



BOARD OF DIRECTORS

Administration Building
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Agenda Report

File #: 2023-3251

Agenda Date: 10/25/2023

Agenda Item No: 14.

FROM: Robert Thompson, General Manager
Originator: Wally Ritchie, Director of Finance

SUBJECT:

PAYMENT AGREEMENT FOR CAPITAL FACILITIES CAPACITY CHARGES FOR LEGADO AT THE MET LLC

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Approve the Deferred Payment Agreement for Capital Facility Capacity Charges (CFCC) with Legado at the MET LLC in the amount of \$941,486.38.

BACKGROUND

The Orange County Sanitation District (OC San) CFCC's are a one-time, non-discriminatory charge imposed at the time a building or structure is newly connected to OC San's system, directly or indirectly, or an existing structure or category of use is expanded or increased. Payment of CFCC's is required when the building permit is issued.

Legado at the MET LLC is seeking approval of a CFCC deferred payment agreement for a 278-residential unit development located at 200 First American Way in the city of Santa Ana. The deferred payment agreement request is for \$941,486.38 for the CFCC's required to be paid prior to pulling building permits. Due to current economic circumstances, Legado at the MET LLC would like to reduce the upfront construction costs by deferring the payment of CFCC's over a 5-year period.

RELEVANT STANDARDS

- Ordinance No. OC SAN-59
- Health & Safety Code Section 5471

PROBLEM

Legado at the MET LLC has requested a deferred payment agreement in the amount of \$941,486.38 for the OC San CFCC's for a new development.

PROPOSED SOLUTION

Ordinance No. OC SAN-59 states that the Board of Directors may, pursuant to Health & Safety Code Section 5471, approve an agreement with the property owner for the payment of the applicable CFCC's in installment payments over a period not to exceed five (5) years, bearing an interest rate on the unpaid balance of not to exceed ten percent (10%) per annum, and that the charges and interest shall constitute a lien on the property, and allow them to pull permits for development.

TIMING CONCERNS

The deferred payment agreement should be executed as soon as possible to allow the developer to pull construction permits and for immediate remittance of payments.

RAMIFICATIONS OF NOT TAKING ACTION

The customer would be required to pay the entire amount in full immediately or the connection would be considered illegal.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

Per Ordinance No. OC SAN-59, installment payment agreements may be over a period not to exceed five (5) years, bearing an interest rate on the unpaid balance of not to exceed ten percent (10%) per annum and that the charges and interest shall constitute a lien on the property.

CEQA

N/A

FINANCIAL CONSIDERATIONS

The CFCC's would be paid to OC San over a 5-year period and bear a 10% interest rate.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Deferred Payment Agreement - Legado at the MET LLC
- Appendix A - Deferred Payment Agreement
- Letter from Legado at the MET LLC
- State of California, Statement of Information