



REPORT

DATE ISSUED: December 1, 2009

REPORT NO: HCR 09-125

ATTENTION: Chair and Members of the Housing Commission
For the Agenda of December 2, 2009 Special Meeting

SUBJECT: Stella Condominium Development
2015 Hancock Street APN 450-613-08-00 (Council District 2)

REQUESTED ACTION:

That the San Diego Housing Commission (“Commission”) approve submittal of a bid to acquire Stella, an 85-unit condominium project nearing completion at 2015 Hancock Street in San Diego, in response to the solicitation of bids from the court-appointed receiver, and, in the event that the Housing Commission bid is successful, authorize the Chief Executive Officer to execute documents and perform acts necessary to complete the acquisition in accordance with the terms of the Acquisition Policy approved by the Housing Authority and the City Council.

STAFF RECOMMENDATION:

That the Housing Commission:

1. Authorize the CEO or designee, upon the advice of General Counsel, to submit a bid to acquire the real property described above, pursuant to the bid instructions contained in the “Court ordered sale of newly-constructed 85-residential unit San Diego property” email of November 24, 2009, from David J. Pasternak, the court-appointed receiver, and subject to the limitation given to the Chief Executive Officer in closed session, provided in no event shall any bid and/or acquisition violate any terms or conditions of the Housing Authority approved Acquisition Policy.
2. Approve, subject to the Housing Commission’s bid being accepted by the receiver, the expenditure of funds for due diligence, for opening escrow and for the escrow deposit becoming non-refundable, as per the instructions from the court-appointed receiver.
3. Approve, subject to closing of escrow following satisfaction of all due diligence as per the instructions from the court-appointed receiver, and authorize the CEO, upon advice of General Counsel, to execute any and all documents and to perform all actions necessary and/or convenient to acquire the property in accordance with the Acquisition Policy.
4. Approve, after closing of escrow, the recordation of 55 year affordability for all units by recorded restriction and at rent levels consistent with the HUD approved disposition of public housing (affordable to households at no more than 80% Area Median Income (AMI) or \$66,100 annual income for a family of four).
5. Authorize expenditure of closing costs, finder’s fee, and due diligence costs up to Two Hundred Fifty Thousand Dollars (\$250,000) in connection with the purchase and sale of the property.

BACKGROUND:

The subject property is a nearly-completed and still unoccupied 85-unit condominium construction located at 2015 Hancock Street. The unit mix is 4 one-bedroom units ranging from 577 square feet to 730 square feet and 81 two-bedroom units ranging from 827 square feet to 960 square feet. Two four-story Type 5 residential buildings sit above a two-level parking structure for 142 vehicles and are separated by a concrete courtyard above the parking structure. Thirteen of the eighty-five condominium units were designated as affordable by the developer in response to the City inclusionary housing requirement.

The original developer (Constellation Property Group [Hancock] LP based in Australia) stopped construction during the summer and apparently is in default on approximately \$27,000,000 of loan principal from Comerica Bank, which is in the process of completing construction and foreclosing on the property. The court-appointed receiver indicates that the project should have certificate of occupancy, clear title, and court approval of a sale to the successful bidder on a schedule that would facilitate a closing by late January 2010. As a consequence, the receiver's acquisition timeline is aggressive. The successful bidder will have until January 5, 2010 to waive all due diligence contingencies, including further Housing Commission and Housing Authority approvals, and go hard on its required escrow deposit (3% of agreed upon purchase price).

The receiver is allowing all solicited bidders (email went to over 100 addressees) to inspect the subject property on Monday, December 7, 2009, from 10 a.m. to 4 p.m. SDHC Housing Rehab staff will be used to inspect the interiors of all 85 units. GAFCON will be employed to inspect structural, MEP, life safety, and accessibility conditions. If the Housing Commission's bid is successful, on or after the bid deadline of 5 p.m. Monday, December 14, 2009, all other Housing Commission due diligence will need to be completed by January 5, 2010.

Acquiring the subject property "as is" and modifying/ operating it as affordable apartments would create 83 "instant" affordable housing units (1 one-bedroom being modified to an office/community space and 1 two-bedroom unit being non-revenue manager's apartment), with minimum 55 year affordability by recorded restriction. Acquisition of this property satisfies the requirements of the U.S. Department of Housing and Urban Development (HUD) that land and building ownership by the Commission meets the definition of "acquisition and/or production," and these units will count toward the Commission's goals of providing affordable housing within the City of San Diego.

The following is a summary of the Property:

Site Area	39,069 SF (0.90 acres)
Existing zoning	RM 4-10
Maximum FAR	3.6
Subject FAR	1.92 (approx. 94 units/acre)
FAR Bonuses Proposed	NA
Stories	4 stories above parking structure for 142 vehicles
Amount of Retail Space	None
Amount of Office Space	One 1-BR to be converted to office/community
Type of Housing	Existing Condo-for sale/Proposed affordable apts
Total Number of Units / Total Residential Square Feet	84+1 / approx. 75,000 SF

Types of Units (sizes)	4 one-bedroom (577-730 SF) 81 two-bedroom (827-960 SF)
Proposed Rental Rates*	21 units @ 50% AMI 21 units @ 60% AMI 21 units @ 70% AMI 21 units @ 80% AMI
Number of Non-Revenue Units	One 1-BR (converted to office/community room)
Inclusionary Housing Ordinance Compliance/ Number of Affordable Units	Existing 13 units/Proposed 84 units with placement of long-term affordability covenants
Parking	142 spaces per appraisal, to be confirmed.
Assessor's Parcel Nos.	450-613-08-00

*All rents will be at or below 80% of AMI as required by the HUD disposition.

DISCUSSION:

The Board was first briefed on the subject property on August 21, 2009. Over the past several months, Commission staff has been communicating with Comerica Bank regarding availability of the subject property. Comerica advised in October that it was in the process of completing construction and moving forward on foreclosure actions, before determining its disposition action. On November 24, 2009, the Housing Commission received the "Court-ordered sale" email, along with other parties who had expressed interest in purchasing from Comerica. The bid response deadline and due diligence period are unusually short, but, all potential bidders face these same time constraints for bidding and due diligence.

Funding Sources

The Housing Commission's funding source for closing escrow is presumed to be all cash funding from the refinancing of the former Public Housing units, which could be replaced by Build America Bonds financing when available. Upon stabilized operation, conventional permanent financing opportunities will become available in order to initiate the "second wave" of affordable housing creation envisioned in the SDHC Finance Plan.

Purchase and Sale Agreement

Upon selection as the successful bidder, SDHC staff will commence negotiating a Purchase and Sale Agreement with the Seller, with the intention of execution within the accelerated due diligence period. Contingencies for Housing Commission and Housing Authority approvals beyond January 5, 2010 are not anticipated, based on the court-appointed receiver's email instructions.

Due Diligence

The following is a summary of the due diligence items that staff will use in evaluating the Property:

Appraisal – An appraisal of the Property, prepared for the bank on April 24, 2009.

Physical Inspection Report – A multidisciplinary team will conduct inspections of the property as access to the property is provided. SDHC Housing Rehab staff will inspect all apartment units and common areas. GAFCON consultants will inspect for structural, MEP, life safety, and accessibility conditions. Written reports will be provided to the Housing Commission within the due diligence period.

No plans, specifications, as-built drawings, or construction contracts are available at this time. It is presumed that all such materials will be made available to the successful bidder as soon as possible.

Environmental/Seismic/Flood Hazard – No documentation is available at this time; however, the appraisal notes that:

1. Pre-existing petrochemical contamination on the site was identified and mitigated between 1989 and 1997, with the Department of Environmental Health documentation that the environmental goals for the site have been met and no further action is recommended.
2. A fault study by Petra Geotechnical, Inc. concluded that no evidence of a fault trace or offset bedding was observed in borings, and the site is not underlain by active or potentially active faults.
3. The site is outside the 500 year floodplain.

It should be noted that the site is contiguous with the rail lines serving the Metropolitan Transit System, Santa Fe Railroad, AMTRAK, and the Coaster. Noise levels are assumed to be somewhat mitigated in the design of the exterior wall systems and glazing, but further due diligence is needed.

Phase I Environmental Report – Although a previous Phase I report will be available to the successful bidder, an independent Phase I report will be ordered, if Housing Commission bid is selected.

ALTA Survey – Staff will order an ALTA survey, if one has not already been commissioned by the bank.

Proposed Schedule

Action	Anticipated Completion
Housing Commission Board approves acquisition subject to seven day ability of Housing Authority to review under the Acquisition Policy.	December 2, 2009
Housing Commission submits bid to receiver	December 14, 2009
Receiver accepts Housing Commission bid	Estimated December 15, 2009
Purchase and Sale Agreement negotiated/executed	Estimated December 22, 2009
Due diligence completed/ contingencies waived/deposit hard	January 5, 2010
Closing	Late January 2010

Proforma

Staff has put together a proforma based on best information available at this time, and rational assumptions regarding development budget and operating budget. This proforma indicates that, if the subject property can be acquired, it can be operated over the long term with cash flows appropriate for significant opportunistic financing. All proforma assumptions have been reviewed by Housing Commission staff and by Keyser Marston Associates, and are felt to be conservative with upside potential.

FISCAL CONSIDERATIONS:

The Housing Commission would use its line of credit for closing the acquisition of the subject property in January or February, depending on court approval of the sale. Paying off the line of credit would depend on the availability of Build America Bonds financing. Acquisition of this property satisfies the requirements of the U.S. Department of Housing and Urban Development (HUD) that land and building ownership by the Commission meets the definition of “acquisition and/or production,” and these units

will count toward the Commission's goals of providing affordable family housing within the City of San Diego.

PREVIOUS COMMISSION ACTION:

The Housing Commission was briefed only in concept on this potential acquisition in Closed Session on August 21, 2009, and during an Ad Hoc Advisory Committee Meeting on September 21, 2009.

ENVIRONMENTAL REVIEW:

This activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, "Existing Facilities." The proposed activity is Categorically Excluded under the National Environmental Policy Act pursuant to 24 CFR Part 58.35(a)(5).

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Stakeholders for this project include the Seller, the Housing Commission and City of San Diego and the income-eligible families who could reside in this brand new affordable apartment community.

Respectfully submitted,

Approved by,

D. Lawrence Clemens
Senior Vice President

Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

Attachments:

1. Site Aerial Photo
2. Appraisal Executive Summary(Separate Cover)

Hard copies are available for review during business hours at the Housing Commission offices at 1122 Broadway, San Diego, CA 92101, Main Lobby and at the Office of the City Clerk, 202 C Street, San Diego, CA 92101. You may review complete docket materials on the San Diego Housing Commission website at www.sdhc.org.

Information: Jerry Lohla (619) 578-7595