



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Community Services
Department No.: 057
For Agenda Of: July 9, 2013
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Herman Parker, Community Services Director (805) 568-2467
Director(s)
Contact Info: Dinah Lockhart, Deputy Director of HCD (805) 568-3523

SUBJECT: Execution of a Subordination, Consent, Non-Disturbance and Attornment Agreement with GTE Mobilnet of Santa Barbara Limited Partnership, d/b/a Verizon Wireless, and Paradise Ivy, LLC concerning the real property located at 909 Embarcadero del Mar in Isla Vista, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

A. Approve and authorize the Chair of the Board of Supervisors to execute a Subordination, Consent, Non-Disturbance, and Attornment Agreement (Attachment A) between the County, GTE Mobilnet of Santa Barbara Limited Partnership, d/b/a Verizon Wireless, and Paradise Ivy, LLC; and

B. After considering the previously certified Environmental Impact Report (EIR) for the Isla Vista Master Plan (03-EIR-08), determine pursuant to California Public Resources Code sections 21090(b) and 21166 and CEQA Guidelines section 15162 that no subsequent EIR or Negative Declaration shall be prepared for this project.

Summary Text:

In conjunction with the County's existing loan to Paradise Ivy, LLC, Paradise Ivy, LLC executed for County's benefit an existing Promissory Note secured with a Permanent Deed of Trust, Assignment of Rents and Security Agreement concerning the real property located at 909 Embarcadero del Mar in Isla Vista (the "Property"). Verizon Wireless has an Option and Building and Rooftop Lease agreement ("Lease") with Paradise Ivy, LLC (Attachment B). Verizon Wireless is requesting that the County execute the Subordination, Consent, Non-Disturbance, and Attornment Agreement, which stipulates

that: Verizon Wireless's Lease shall at all times remain subject, subordinate, and inferior to the County's loan; County consents to the Lease and to Verizon Wireless's use and occupancy of the leased portion of the Property; Verizon Wireless's rights under the Lease will not be diminished, interfered with, terminated or disturbed by County even if Paradise Ivy, LLC defaults on its loan from County and the County forecloses; and, Verizon Wireless will "attorn" to County, that is, agree to continue as a tenant of County, under the same Lease terms if County becomes the owner and landlord of the Property following a foreclosure.

Background:

On July 14, 2009, the Board of Directors of the Santa Barbara County Redevelopment Agency (RDA) approved and executed an Owner Participation Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Promissory Note, and Permanent Deed of Trust, Assignment of Rents and Security Agreement with Paradise Ivy, LLC, which provided a \$717,000 loan of Isla Vista Project Area Redevelopment Agency Affordable Housing funds for development of six (6) studios that are rental housing units affordable to low-income households earning less than 75% of the Area Median Income.

On January 10, 2012, the Board of Supervisors adopted Resolution 12-7 designating the County as the Successor Housing Agency to the former RDA upon its dissolution on February 1, 2012. As such, the County retained the housing assets and functions of the RDA pursuant to Health and Safety Code Section 34176(a) which allows the County to execute the housing powers previously performed by the RDA under California Redevelopment Law.

The County's execution of the Subordination, Consent, Non-Disturbance, and Attornment Agreement will allow Verizon Wireless to provide wireless telephone services to the Property and does not change or impair the County's existing Owner Participation Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Promissory Note, and Permanent Deed of Trust, Assignment of Rents and Security Agreement with Paradise Ivy, LLC.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

There are no additional costs associated with the County's execution of the Subordination, Consent, Non-Disturbance, and Attornment Agreement with Verizon Wireless; however, if the County should acquire the Property through foreclosure at a later date, it would be subject to Paradise Ivy's obligations as a landlord to Verizon Wireless.

Staffing Impacts:

None

Special Instructions:

- Execute two (2) original copies of the Subordination, Consent, Non-Disturbance, and Attornment Agreement (Attachment A) and contact Margo Wagner at ext. 3529 to pick up one (1) original copy.
- Provide a copy of the minute order reflecting Board Action to CSD, attn.: Margo Wagner

Attachments:

Paradise Ivy, LLC, Verizon Wireless Subordination Agreement
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Attachment A – Subordination, Consent, Non-Disturbance, and Attornment Agreement
Attachment B – Option and Building and Rooftop Lease

Authored by:

Margo Wagner, Housing Program Specialist II

cc:

Mike Munoz, Deputy County Counsel