



Office of the City Manager

WORK SESSION

October 30, 2012

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Eric Angstadt, Director, Planning and Development

Subject: 20th Anniversary of Development Agreement with Bayer

INTRODUCTION

A 30-year Development Agreement was entered into between Bayer Corporation, formerly Miles Inc., and the City of Berkeley in February 1992. Amendments to the DA were approved in 1998 and 1999.

Bayer submits a status report on implementation of its Development Agreement (DA) to the City every year. In the tenth, fifteenth, twentieth and twenty-fifth year, the DA calls for a more comprehensive review “for the purpose of assessing whether the City’s reasonable expectations as reflected in the Agreement for achievement of the public benefits associated with the Agreement are being met.”

As part of the twentieth year review, Bayer representatives will make a presentation and answer questions at the October 30, 2012 Council Work Session. The presentation will provide an update of development and contributions.

BACKGROUND

The Bayer project authorized replacement or upgrading of a group of 38 older, non-historic structures totaling 520,000 square feet in floor area. New construction totaling 1,167,000 square feet was approved as part of the DA, and was allocated on a block-by-block basis for a range of general land use categories, including production, administration, laboratories, warehouse, maintenance, utility, and parking. A set of development standards and design guidelines were also approved. The project was originally anticipated to increase total employment on the site from approximately 600 to 980 jobs at full build-out. The 1999 Amendment increased the maximum employee projection to 1,600.

The Bayer DA is the only development agreement in Berkeley; the DA stipulates that City regulations would not change during its 30-year life. This provided Bayer with enough certainty to make a major investment in the site. In exchange, Bayer was required to make contributions to the community.

Exhibit F from the DA, attached, summarizes the public infrastructure and community programs that were required. Additional exhibits in the DA and in the annual reports provide more detail about the programs listed below.

- Biotechnology Education Training Program
- Employment-Hiring Program
- Affordable Housing Program
- Child Care Program
- Public Infrastructure Plan
- Transportation Demand Management Program
- Historic Preservation and Public Art
- Environmental Protection
- Community Programs
- Animal Care and Usage
- Peace and Justice Program

Annual Reports are submitted to each City Council member and secretaries for the commissions listed below.

PLANNING
ZAB
ANIMAL CARE
PEACE & JUSTICE
HUMAN WELFARE

HOUSING
DESIGN REVIEW
CMTY HEALTH
DISASTER
LANDMARKS

LABOR
ENVIRONMENTAL
PARKS & REC
TRANSPORTATION

Each Annual Report provides cumulative information about the total square footage developed, the schedule for future development, and implementation status for the public infrastructure requirements, community programs, and mitigations from the Environmental Impact Report.

Staff reviewed the DA requirements in detail and Bayer has complied with its requirements.

CONTACT PERSON

Wendy Cosin, Deputy Planning Director, Planning, 981-7402

Attachments:

- 1: Development Agreement Exhibit F – Summary of Public Infrastructure, Community Programs and Development Fees
- 2: Bayer Annual Report

EXHIBIT F
SUMMARY OF PUBLIC INFRASTRUCTURE, COMMUNITY PROGRAMS AND DEVELOPMENT FEES

The following table presents a summary of the obligations of the parties in the areas of environmental mitigations, public infrastructure and community programs and benefits. All dollar amounts are stated in terms of 1991 dollars. Dollars to be paid in years two through thirty of the Agreement shall be indexed for inflation to the San Francisco Bay Area full Consumer Price Index (CPI), using as a basis the CPI published January 1991.

Some amounts represent fixed or capped obligations on the part of Miles; these are indicated by a "(c)" next to the cost figure. Other amounts represent an estimate of the cost to Miles of performing certain future obligations generally described in Exhibits G-1 through G-10 and are not capped. These are indicated by an "(e)".

Some obligations, including payments to the City or others, occur with the signing of the Agreement, either as anticipated community benefits or as required environmental programs and mitigations. These are generally noted in the summary as annual, periodic or future one-time obligations, and are further indicated by an "(a)" next to the cost figure. Other obligations occur only in relation to the actual development of the site. These are generally noted in the summary as becoming due in conjunction with construction of a particular building or building phase, and are further indicated by a "(b)" next to the cost figure.

Annual costs do not reflect the first year costs, only subsequent years.

**EXHIBIT F
SUMMARY OF PUBLIC INFRASTRUCTURE, COMMUNITY PROGRAMS AND DEVELOPMENT FEES**

PROGRAM/DEVELOPMENT FEES	RESPONSIBLE	MONITOR	TIMING/ FREQUENCY	COSTS		
				INITIAL/ ONE TIME	ANNUAL	30-YEAR COST
Employment and Training						
Fund the first year expenses of the Program Director	Miles	City, Planning Department	Upon approval of the Development Agreement	\$100K	N/A	\$100K (c)(a)
Biotech Academy within the Berkeley High School	Miles	City, Planning Department	At the first Annual Review and distributed over the next four years ¹	\$560K	N/A	\$560K (c)(a)
Biotech Career Institute in conjunction with Community College system	Miles	City, Planning Department	At the first Annual Review and distributed over the next four years ¹	\$440K	N/A	\$440K (c)(a)
Provide matching funds for Biotech Academy/Institute	Miles	City, Planning Department	At years six through nine of the Development Agreement ¹	N/A	\$25K-\$75K	\$100K-\$300K (c)(a)
Fund a Biotech Academy/Institute student summer hire program	Miles	City, Planning Department	Upon approval of the Development Agreement and every year thereafter	\$10K	\$10K	\$300K (c)(a)
Fund Kindergarten through 8th grade projects	Miles	City, Planning Department	Upon approval of the Development Agreement and every year thereafter	\$10K	\$10K	\$300K (c)(a)
Fund three year grant/writer position for nonprofit job training agencies	Miles	City, Community Development Department	At the first Annual Review and the next two years thereafter	\$50K	\$50K	\$150K (c)(a)
Employ construction hires through the City's First Source Program	Miles	City, Community Development Department	As required but not more than 700 hires	\$350K	N/A	\$350K (c)(b)
Housing and Child Care						
Contribute to the City's Housing Trust Fund to create affordable housing	Miles	City, Community Development Department	At the first Annual Review and then ten years thereafter	\$155K	\$46K	\$615K (c)(a)

¹ Planning years are illustrative only and might change based on outside funding.

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PROGRAM/DEVELOPMENT FEES	RESPONSIBLE	MONITOR	TIMING/ FREQUENCY	INITIAL/ ONE TIME	COSTS ANNUAL	30-YEAR COST
Sixth Street repaving	Miles	City, Public Works Department	During construction of the main gate or Department of Public Works schedule	\$20K	N/A	\$20K (e)(b)
Construct the following traffic improvements:						
Install signal at Seventh and Parker (50% contribution)	Miles	City, Public Works Department	During construction of the parking structure	\$30K	N/A	\$50K (e)(b)
Modify signal at Seventh and Dwight	Miles	City, Public Works Department	During upgrade of surface parking lot	\$50K	N/A	\$50K (e)(b)
Install signal at Seventh and Heinz	Miles	City, Public Works Department	During construction of Block B4	\$50K	N/A	\$50K (e)(b)
Move parking on Seventh and re-stripe to create three lanes	Miles	City, Public Works Department	During construction of the first building on Seventh Street	\$20K	N/A	\$20K (e)(b)
Close Seventh street roadway north of Dwight Way	Miles	City, Public Works Department	During upgrade of surface parking lot	\$20K	N/A	\$20K (e)(b)
Contribute to improvements designed to mitigate cumulative impacts and provide area wide improvements to the traffic system	Miles	City, Public Works Department	Per Department of Public Works schedule	\$1,500K	N/A	\$1,500K (e)(a)
Conduct engineering analysis of sewer system	Miles	City, Public Works Department	Nine months after approval of Development Agreement	\$50K	N/A	\$50K (e)(a)
Contribute to improvements designed to mitigate cumulative impacts and provide area wide improvements to the sanitary sewer system	Miles	City, Public Works Department	As required	\$600K	N/A	\$600K (e)
Improve storm drains under 4th Street and Dwight Way	Miles	City, Public Works Department	During construction of Block A2 and C1, respectively	\$600K	N/A	\$600K (e)(b)

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Disconnect site from Parker Street storm sewer system and install new Miles storm sewer system	Miles	City, Public Works Department	During construction of Block A3	\$200K	N/A	\$200K (c)(b)
Contribute to improvements at Aquatic Park	Miles	City, Public Works Department	24 months after approval of Development Agreement	\$250K	N/A	\$ 250K (c)(a)
Perform water quality study in Aquatic Park	Miles	City, Environmental Health	Twelve months after approval of the Development Agreement	\$50K	N/A	\$50K (c)(a)
Transportation						
Implement a Trip Reduction Program	Miles	City, Planning Department	In conjunction with the first Annual Review	\$30K	\$30K	\$900K (c)(b)
Provide a BART Shuttle for employees	Miles	City, Planning Department	Upon approval of Development Agreement	\$5K	\$5K	\$150K (c)(a)
Conduct neighborhood parking impact survey	Miles	City, Planning Department	Ten years following approval of the Development Agreement and then every five years thereafter	\$1K	\$1K	\$5K (c)(a)
Provide two bus shelters at 7th Street and Dwight Way	Miles	City, Planning Department	During upgrade of surface parking lot	\$15K	N/A	\$15K (c)(b)
Fund and implement a bike route plan	Miles	City, Planning Department	Six months after approval of Development Agreement	\$50K	N/A	\$50K (c)(a)
Historic Preservation and Public Art						
Assemble and display a historical exhibit	Miles	City, Planning Department	1997	\$150K	N/A	\$150K (c)(a)

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					ANNUAL	30-YEAR COST
Commission public art (1% of Administration building construction costs)	Miles	City, Planning Department	During construction of Administration Building	\$112K	N/A	\$112K (e)(b)
Environmental Protection						
Hazardous Operations Studies and Off-Site Consequence Analysis	Miles	City, Environmental Protection	As required during construction of utility and production buildings	\$61K	N/A	\$61K (e)(b)
Bio-safety Review Program	Miles	City, Environmental Protection	Six months after approval of Development Agreement	\$16K	\$1K	\$45K (e)(a)
Emergency Preparedness Program:	Miles	City, Environmental Protection	Six months after approval of Development Agreement			
Emergency Response/Business Plan	Miles	City, Environmental Protection	Annual costs every year	\$7K	\$1K	\$36K (e)(a)
On-site training of City Staff	Miles	City, Environmental Protection	Annual costs every year	\$16K	\$6K	\$190K (e)(a)
Emergency Response Exercises	Miles	City, Environmental Protection	Annual costs every year	\$33K	\$9.5K	\$308.5K (e)(a)
Bulk Hazard Materials Truck Routes	Miles	City, Environmental Protection	Annual costs every year	\$2K	N/A	\$2K (e)(a)
Risk Communication Program	Miles	City, Environmental Protection	Six months after approval of Development Agreement	\$31.5K	\$11.5K	\$365K (e)(a)
Energy Conservation Program	Miles	City, Environmental Protection	Twelve months after approval of Development Agreement	\$58K	\$8K	\$290K (e)(a)
Water Conservation Program	Miles	City, Environmental Protection	Twelve months after approval of Development Agreement	\$59.5K	\$9.5K	\$335K (e)(a)
Ammonia refrigeration Risk Management Prevention Program	Miles	City, Environmental Protection	Prior to operation of the system	\$100K	N/A	\$100K (e)(b)

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					ANNUAL	30-YEAR COST
Waste Reduction Program	Miles	City, Environmental Protection	Nine months after approval of Development Agreement	\$33K	\$13K	\$410K (c)(a)
Dust Suppression Program	Miles	City, Environmental Protection	Prior to first demolition/construction	\$3K	\$1K	\$32K (c)(b)
Noise Reduction Program	Miles	City, Environmental Protection	Prior to first demolition/construction	\$3K	\$1K	\$32K (c)(b)
Surface Water Run-off Program	Miles	City, Environmental Protection	Six months after approval of Development Agreement	\$23K	\$8K	\$255K (c)(a)
Community Programs						
Hire a consultant to assist with the establishment of a Community Service Program and Board		City, Planning Department	12 months after approval of Development Agreement	\$30K	N/A	\$30K (c)(a)
Establish and fund a Community Service Program	Miles/ City	City Planning Department/Miles	At the first Annual Review and every year thereafter. NOTE: at year six, annual required contributions will decrease from \$100K to \$20K	\$100K	\$100K/\$20K	\$1,000K (c)(a)
Animal Care and Use						
Fund outside research into alternatives to animal use	Miles	City, Environmental Department	At the first Annual Review and every year for the next four years	\$25K	\$25K	\$125K (c)(a)