 25,500,000	\$ 637,500
NEW CONSTRUCTION EXPENDITURES	20.00%	\$ 51,000,000	\$ 1,275,000
RECONSTRUCTION EXPENDITURES	30.00%	\$ 76,500,000	\$ 1,912,500
DEFERRED MAINTENANCE EXPENDITURES	10.00%	\$ 25,500,000	\$ 637,500
EMERGENCY/TEMPORARY FACILITY EXPENDITURES	<u>4.93%</u>	<u>\$ 12,577,505</u>	<u>\$ 314,438</u>
SUB-TOTAL ESTIMATE (+/-)	74.93%	\$191,077,505	\$ 4,776,938
DIRECT/INDIRECT PRE- AND POST-DEVELOPMENT EXPENDITURES	11.24%	\$ 28,661,626	\$ 716,541
ADMINISTRATION/MANAGEMENT OF AUTHORIZED PROJECTS	8.70%	\$ 22,173,913	\$ 554,348
INDIRECT EXPENDITURES OF AUTHORIZED PROJECTS	4.35%	\$ 11,086,957	\$ 277,174
SPECIAL FUND ADMINISTRATION EXPENDITURES	<u>0.78%</u>	<u>\$ 2,000,000</u>	<u>\$ 50,000</u>
SUB-TOTAL ESTIMATE(+/-)	25.07%	\$ 63,922,495	\$ 1,598,062
TOTAL ESTIMATED EXPENDITURES(+/-)	<u>100.00%</u>	<u>\$255,000,000</u>	<u>\$ 6,375,000</u>

The distribution and expenditure of taxes pursuant to the various categories as set forth above, may be modified during the term of the Agreement, pursuant to the terms and conditions of the Agreement and based upon the conditions that may exist in the community and the District at the time of said expenditures, and the need to incur such expenditures. The above is not intended to limit the distribution and allocation of Special Fund revenues and the use of said tax revenues within the Special Fund.

Although the Agreement provides for the issuance of indebtedness in order to finance the Capital Facilities and deferred maintenance, it is unknown at this time the amount of said bonds, or the interest requirements that may be necessary to meet that debt service requirements. However, as an example if the entire capital facility program were to be financed over 40 years at a rate of 8.5%, the Total Estimated Expenditures would have to be reduced to a principal amount of \$62,372,295(+/-), requiring an annual debt service of \$6,375,000(+/-), and a cumulative interest obligation of \$192,627,705(+/-). To the degree the principal amount was reduced, the terms of the indebtedness was modified, or the interest rate was different, the interest obligation would be modified accordingly.

Section B

I. BUILDINGS, FACILITIES, STRUCTURES OR OTHER IMPROVEMENTS ARE OF BENEFIT TO THE PROJECT AREA OR THE IMMEDIATE NEIGHBORHOOD IN WHICH THE PROJECT IS LOCATED [Section 33345(1) of the Health and Safety Code]

The District provides educational facilities which are designated as K-5 Schools, Intermediate Schools and High Schools. Each school has a designated attendance area boundary from which students who live within said area may attend that designated school, or may be transferred to another school within the District pursuant to specific requirements of the District. A majority of the District's schools within the City of Garden Grove have attendance area boundaries which encompass portions of the Project Area, or are within proximity of the Project Area. This is shown on Attachment "I", herein, and both the Project Area Map and the District Attendance Area Boundary Map are on file in the Community Development Office of the City of Garden Grove.

In addition, Special Education facilities, District Administration and Maintenance facilities, and Adult Education facilities, serve the entire City of Garden Grove without any distinction by attendance area. All residents and employees of the City and the Project Area gain benefit from these general facilities which serves the needs of the community District-wide. The Project Area further benefits from these District-wide general facilities, in that individual schools cannot operate without the services offered by these facilities.

The Agreement sets forth the projects for which a Special Fund, to be set up by the Agency, may be used. The projects include the following improvements and/or facilities, provided the requirements of the Agreement are fully met, and such improvements are located within the territorial jurisdiction of the Agency:

- 1) All improvements and facilities rehabilitation projects which have been approved by the Board of Trustees and are on the District's State School Allocation Board Deferred Maintenance Five-Year Plan approved in accordance with the State School Deferred Maintenance Law, and which shall exclude a) ongoing preventative maintenance; b) repair and maintenance of school facilities that are no longer needed for K-12/Adult Education; c) repair and maintenance of facilities leased by or for the District; d) repair and maintenance of furniture and equipment; e) installation of new items which did not exist previously; f) energy conservation; and g) new handicapped compliance and requirements, except as the State School Deferred Maintenance Law maybe amended, or as may be included in the District's Capital Facilities Master Plan, all of which as approved and/or authorized by the State Allocation Board, Department of Education, State Architect, Office Of Local Assistance, and/or as authorized pursuant to any State statute and/or guideline.
- 2) All capital outlay expenditures including the purchase, rental, lease or lease with option to purchase, which have been approved by the Board of Trustees and are on

the District's Capital Facilities Master Plan, including a) sites and improvements to sites, including acquisition of land, improvement of new and old sites and adjacent ways, and acquisition of physical property of a permanent nature attached to land; b) buildings including the construction or purchase cost of new buildings and additions, the razing of existing obsolete or old buildings to clear sites for new buildings, building fixtures and service systems, and any other expenditure directly related to the construction or acquisition of buildings; c) improvement of buildings including alterations, remodeling, renovations, and replacement of buildings in whole or in part; d) building fixtures including attachments to buildings that are not subject to transfer or removal, function as integral parts of the building, and have fairly long and useful lives; e) service systems including any parts of a building that are intended to serve a single function throughout the building, are usually included as a part of the original construction or subsequently added in whole or in part, are built as integral parts of the buildings, and are expected to have a long and useful life; and f) the purchase of initial or additional equipment, including movable personal property of a relatively permanent nature and/or significant value, all as defined pursuant to the California Department of Education Accounting Manual, as may hereinafter be amended.

- 3) All capital outlay expenditures and all improvements and facilities rehabilitation projects as defined in paragraph's 1 and 2 above which are approved by the Board of Trustees and are necessary and required to address emergency or temporary needs of the District, so as to provide adequate facilities and sites for enrollment of growth of the District, including the acquisition and/or lease of relocatable, portable, or trailer classrooms and support capital outlay.
- 4) Any and all direct or indirect pre- or post-development expenditures to the District, which include planning, engineering, architecture, contract or project management administration, inspection and tests, plan check fees, State and local fees, appraisals, and bid documentation and processing, so long as such costs are specifically and directly related to the capital outlay expenditures and deferred maintenance authorized by and contemplated under the Agreement.

The above-described capital outlay expenditures and improvements, and facilities rehabilitation projects are authorized on the following sites of the District, all of which are in the City and within the territorial jurisdiction of the Agency:

Elementary

<u>School</u>	<u>Address</u>		
Barker	12565	Springdale	Garden Grove
Brookhurst	9821	Catherine Avenue	Garden Grove
Bryant	8371	Orangewood	Garden Grove
Clinton	13641	Clinton Street	Garden Grove

Cook	9802	Woodbury Road	Garden Grove
Crosby	12181	West Street	Garden Grove
Edgar	6202	Cerulean	Garden Grove
Eisenhower	13221	Lilly Street	Garden Grove
Enders	12302	Springdale	Garden Grove
Evans	12281	Nelson Street	Garden Grove
Excelsior	10421	Woodbury Road	Garden Grove
Faylane	11731	Morrie Lane	Garden Grove
Garden Park	6562	Stanford Avenue	Garden Grove
Gilbert	9551	Orangewood	Garden Grove
Hill	9681	Eleventh Street	Garden Grove
Lawrence	12521	Monroe	Garden Grove
Mark Twain	11802	Loara Street	Garden Grove
Mitchell	13451	Taft Avenue	Garden Grove
Morningside	10521	Morningside Drive	Garden Grove
Murdy	14851	Donegal Drive	Garden Grove
Paine	15792	Ward Street	Garden Grove
Parkview	12272	Wilken Way	Garden Grove
Patton	6861	Santa Rita	Garden Grove
Peters	13162	Newhope Street	Garden Grove
Riverdale	13222	Lewis Street	Garden Grove
Simmons	11602	Steele Drive	Garden Grove
Skylark	11250	MacMurray	Garden Grove
Stanford	12721	Magnolia Street	Garden Grove
Stanley	12201	Elmwood Avenue	Garden Grove
Sunnyside	9972	Russell Avenue	Garden Grove
Violette	12091	Lampson Avenue	Garden Grove
Wakeham	7772	Chapman Avenue	Garden Grove
Warren	12871	Estock Drive	Garden Grove
Woodbury	11362	Woodbury Road	Garden Grove
Zeyen	12081	South Magnolia	Garden Grove

Intermediate

<u>School</u>		<u>Address</u>	
Alamitos	12381	Dale	Garden Grove
Bell	12345	Springdale	Garden Grove
Doig	12752	Trask Avenue	Garden Grove
Hare	12012	South Magnolia	Garden Grove
Irvine	10552	Hazard Avenue	Garden Grove
Jordan	9821	Woodbury Road	Garden Grove
Ralston	10851	Lampson Avenue	Garden Grove
Walton	12181	Buaro Street	Garden Grove

High SchoolAddressSchool

Bolsa Grande	9401	Westminster Avenue	Garden Grove
Garden Grove	11271	Stanford Avenue	Garden Grove
Lake	10801	Orangewood Avenue	Garden Grove
Pacifica	6851	Lampson Avenue	Garden Grove
Rancho Alamitos	11351	Dale Street	Garden Grove
Santiago	12342	Trask Avenue	Garden Grove

Adult EducationSchoolAddress

Chapman Center	11852	Knott Avenue	Garden Grove
Lincoln Center	11262	Garden Grove Boulevard	Garden Grove
Hettinga Center	11700	Knott Avenue	Garden Grove

Special EducationSchoolAddress

Jordan Secondary Learning Center	9821	Woodbury Road	Garden Grove
Mendenhall Special Education	13581	Clinton Street	Garden Grove

District FacilitiesSchoolAddress

Education Center	10331	Stanford Avenue	Garden Grove
Maintenance Center	8211	Lampson Avenue	Garden Grove

Note: The inclusions of this project list in the Amended Plan and/or the Capital Facilities Agreement between the District and the Agency, is not an obligation by the District, the Agency, or the City to pursue, undertake and/or complete any of the projects set forth herein, but are identified to authorize the expenditure of the Special Fund revenues in compliance with Section 33445 and 33679 of the Health and Safety Code, should the District choose to proceed with any one or more of the projects.

The Project Area does not encompass any existing or presently known and/or proposed Capital Facilities or present District sites. The Project Area is serviced by Capital Facilities which are interspersed throughout the City and are within close proximity to the Project Area and the neighborhoods adjacent to the Project Area. Without such facilities in place, the residents and/or employees of the Project Area would not have access to and be able to avail themselves of the educational opportunities which are offered by Law to the people of the State of California in general, and to the community, in particular. To the degree that these Capital Facilities deteriorate due to inadequate or unfunded deferred maintenance, the usability, efficiency and effectiveness of these Capital Facilities will diminish, thereby adversely affecting the public's access to these Capital Facilities.

In addition, as the City grows in population and employment, directly and indirectly as a result of the economic, social, and physical advantages and benefits of the use of redevelopment in the City, in general, and the Project Area, in particular, the Capital Facilities will become overcrowded and overutilized, thereby deteriorating the educational environment of the Capital Facilities. This will require acquisition or lease of new sites to accommodate the overflow of students, and/or the expansion, alteration, remodeling, renovation, and replacement of buildings, building fixtures, equipment, furniture, and services systems at existing sites.

Without such actions by the Agency or the District, the District's present and future operational and administrative programs and activities may adversely affect the residents and employees of the Project Area and the community. Such operational and administrative programs which the District has and would continue to implement include, but are not limited to a) busing students to schools which have available capacity, either within the City or outside the City, and even to an adjoining school district; b) modifying the curriculum schedule from a standard school calendar to a year-round education calendar and/or a double session calendar; c) modifying class schedules and the availability of classes; and d) meeting classroom capacity demands through the placement of emergency and temporary trailer or portable classrooms.

The District also provides Adult Education curricula to enhance the skills and capabilities of the adult population of the community and the Project Area. Employees of the Project Area can avail themselves of these services and expand employment skills, as well as basic skills by offering courses such as English-as-a-Second-Language. This educational benefit insures that employers of the Project Area have access to an educated labor force within the community, whether it be adults or employment age students of the District.

The Capital Facilities are all public access facilities, and therefore provide a substantial portion of the City's public recreational and open space areas of the community, which are available to the residents and employees of the Project Area and the adjacent neighborhoods. These areas are an integral portion of the community's recreational service programs, and allow the City to meet its General Plan requirements and standards for open space and parks in the community. The deterioration and/or the overutilization of these Capital Facilities, without the expansion, alteration, remodeling, renovation, and replacement of buildings, building fixtures, equipment, furniture, and service systems at existing sites, and/or the acquisition and/or lease of comparable

Capital Facilities will have an adverse affect on the City's and Agency's ability to meet its requirements of providing adequate and acceptable recreational and open space areas for the community, in general, and the Project Area, in particular.

The vitality of the Project Area depends not only on the removal of blighted physical, social and economic conditions, but also on the adequacy of public facilities within the Project Area and within proximity to the Project Area, and which provide the educational and open space facilities and services required to meet the demands and needs of residents, employees, and employers within the Project Area.

As the Project Area is revitalized, employment opportunities are created, and residential development is made available to prospective tenants, all directly or indirectly requiring adequate educational Capital Facilities and open space areas in the community. However, as such facilities become burdened with the impact of such usage, the District will need to transition such use to other Capital Facilities in the District. Such transition will have impacts on other District facilities which are not in proximity of the Project Area. Therefore, there is a direct correlation between all Capital Facilities which the District utilizes and its responsibility to provide educational services.

The public access to the District's Capital Facilities within close proximity to the Project Area, or in other areas of the community, has direct and indirect benefit to the Project Area, by the mere fact that all District facilities are equally available to all employees and residents of the community and the Project Area, and that the utilization of such facilities are not dictated by location, but rather the overcrowded or underutilized condition of said Capital Facilities, and the availability of services offered at any one site.

II. THERE IS NO OTHER REASONABLE MEANS OF FINANCING SUCH BUILDINGS, FACILITIES, STRUCTURES, OR OTHER IMPROVEMENTS AVAILABLE TO THE COMMUNITY [Section 33345(2) of the Health and Safety Code]

The District's services and Capital Facilities are intended to be financed through various statutes of the California Education Code, and the various programs of the State of California. Through the Serrano-Priest decision, the property taxes generated within the boundaries of the District are allocated to the District based upon a formula ("revenue limit") which insures equalization of revenues by average daily attendance, to all school districts throughout the State. Should local property taxes not be adequate to fund the revenue limit, the State supplements the property taxes with other State general fund revenues, so as to ensure that the revenue limit is annually attained. The revenue limit per student increases or decreases depending on the State's ability to supplement property tax revenues. In recent years the revenue limit has remained stagnant or has decreased due to the State's financial crises.

The District's FY 1992-1993 revenue limit per student per year is \$3,025.12 (projected), or an estimated total revenue of \$124,862,918 (projected). This revenue allocation is expended by the

District on operations and administration in order to provide the general educational programs of the District.

Over the last several years, the ability of the State to maintain the level of revenue limit funding necessary to finance District's operations and administration has been diminishing. The State's present budget crisis is reflective of its inability to attain the level of funding which school districts have had in the past. This financial crisis may be leading to a restructuring of the entire State school financing program, where school districts and their local communities will have greater responsibilities and obligations for the financial needs of their jurisdictional areas.

The District conducts business through various budgetary funds of the District. Many of these funds are "use-restricted" as a result of State statutes, regulations, or requirements. Similarly, many of these funds are constrained due to contract obligations which the District maintains in order to operate. These contract obligations include, for example, agreements with the classified and non-classified employees associations of the District, which establish certain standards of District operation and employment benefits. These contract obligations are significant in that they affect the flexibility of the budgetary process of the District to reallocate revenue resources to Capital Facilities and deferred maintenance.

The unrestricted funding is maintained in the General Fund of the District. Portions of the revenue limit proceeds are within this fund. The District however, has had to conserve its expenditures in this fund over the past several years, in order to maintain a balanced budget. Conservation of revenues by a school district usually suggests cutbacks in, or deference of, capital facility and deferred maintenance expenditures. The District has experienced these conditions in recent years.

Although revenue limit funding can be used for deferred maintenance and Capital Facilities, the financial requirements of the operations and administration of the District does not result in significant surplus of revenues that can be applied to such deferred maintenance or Capital Facilities requirements of the District.

As a supplement to the revenue limit proceeds, the Leroy F. Greene State Lease-Purchase Program provides a mechanism for the distribution of "available" State revenues for new construction, modernization, land acquisition, air conditioning, asbestos abatement, emergency relocatables, size related facilities, and reserves and contingencies required by school districts throughout the State. Such revenue sources are generally made available as a result of State-wide bond election authorizations and financing vehicles.

In April 1992, Proposition 152 was approved authorizing the allocation of \$1.9 billion in bonds for such capital facility improvements. In June, 1992 the current backlog of fundable projects was \$1.717 billion. As of July 22, 1992, the State Allocation Board had allocated \$745,900,000 leaving \$1,154,100,000 available for future fundable capital requirements State-wide. Presently, the applications for funding before the State Allocation Board amount to over \$6.0 billion.

Proposition 155, which will be on the State ballot in November, 1992, provides for a \$900.0 million bond issue similar to Proposition 152. Even with the passage of Proposition 155, there will still be inadequate funding resources through the State to meet the capital facility needs Statewide. In late 1991, the State of California Department of Finance projected that in the ten years prior to FY 2000-2001, the cumulative facility requirements for the California's public schools will exceed \$33.7 billion to meet the growth demands of the student population of the State. This does not even include the necessity to modify and reconstruct school facilities to meet the state-of-the-art educational requirements of the future.

It is unlikely that the State Legislature will initiate propositions for Statewide elections or legislative statutes in the future that will be able to meet the capital facility demands of the State, nor is there a realistic expectation that the electorate of the State will approve such large bond obligation authorizations with the two-thirds vote required by Proposition 13. More likely, the State will continue to redirect this financial obligation to school districts and local communities.

Capital Facilities can also be partly financed through Development Fees as authorized by Section 53080 of the Health and Safety Code. Development Fee authorization for school districts was approved by the State legislature to provide a vehicle where private development activity pays a fair share of the cost of Capital Facilities required as a result of the private development activity. Further, it was implemented as a vehicle to complement State available capital facility revenue resources. These fees are generally applied to the new construction of residential and non-residential properties. Annually, between \$350 and \$500 million in Development Fees is raised throughout the State. However, during the recent economic recessionary period, construction has been deferred and Development Fee collections have been reduced. In FY 1991-1992, the District collected \$249,316 in Development Fees. The District's FY 1992-1993 Budget projects the collection of Development Fees to amount to \$175,000.

Development Fees are presently authorized at a rate of \$1.65 per square foot of residential development and \$.27 per square foot of non-residential development. The maximum allowable fees are increased by the State Allocation Board in January of each even-numbered year by a cost of living adjustment. Development Fees were initially intended to supplement a "50/50 match" program of the Leroy F. Green State Lease-Purchase Program. However, the State is now unable to meet fully its 50% obligation throughout the State, therefore Development Fees alone are unable to meet the capital facility financing demands. Depending on the location of the school district, the magnitude of facility requirements, and the scope of facility demands (i.e. new facilities, expanded existing facilities, reconstruction of facilities, etc.) resulting from growth of a school district, Development Fees can finance 30-70% of the cost of such facilities.

In addition, Development Fees for school districts are being scrutinized in the private development community because of their cumulative impacts on the cost of development when considered in relationship with public fees of other jurisdictions and the other various exactions which increase the cost of development.

Recent litigation which resulted in the Mira, Hart, and Murrieta decisions have provided school districts the leverage with which to seek additional mitigation in excess of Development Fee limitations, so as to address new development impacts not mitigated through Development Fees. However, these additional mitigation measures are limited by statute, and appear to apply only to development activity resulting from legislative action of a local jurisdiction. The legal authority for these and other additional mitigation measures is limited at this time, and as such does not appear to provide the District with an adequate vehicle for mitigating the implications of redevelopment on the District.

Local General Obligation Bonds are a method of raising financial resources at the local level. However, General Obligations Bond authorizations have more often been defeated than approved, due to the Proposition 13 two-thirds vote requirement. Although attempts have been made to seek legislative or constitutional modifications of the two-thirds vote requirement to a simple majority, this concept has been rejected overwhelmingly, and there has been no initiative brought forth to place this modification on a Statewide ballot for approval.

The ability to obtain the approval of the local electorate of a General Obligation Bond is difficult, controversial, and sensitive, and has become a vehicle of "last resort" toward attaining Capital Facilities. In addition, there appears to be a general consensus among the electorate that new private development should bear the burden of financial mitigation of the impact private development creates on schools, rather than to impose such a financial burden on the general community. This general attitude constrains the ability of the District to have successful General Obligation Bond elections.

Mello-Roos Community Facility District ("CFD") financing can also be used to finance facilities. However, such financing vehicles require the support of property owners, which is many times extremely difficult to attain in an urbanized area. In addition, CFDs require a ratio of assessed valuation to bond financing comparable to 2.5:1. Recent defaults in CFD bonds have caused this ratio to be as high as 3:1. In the community, it would be unlikely that the District could attain the required support for a CFD, or to attain the required ratios to fully cover the financial requirements caused by the redevelopment program of the City.

An alternative to General Obligation Bond financing is the utilization of a Parcel Tax or property tax override. These have the same two-thirds voting requirements as General Obligation Bond authority, but have greater flexibility of use by the District for non-capital facility requirements. As with the General Obligation Bond authorizations, a successful Parcel Tax election would appear to be difficult to attain in the community.

The California Community Redevelopment Law is based upon a basic assumption that the use of the statutes are necessary to remedy physical, social, and economic liabilities in the community which cannot be expected to be reversed or alleviated by private enterprise acting alone. The financial burden or detriment caused by the redevelopment program of the City upon the District creates another layer of economic liability on the community, and as such, without adequate mitigation will create future adverse physical and social conditions in the Project Area

and the community. Although there are a variety of financial vehicles which are available to the District to alleviate these conditions, there appears to be a variety of constraints with each such vehicle, whereby it can be found that these are not reasonable means available to the community for the financing of the buildings, facilities, structures, or other improvements as set forth in Exhibit "A" of the Agreement.

Section C

I. THE REDEVELOPMENT PURPOSE FOR WHICH SUCH TAXES ARE BEING USED TO PAY FOR THE LAND AND CONSTRUCTION OF SUCH PUBLICLY OWNED BUILDINGS [Section 33679(c) of the Health and Safety Code]

Section 33353.5 (c) of the Health and Safety Code provides that the Fiscal Review Committee to which the District was a member, may recommend actions to the Agency which would alleviate or eliminate the financial burden or detriment caused by the Redevelopment Plan, and said recommended actions may include modifying the kind or number of specific projects proposed by the Agency, or identifying specific actions or projects to be undertaken by the Agency which would reduce or eliminate the detrimental fiscal effects on the District.

Section 33012 of the Health and Safety Code states:

33012.

(a) "Financial burden or detriment" means either of the following:

(1) A net increase in the quality or quantity of a service of the affected taxing entity caused by the redevelopment project.

(2) A loss of property tax revenues by the affected taxing entity produced by a change of ownership or new construction which would have been received, or was reasonably expected to have been received, by the taxing entity if the redevelopment project was not established.

(b) The division of taxes pursuant to Section 33670, by itself will not constitute a financial burden or detriment.

The District did, through the Fiscal Review Committee process, make certain recommendations to the Agency pursuant to Section 33353.5 of the Health and Safety Code, which have in part been mutually agreed upon by the Agency and the District, and which have, in part, been incorporated into the Agreement.

Pursuant to Section 33020 of the Health and Safety Code the purpose of redevelopment is to plan, develop, replan, redesign, clear, reconstruct, or rehabilitate, or any combination thereof, all or any part of the survey area, and to provide residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them. The goal of the redevelopment process and that of the Agency is to remedy blighting conditions in the community which constitute either physical, social or economic liabilities, requiring redevelopment in the interest of the health, safety and general welfare of the people of the community.

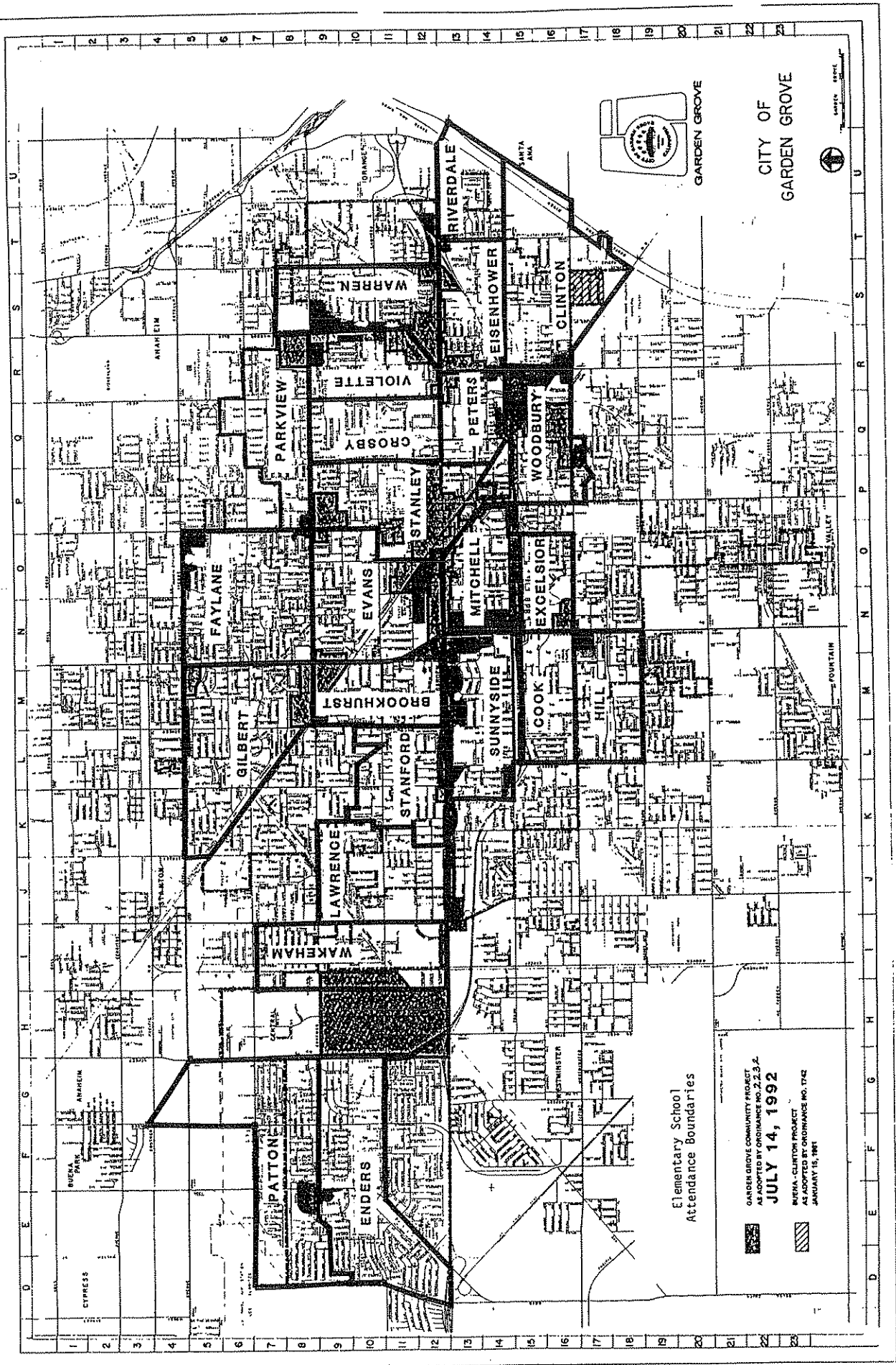
Through the redevelopment of the Project Area, the allocation of taxes to the Special Fund, and the expenditures by the Trustee of the Special Fund, for the purposes set forth in the Agreement, benefits which will result would accrue to all of the inhabitants and property owners of the community, in that the public access Capital Facilities of the District, and the open space which these facilities provide the community will not be adversely affected by the direct or indirect activities of the redevelopment program. The Agreement provides for protection of these facilities, and promotes the sound development and redevelopment of blighted areas and the general welfare of the inhabitants of the community, by providing for the remedy of such injurious blighting conditions through the employment of all appropriate means of the Agency, while alleviating the potentially adverse impacts on the District.

Section 33445 of the Health and Safety Code provides that the Agency may, with the consent of the City Council, pay all or part of the value of land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned, either within or without the Project Area, if the City Council determines a) that the buildings, facilities, structures, or other improvements are of benefit to the Project Area or the immediate neighborhood in which the project is located, regardless of whether the improvement is within another project area; and b) that no other reasonable means of financing such buildings, facilities, structures or other improvements are available to the community.

As stated herein, the Capital Facilities and deferred maintenance as provided for in Exhibit "A" of the Agreement is of benefit to the Project Area and is consistent with the intent, purpose and requirements of the California Community Redevelopment Law and the Redevelopment Plan. In addition, although there have been identified several financial vehicles which would have the potential of financing the Capital Facilities and deferred maintenance, there exist significant constraints and/or restrictions which would make these vehicles an unreasonable means for the financing of these buildings, facilities, structures or other improvements by the community.

The Agreement provides a partnership between the Agency and the District, whereby the District may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects located within the area in which the District is authorized to act. To this end, the District may, with or without consideration, cause recreational and educational facilities to be furnished adjacent to or in connection with the redevelopment project, pursuant to Section 33220 of the Health and Safety Code.

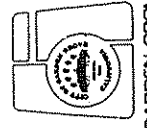
The Agreement conforms with the intent and purpose of the Redevelopment Plan and the purpose, the declaration of State policy, and the requirements of the California Community Redevelopment Law, as has been substantiated herein.



Elementary School
Attendance Boundaries

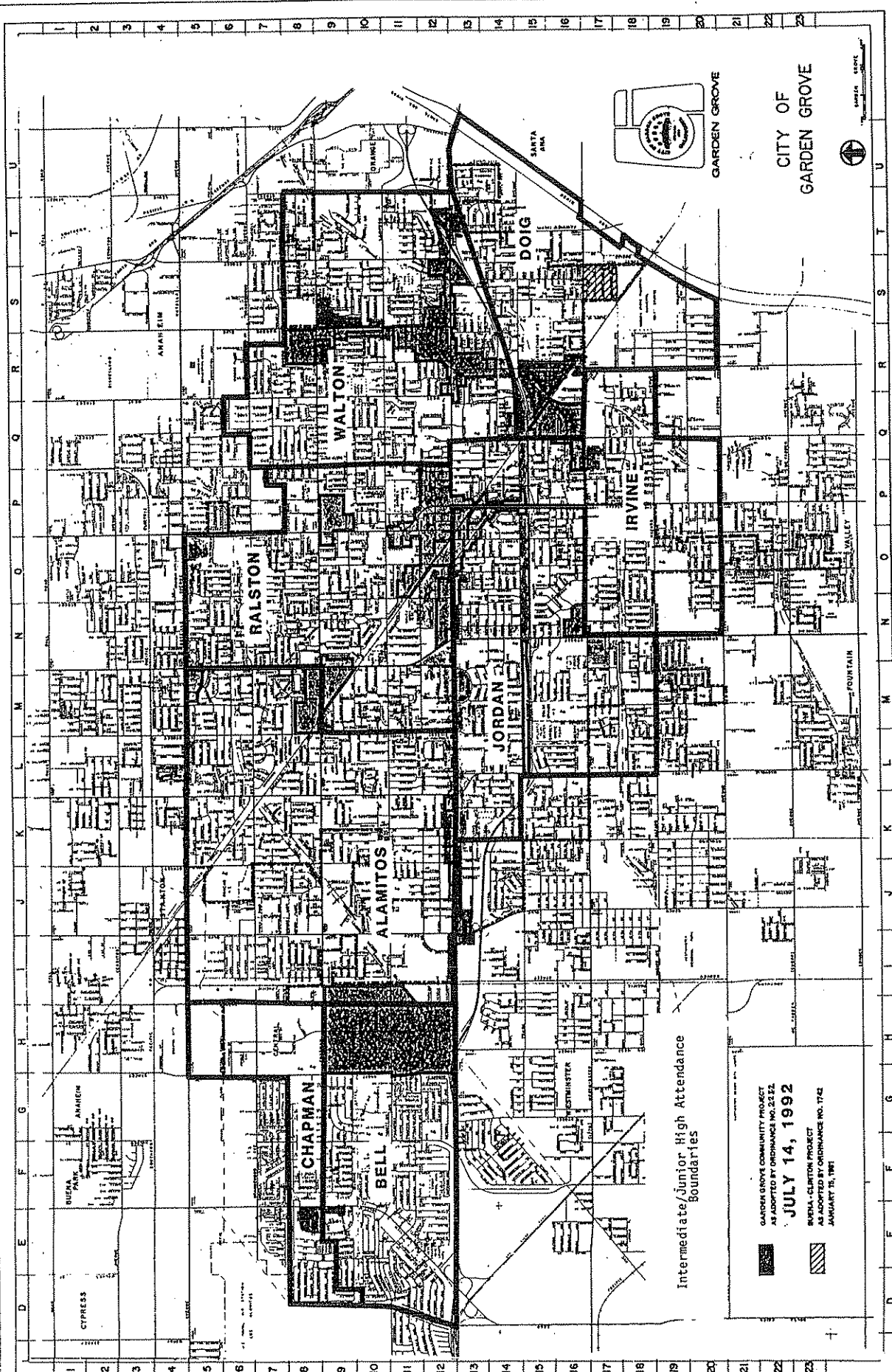
GARDEN GROVE COMMUNITY PROJECT
AS ADOPTED BY ORDINANCE NO. 22,534,
JULY 14, 1992

MURPHY - CLINTON PROJECT
AS ADOPTED BY ORDINANCE NO. 1742,
JANUARY 15, 1987



CITY OF
GARDEN GROVE

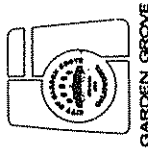




Intermediate/Junior High Attendance Boundaries

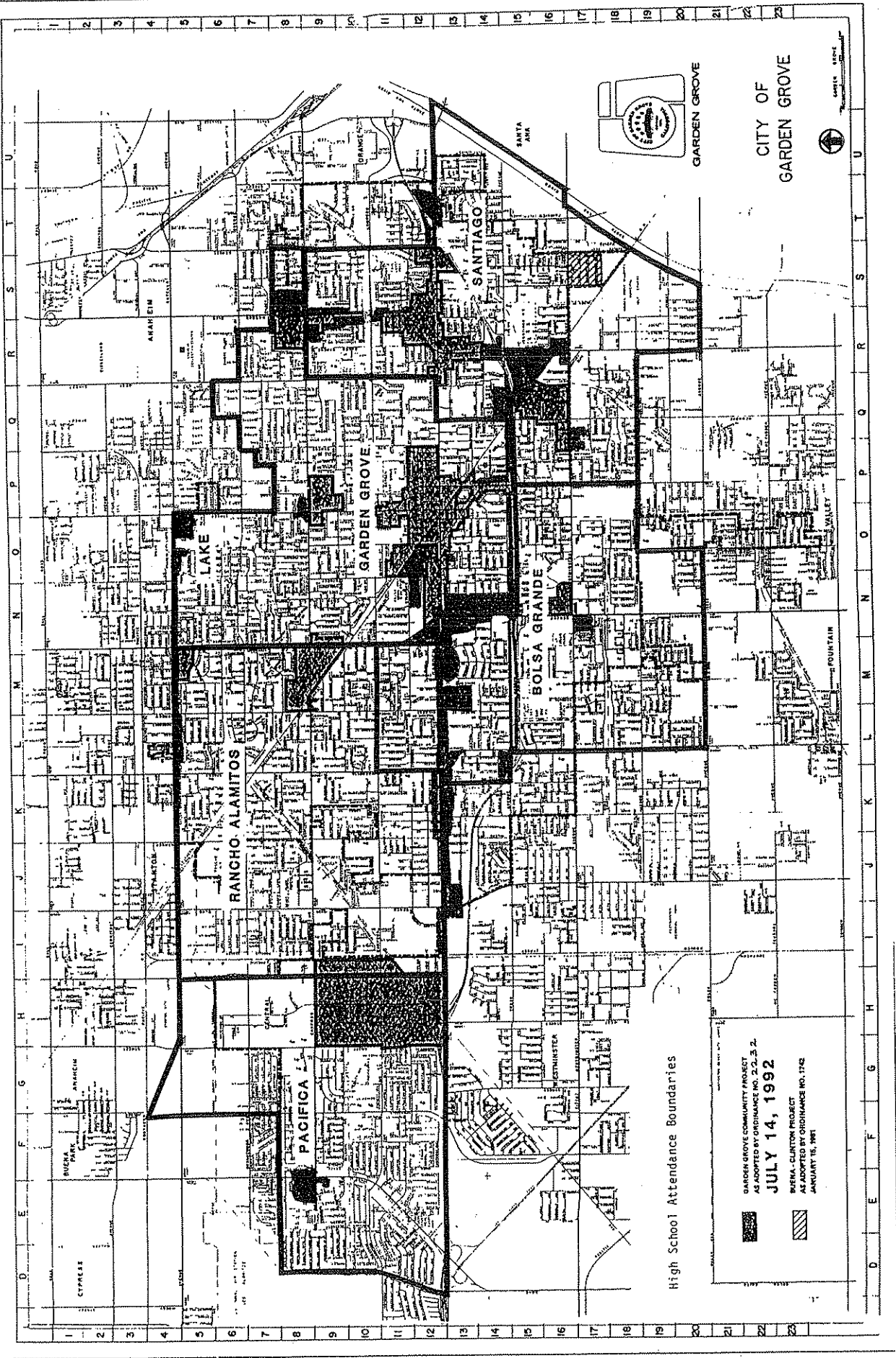
GARDEN GROVE COMMUNITY PROJECT
 AS ADOPTED BY ORDINANCE NO. 2122
JULY 14, 1992
 RURAL-CLINTON PROJECT
 AS ADOPTED BY ORDINANCE NO. 1742
 JANUARY 15, 1981

GARDEN GROVE COMMUNITY PROJECT
 AS ADOPTED BY ORDINANCE NO. 2122
JULY 14, 1992
 RURAL-CLINTON PROJECT
 AS ADOPTED BY ORDINANCE NO. 1742
 JANUARY 15, 1981



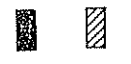
CITY OF GARDEN GROVE





High School Attendance Boundaries

GARDEN GROVE COMMUNITY PROJECT
 AS ADOPTED BY ORDINANCE NO. 2,232,
JULY 14, 1992
 BONA-FELTON PROJECT
 AS ADOPTED BY ORDINANCE NO. 1742,
 JANUARY 15, 1981



CITY OF
 GARDEN GROVE

