

Budget & Finance Committee

Balboa Reservoir - Summary of Amendments to the Development Agreement

July 29, 2020

Affordable Housing *Ensure permanent affordability for the project's affordable housing units.*

1. **Developer will Deed Back Affordable Housing parcels to City** - The developer will convey back to the City the three affordable housing parcels that will receive City gap funding (parcels A, B, E):

DA Exhibit D, New section B. 4. (c.) In recognition of the City's long-term investment in affordable housing at the Project Site, the fee interest in all Affordable Parcels with MOHCD permanent funding will be conveyed to MOHCD and immediately ground leased back to the Affordable Developer of such Affordable Parcel concurrently with the closing of the construction loan for the Building on the applicable Affordable Parcel, unless such requirement is waived by the Director of MOHCD in the Director's sole discretion; except that the foregoing requirement will not apply to any Affordable Parcel developed with Educator Units or Self-Help Units if the Self-Help Units are on a separate legal Parcel from the other Affordable Units.

2. **Extend Affordability Agreement for the Affordable Educator Housing Parcel** – Due to the private developer financing and State tax exemption for Affordable Educator Housing, the parcel will not be deeded back to the City, but the Development Agreement will make it clear that this affordability is perpetual:

DA Exhibit D, Section B. 4. (a.) Each Affordable Parcel will be subject to a recorded regulatory agreement approved by MOHCD to maintain affordability levels for the life of the Project or fifty-seven (57) years, whichever is longer, and regulatory requirements regarding term duration contained in any tax credit agreement. Any Affordable Parcel developed with Educator Units will have a recorded regulatory agreement to maintain affordability levels for the life of the Project or ninety-nine (99) years, whichever is longer. The MOHCD regulatory agreement will be recorded against the subject Affordable Parcel upon ~~site-acquisition~~ creation of such Affordable Parcel as a legal parcel.

3. **Ensure that the developer's commitment to provide 33% affordable housing will not be amended.**

DA new section 11.1: The Parties agree that Developer's obligations under the Affordable Housing Program, including the contribution of Developer's Affordable Funding Share which will enable construction of 50% of the total number housing units in the Project to be Affordable Units, is of utmost importance to the City and is essential to address the current housing shortage in San Francisco. The City would not approve this Agreement without these obligations and commitments. Therefore, in the event that Developer seeks

amendments to this Agreement at any time, due to financial or other reasons, the Parties agree that any proposed future amendment will address alternatives to infrastructure, parks, and other cost or revenue items relative to the Project, and under no circumstance will any future amendment reduce the percentage of Affordable Units under the Affordable Housing Program. To the extent the City is willing to consider any potential future amendment to this Agreement, the Parties agree to meet and confer on alternatives, as necessary, without considering changes that would reduce the amount of Affordable Housing.

4. Include provision to prevent delay on the developer's commitment to build by providing a schedule of performance to codify the developer's commitment to build.

DA new Schedule 3: The DA will add a new Schedule of Performance, as an attachment to the DA (Schedule 3), requiring the Developer to meet certain milestones by specified dates, subject to excusable delay including economic force majeure and nonbinding mediation if there is a dispute regarding excusable delay.

5. Refine the AMI levels to serve the households of greatest need and a range of income levels

Increase the obligation to provide low-income units in the project from 35% to 50%. Maintain the amount of moderate-income units in the project at 30%. The remaining 20% may be low- or moderate-income units, but with further refinement to ensure that different households are served across the income range.

6. Broaden the Neighborhood Preference area to include all neighboring residents, including Ingleside.

DA Exhibit D, Section C. 1. Chapter 47 of the SF Administrative Code regarding Preference in City Affordable Housing Programs, including Section 47.3 regarding Neighborhood Preference, will apply to all Affordable Units including the Educator Units. Affordable Units dedicated to Educator Housing as described in Section 4, For purposes of the Project, the definition of "Neighborhood" in Administrative Code Section 47.2 will mean the Supervisorial District in which the Project is located, plus a 1.15 mile buffer around the Project Site.

Child Care Program

7. Set Child Care Center's rent at \$1 annually to support a nonprofit child care operator's ability to serve.

The Development Agreement ensures that the operator will be non-profit and will also have 50% of slots reserved for children of low-income families.

DA Exhibit L: Add a new obligation that the developer will lease the child care facility for nominal rent (\$1.00).

Open Space

8. Ensure that the Publicly Accessible Open Space is managed equitably with participation and representation from the public.

DA Exhibit C: Include public participation and advisory roles in the open space management and programming; Require equal representation in the homeowners association by all buildings on site.

Ongoing Community Engagement

9. Include further language in the Development Agreement evolving the role of the community after the sunset of the Balboa Reservoir Community Advisory Committee

10. Clarify commitments to best-practices and robust coordination with the public during construction.

DA new exhibit: Codify developer commitments to reducing construction impacts and providing direct communication regarding construction plans.

Transportation

11. Include mention of City's investment for transit improvement and traffic mitigation in the neighboring project area.

DA new exhibit: identify pending projects for transit, traffic, and pedestrian safety improvements in the Project area.