

# Agenda Report



**MEETING DATE:** Tuesday, June 11, 2024

**TO:** City Council

**FROM:** PUBLIC WORKS & UTILITIES DIRECTOR LINDBERG  
ASSISTANT PUBLIC WORKS & UTILITIES DIRECTOR FONTES

**SUBJECT:** (1) PUBLIC AND ON-SITE IMPROVEMENT AGREEMENT  
AMENDMENT #2 AND (2) 2ND AMENDMENT TO SET ASIDE  
AGREEMENT FOR SUNSHINE GARDEN SUBDIVISION, TRACT  
NUMBER 1587

---

## **RECOMMENDED ACTION:**

Staff recommends that the City Council adopt a resolution:

1. Approving the Second Amendment to the Public and On-Site Improvement Agreement (SIA) with Pacific Sunshine Development, LLC for Sunshine Garden Subdivision, Tract Number 1587; and
2. Approving the Second Amendment to the Set Aside Agreement with Pacific Sunshine Development, LLC for Sunshine Garden Subdivision, Tract Number 1587; and
3. Authorizing and directing the Interim City Manager to execute the foregoing proposed Second Amendments; and
4. Find that the proposed Second Amendments only make administrative changes and do not make any changes to the project nor is there any new information identified in CEQA Guidelines section 15162 that would warrant a subsequent EIR or a supplemental EIR pursuant to CEQA Guidelines section 15163.

## **DISCUSSION:**

At its September 27, 2017, meeting the City Council approved the Final Map (Resolution No. 150-17 (CM)), and the SIA and Set Aside Agreement (Resolution No. 151-17 (CM)) for the 87-unit residential subdivision named Sunshine Garden located at 1773 Santa Victoria Avenue (APN 018-711-21). The property is adjacent to the Las Brisas Subdivision and consists of a mix of detached (9) and attached (78) single-family homes that were to be built in a single phase. The SIA provides for completion of the streets, utilities and other shared infrastructure and the Set Aside Agreement between the developer, Sunshine Development, LLC ("PSD") and East West Bank guarantees that funds will be available to complete and pay for the work if the developer does not.

Construction on the project began in late 2017 and the two agreements expired before the work was done. To revise the agreements and allow the project to continue, in 2021,

Council approved the First Amendment to the SIA and the First Amendment to the Set Aside Agreement through Resolution No. 245-21. The First Amended SIA called for the subdivision to be built in three phases and both Agreements updated the proposed fees and costs.

Since that time, PSD has made some progress, including substantial completion of the Emergency Vehicle Access Road allowing egress for the adjacent Hillcrest Development, but due to various factors could not achieve compliance with the schedules included in the First Amended SIA. As a result, PSD requested that the SIA be further amended to allow sale of individual units as the phases are completed. City Staff has worked with PSD to draft the Second Amendment to the SIA that ensures that the projects and on-site and off-site improvements are completed for each phase and subphase but allows the units to be sold upon completion of the phases and subphases so that PSD can earn revenue to help complete the entire project.

Staff recommends that the Council approve the proposed Second Amendment of each agreement as noted below.

SIA Amendment #2 proposes to allow for the following:

1. The first phase of home building to be done in three sub-phases in accordance with the updated schedules attached to SIA Amendment #2;
2. The development fees and charges to be increased due to escalating construction costs and additional inspection fees;
3. The securities and bonds to be adjusted to reflect increased construction costs and to allow for work that has been completed.

The Second Amendment to the Set Aside Agreement also needs to be updated to reflect the work that has been completed and escalating construction costs.

PSD has also prepared the draft Covenants, Conditions and Restrictions (CC&Rs), which has been reviewed by City staff to ensure that they meet the requirements of the conditions of approval for the project. The CC&Rs do not need to be approved by the Council but are attached for the Council's information.

**CEQA:**

An Environmental Impact Report was prepared (SCH 2008122060) for the development project approved in 2017. The proposed Second Amendments only make administrative changes and do not make any changes and there is no substantial changes or new information identified in CEQA Guidelines section 15162 that would warrant a subsequent EIR or a supplemental EIR pursuant to CEQA Guidelines section 15163.

**STRATEGIC PLAN:**

These Amendments are consistent with the following Strategic Plan Goals:

2-Infrastructure & Environment

3-Housing

**FINANCIAL IMPACT:**

The project will construct approximately 1,000 centerline feet of new public streets and the utilities therein, which will be maintained by the City's Public Works and Utilities Department and the City's utilities enterprises once those improvements have been accepted.

Amendment #2 provides for securities in current dollars which will be sufficient to complete the remaining improvements should the Owner not complete the improvements included as part of the Public and On-Site Improvement Agreement.

**ALTERNATIVE ACTION:**

City Council may consider:

1. Not approving Amendment 1 of the agreements, or
2. Modifying the terms and conditions of the improvement agreements consistent with the City ordinance.

**ATTACHMENTS AND/OR REFERENCES (If any):**

1. CC&Rs