



2302 Calle Del Mundo City of Santa Clara Term-sheet CONSTRUCTION AND PERMANENT LOAN

Date: January 1, 2020

1. **PROPERTY AND PLANNED IMPROVEMENTS:** The project site is 0.99 acres located at 2302 Calle Del Mundo (APN# 097-46-024) in Santa Clara within the Center District of the adopted Tasman East Specific Plan. The proposed project consists of 150 mixed-income apartment units with approximately 86,520 rentable square feet and approximately 5,000 square feet of general retail. There is a mix of studios, 1-bedroom, 2-bedroom, and 3-bedroom units ranging in size from 420 square feet to 1,207 square feet. The distribution of these units shall be thirty two (32) units rented to households with income levels at or below 50% AMI, eighty seven (87) units rented to households with income levels at or below 60% AMI, fifteen (15) units rented to households with income levels at or below 80% AMI, fifteen (15) units rented to households with income levels at or below 100% AMI and one (1) unrestricted manager's unit.

The residential units will be constructed in a 5-story Type IIIA wood-frame building above two floors of Type IA structured parking that is partially below grade. The site design incorporates landscaped entryways at the retail corners, activating sidewalks and providing a retail streetscape experience with outdoor seating areas. The building design will complement the high-density transit-oriented urban environment envisioned for the Tasman East area. The building exterior includes various massing and design elements incorporated in the project's façade and architecturally addresses its primary street frontage on Calle Del Mundo.

The project will conform to the existing design, environmental, and efficiency standards set in the approved Conditions of Approval with just a few minor revisions to the original development scope. Common area amenities will include a courtyard and outdoor terraces, barbecue and lounge areas, a fitness center, lobby and clubroom.

2. **BORROWER:** ZAEN Partners, LLC
3. **DEVELOPER:** Ensemble Development
4. **PROPERTY MANAGER:** TBD
5. **PURPOSE OF FUNDING:** Construction and permanent financing.
6. **LOAN/PURCHASE AMOUNT:** Up to \$6,000,000, subject to underwriting acceptable to the City of Santa Clara ("City").

7. TERM OF LOAN: The Construction/Permanent Loan shall have a term of fifty-five years from the date the Project receives its certificate of occupancy (or equivalent).
8. AFFORDABLE HOUSING AGREEMENT: The Borrower shall enter into an Affordable Housing Agreement with the City that runs coterminous with the loan, fifty-five years from the date the Project receives its certificate of occupancy (or equivalent).
9. INTEREST RATE: Construction/Permanent Loan - 3% simple interest per year.
10. PAYMENTS: Principal and interest are due in full upon the maturity date. The Construction/Permanent Loan shall be repaid on a residual receipts basis, with the City receiving a pro-rata share of the net cash flow of the Project. "Net cash flow" shall mean the operating revenues less eligible operating expenses, including but not limited to, the deferred development fee and L.P. and G.P. management fees, and as further specified in the loan documents.
11. COLLATERAL/DOCUMENTATION:
The Construction/Permanent Loan shall be secured by a subordinate deed of trust on the Site and a subordinate collateral assignment of contracts, plans, and specifications. The City's affordability restrictions shall be recorded against the Site, subject only to those encumbrances permitted by the City. The Construction/Permanent Loan will be evidenced by a loan agreement and such other documentation as required by the City.
12. AFFORDABILITY RESTRICTIONS: The City's affordability restrictions ("Affordable Housing Agreement") shall restrict thirty two (32) units rented to households with income levels at or below 50% AMI, eighty seven (87) units rented to households with income levels at or below 60% AMI, fifteen (15) units rented to households with income levels at or below 80% AMI, fifteen (15) units rented to households with income levels at or below 100% AMI and one (1) unrestricted manager's unit.
13. OTHER LENDERS: Construction, permanent and other soft lender loans shall be secured against the leasehold interest in the land and fee interest in the improvements.
14. SUBORDINATION: The City shall subordinate the lien of its Construction/Permanent Loan deed of trust to the lien of a senior construction/permanent loan lender deed of trust, or to such other senior lender approved by the City, subject to a subordination agreement in form and content acceptable to the City.
15. PROJECT FINANCING: As a condition of the Construction/Permanent Loan, during the predevelopment period, Borrower shall seek other construction and permanent funding including federal tax credit equity, certificated State tax credit equity, commercial construction and permanent loans, and a Project-based Section 8 conditional commitment.

16. DEVELOPMENT PRO FORMA: Borrower shall submit for City approval an acquisition and construction/permanent financial pro forma (the “Pro forma”) reflecting Borrower’s projections of tax credit equity, estimated income and operating expense cash flow for the Project and Development, and loan balances for 55 years to City’s satisfaction.
17. DEVELOPER FEE: Pursuant to the California Code of Regulations Section 10327(c)(2)(B) (TCAC regulations) on developer fees, the maximum developer fee shall be 15% of the Project’s unadjusted eligible basis, with the maximum cash portion of the development fee equal to or less than \$2,500,000 plus \$10,000 per unit for each Tax Credit unit in excess of 100, payable as follows: 25% at construction start; 25% during construction and 50% at conversion. Any portion of the developer fee in excess of \$2,500,000 plus \$10,000 per unit for each Tax Credit unit in excess of 100 shall be deferred and repayable out of the sponsor’s share of the residual receipts of the Project, with a maximum pay-off period of 15 years from the closing of the Construction/Permanent Loan. No interest is allowed on the deferred fee.
18. DUE DILIGENCE: Borrower shall provide all reports, studies, approvals, plans, drawings and other due diligence documents, in form and content acceptable to City, as reasonably requested by the City, including without limitation, an appraisal, a Phase I report, an ALTA survey, and preliminary title reports for the Site.
19. NEPA: Borrower shall submit a confirmation to City’s satisfaction that a NEPA study has been completed and an Authority to Use Grant Funds (“AUGF”) has been issued. No site work or construction shall commence prior to the issuance of the AUGF.
20. PREVAILING WAGE REQUIREMENTS: Borrower shall pay, or cause to be paid, prevailing wages for the construction and demolition work if required by state and federal prevailing wage laws, including without limitation, the California Labor Code and the Davis-Bacon Act.
21. INSURANCE: Borrower shall procure and maintain insurance in form and amount approved by the City’s requirements
22. GOOD NEIGHBOR PRACTICES: Borrower will work in collaboration with the City to address concerns and issues the community identified while simultaneously making the City aware of any such issues.
23. EXPIRATION: The City’s term sheet shall expire by January 31st, 2021, or sooner if City determines in its sole and absolute discretion that the Project is not making substantial progress towards the commencement of construction.

Exhibit A

TENTATIVE WORK PLAN

CITY

- Arrange meetings for the negotiation of the Loan Agreement;
- Provide City financing documentation for public finance applications; and
- Other tasks as appropriate to meet project goals.

DEVELOPER

- Submit a detailed pro forma and discuss and evaluate the financial and operational components, including any requirements pertaining to the applicability of any prevailing wage requirements;
- Provide the City with organizational documents as well as an organization chart outlining key personnel's roles and responsibilities;
- Determine form of payments for the City's financial benefits from the Project;
- Pursue necessary financing commitments; and
- Other tasks as appropriate to meet project goals.