RESOLUTION NO. 2021-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT MODIFYING THE BELOW MARKET RATE HOUSING IMPLEMENTATION AGREEMENT WITH MARINA COMMUNITY PARTNERS REGARDING WORKFORCE HOMES, AND REQUIRING MARINA COMMUNITY PARTNERS TO PAY A HOUSING PROGRAM FEE IN-LIEU OF FOLLOWING CERTAIN ADMINISTRATIVE REQUIREMENTS AND DIRECTING THE CITY MANAGER TO DEVELOP A PROGRAM FOR USE OF SUCH FEE THAT PROVIDES HOMEOWNERSHIP OPPORTUNITIES FOR LOW, MODERATE AND WORKFORCE HOUSEHOLDS

WHEREAS, the Marina Redevelopment Agency and Marina Community Partners, LLC ("MCP") entered into the University Villages Disposition and Development Agreement dated May31, 2005 ("DDA") granting MCP the option to acquire approximately 290 acres of property for the development of mixed-use development ("Development"); and

WHEREAS, the Marina Redevelopment Agency and MCP entered into that certain Second Implementation Agreement to the DDA in August 2008; and

WHEREAS, the Marina Redevelopment Agency was dissolved effective February 1, 2012 and the City of Marina succeeded to the former Redevelopment Agency's rights under the DDA; and

WHEREAS, the City and MCP entered into that certain Operating Agreement dated December 17, 2019 that clarified certain provisions of the DDA as well as the Specific Plan that governs the Development; and

WHEREAS, the DDA as amended by the Second Implementation Agreement and the Operating Agreement requires that MCP develop Below Market Rate housing as part of the Development including housing that is affordable to Workforce Households as defined in the DDA; and

WHEREAS, MCP is commencing construction of Phase 2 of the Development which is to include 45 Workforce Homes; and

WHEREAS, the City and MCP have determined that the Workforce homes are providing the Workforce housing product envisioned by the DDA, and are providing homes to households between 120% to 150% of median household income, however, the formula included in the DDA produces housing prices with limited differential in the price between the Workforce Homes and market rate homes; and

WHEREAS, the City desires to establish a mechanism to fund a homebuyer assistance program that will provide low or no interest financial assistance to low, moderate or workforce households to purchase homes in the City of Marina; and

WHEREAS, the City Council has determined that accepting a Housing Program Fee in-lieu fee in the amount of $35,555 for each Workforce Home to be constructed by MCP will provide greater benefits to potential Marina homebuyers; and

WHEREAS, the City and MCP have previously entered into a Below Market Rate Housing Implementation Agreement related to the development of affordable rental units and Workforce Homes in Phase 1 that the parties desire to modify to allow MCP to pay a Housing Program Fee rather than develop the 45 Workforce Homes in Phase 2.

NOW THEREFORE BE IT RESOLVED that the City hereby finds that all of the above Recitals are true and correct and have served as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the City Council hereby authorizes the City Manager to enter into a Below Market Rate Housing Implementation Agreement with MCP that allows MCP to pay to the City a Housing Program in lieu fee in the amount of $35,555 per each of the 45 Workforce Home which were to be sold in Phase 2 in accordance with terms and conditions to be agreed to by the City Manager and approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council directs the City Manager to return to the City Council with a proposed homebuyer assistance program to be funded by the in-lieu fees paid by MCP.

BE IT FURTHER RESOLVED that the City Manager is authorized to implement the provision of the Below Market Rate Housing Implementation Agreement.

BE IT FURTHER RESOLVED that this Resolution shall take immediate effect from and after its passage.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 3rd day of August 2021, by the following vote.

AYES: COUNCIL MEMBERS: Medina Dirksen, Berkley, Biala, Delgado
NOES: COUNCIL MEMBERS: Burnett
ABSTAIN: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None

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Bruce, C. Delgado, Mayor

ATTEST:

____
Anita Sharp, Deputy City Clerk

July 20, 2021 Item No. **11a**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of ~~July 20, 2021~~
August 3, 2021

THE CITY COUNCIL OF THE CITY OF MARINA APPROVE RESOLUTION NO 2021-___ AUTHORIZING THE CITY MANAGER TO ENTER INTO A BELOW MARKET RATE HOUSING IMPLEMENTATION AGREEMENT WITH MARINA COMMUNITY PARTNERS ALLOWING MARINA COMMUNITY PARTNERS TO PAY A FEE TO THE CITY IN LIEU OF PROVIDING WORKFORCE HOMES AND DIRECTING THE CITY MANAGER TO DEVELOP A PROGRAM FOR USE OF SUCH FEE THAT PROVIDES HOMEOWNERSHIP OPPORTUNITIES FOR LOW, MODERATE AND WORKFORCE HOUSEHOLDS

REQUEST.

It is requested that the Marina City Council

1. Approve Resolution 2021-____ authorizing the City Manager to enter into a Below Market Rate Housing Implementation Agreement with Marina Community Partners allowing Marina Community Partners to pay a fee to the City in lieu of providing Workforce Homes and directing the City Manager to develop a program for use of such fee that provides homeownership opportunities for low, moderate and workforce households.

BACKGROUND:

In May 2005, the former Marina Redevelopment Agency adopted Resolution No. 2005-21 (MRA) and the City Council adopted Resolution No. 2005-135, approving the University Villages Disposition and Development Agreement (DDA) granting Marina Community Partners, LLC (MCP) an option to acquire approximately 290 total acres in the University Villages Project site from the Redevelopment Agency. At the same meeting the City Council certified pursuant to Resolution No. 2005-127 the final Environmental Impact Report for the development project. The Redevelopment Agency approved the EIR pursuant to Resolution No. 2005-20 as a responsible agency. The City Council also approved certain land use approvals, including a specific plan for the development area, findings that the development project was consistent with the Base Reuse Plan and a Development Agreement pursuant to Government Code Section 65864.

The project was subsequently renamed The Dunes on Monterey Bay. The DDA and the Development Agreement contemplated additional implementation agreements as the development project proceeded. Section 12.8 of the DDA provides that the parties may enter into clarifying, interpretive and implementing addenda to the DDA from time to time. Section 8.5 of the DDA contemplates that the City and MCP will enter into Below Market Rate Housing Implementation Agreements related to the below market rate housing.

Subsequent to approval of the DDA, the Specific Plan and the Development Agreement the Marina Redevelopment Agency accepted an Excused Delay Letter from MCP allowing for delay in construction of the Development due to absorption decreases in the housing market and authorizing renegotiations of the financial terms of the DDA.

Despite the excused delay from the downturn in the housing market, MCP desired to move forward with the project and the Marina Redevelopment Agency and MCP in August 2008 entered into a Second Implementation Agreement amending certain provisions of the DDA and pledging to MCP certain tax increment revenues generated by the Dunes project in order to assist the project in achieving financial feasibility.

After the dissolution of the Marina Redevelopment Agency, which caused additional delays in the development of the Project, MCP once again invoked an Excused Delay. The City and MCP entered into an Operating Agreement in December 2019 addressing the impacts of the redevelopment dissolution Excused Delay and clarifying certain provisions of the DDA and the Second Implementation Agreement. The City and MCP also agreed to clarifying changes to the schedule of performance.

Since the approval of the Operating Agreement, MCP has taken title to Phase 2 of the Project, paying the City a total of $6,283,000 for the Phase 2 property. Additionally, MCP has completed deconstruction of the military buildings on Opportunity Sites 1A and B and is prepared to commence construction of the housing to be developed as part of Phase 2.

AFFORDABLE AND WORKFORCE HOUSING:
The DDA included requirements that 20% of the housing units developed as part of the Dunes be affordable to very low, low- and moderate-income households. Additionally, the DDA originally required that 10% of the housing units be affordable to Workforce Households – a targeted income group defined as households with incomes between 120% and 150% of median income. As part of the Second Implementation Agreement, the City and MCP agreed to reduce the requirement for Workforce Homes from 10% to 5%. Under the terms of the DDA as amended by the Second Implementation Agreement, MCP had an obligation to construct 62 Workforce Homes, 17 of which were included in Phase 1 of the Dunes. The Operating Agreement allowed MCP to develop the remaining 45 Workforce Homes as part of Phase 2.

The Workforce Homes were intended to provide housing opportunities to households with incomes greater than moderate income (120% of median income) but with insufficient incomes to purchase a market rate home. However, as a result of variety of factors the prices on the Workforce Homes in Phase 1 and the projected prices of the Workforce Homes in Phase 2 are close to or equal to the market price of the homes, resulting in little or no benefit to the homebuyer. As a result of the limited price differential between market prices and the Workforce Home prices, the Workforce Home program appears to not be fulfilling its original goal. Additionally, because the Workforce Home program requires that the homebuyer's income and assets be verified to ensure that the homebuyer qualifies, the program results in a significant administrative burden on both MCP and the City.

City staff have been in discussion with MCP regarding the option of MCP paying an in-lieu fee rather than requiring that certain units be designated as Workforce Homes. The in-lieu fee would be used by the City to establish a homebuyer program that could provide assistance to low, moderate or income-qualified workforce households in the form of low interest deferred payment loans. MCP has agreed to pay an in-lieu fee of $35,555 per Workforce Home or a total amount of $1.6 million to be paid within thirty days after the City and MCP sing a Below Market Rate Housing Implementation Agreement. The in-lieu fee payment would establish an initial fund for the City to draw upon and could assist in implementing an assistance program for qualified buyers in other areas of the City including the Cypress Knolls development. Additionally, the City could look at targeting assistance to households who live or work in Marina.

MCP is beginning to market the Workforce Homes so a determination on the in-lieu fee needs to be made before any of the homes are sold. If the City proceeds with the in lieu fee, City staff will return to the Council at a later date with the specific parameters of a homebuyer assistance program, including the income levels of those households to be served, the maximum assistance per household and the terms of the assistance.

BELOW MARKET RATE HOUSING IMPLEMENTATION AGREEMENT

The DDA provided that the City and MCP would enter into Below Market Rate Housing Implementation Agreements to address issues related to the development, rental, sale, and occupancy of the below market rate homes as development proceeded. The City has previously entered into a Below Market Rate Housing Implementation Agreement regarding the 108 affordable rental units that have been constructed as part of the Dunes as well as a Below Market Rate Implementation Agreement related to the development of the 17 Workforce Homes that are part of Phase 1. If the City Council approves the in-lieu fee, the City and MCP would enter into an amendment to the Below Market Rate Housing Implementation Agreement related to the 45 Workforce Homes that would obligate MCP to make the in-lieu payment for each of those homes. Additional terms may include a provision that would make some portion of the in-lieu payment made by MCP eligible for reimbursement from the Low- and Moderate-Income Housing Tax Increment funds that are distributed to the Successor Agency. Whether any portion of the in lieu payment would be eligible for reimbursement would depend upon how the City uses the funds received since Low and Moderate Income Housing Tax Increment can only be used for housing assistance for households with incomes at or below moderate income. Additionally, reimbursement will depend upon whether there is sufficient Low- and Moderate-Income Housing Tax Increment available before the pledge of those funds expires in 2027.

FISCAL IMPACT

The in-lieu fee option would provide the City with a funding resource for city-wide homebuyer assistance that currently does not exist. It would also relieve the City of significant administrative costs associated with City staff reviewing MCP compliance with the Workforce Housing program. There will be administrative costs associated with the establishment and implementation of the homebuyer assistance program, but those costs could be funded from the in-lieu fees.

Respectfully submitted

Karen Tiedemann
Special Counsel

REVIEWED/CONCUR

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Layne Long
City Manager
City of Marina