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## Haberman Settlement Update – *Formal Agreement*

*April 19, 2022*



# Overview

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## **May 17, 2021 Judgment against the City**

- City liable for \$140,834,594.51 plus interest at 9% / annum (\$12.7MM / annum; approx. 1.1MM/ month)
- Haberman has the vested right to build two ten-story buildings and one seven-story building, based on rights granted to Haberman under thirty-year old variances and stipulations

## **December 28, 2021 Letter of Intent**

- Accrual of interest stayed while the parties negotiated Formal Agreement
- Set forth general terms of proposed Formal Agreement

***In accordance with the letter of intent, the City and the Habermans have negotiated the terms of a Formal Agreement to definitively settle this decades old litigation***

# Material Terms of Formal Agreement

Judgment Reduced	\$148.648 MM Judgment (inclusive of interest through 12/28) reduced to cash payment of \$75MM, plus (1) \$2MM credit that is forgiven if Haberman does not build, and (2) penalty if contemplated zoning revoked or invalidated
Zoning Legislation and Community Benefit Bonus Policy	City must enact certain zoning and a community benefit bonus policy, which will allow two 13 ½ story buildings plus a parking structure, instead of the two 10 story buildings plus one 7 story building Haberman currently entitled to build
Conditions to Effectiveness	<p>Formal Agreement becomes effective when:</p> <ul style="list-style-type: none"> <li>• Agreement executed by all parties</li> <li>• City has been able to raise and has received sufficient funds through the issuance of General Obligation Bonds to fund \$75MM</li> <li>• City has enacted the Zoning Legislation and Community Benefit Bonus Policy</li> <li>• Satisfactions of judgment and withdrawals of appeals delivered into escrow</li> <li>• So-Ordered by Court</li> </ul>

# Issuance of General Obligation Bonds

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## ***On February 3, 2022, Moody's revised its credit rating for the City from Baa3 with a Negative Outlook to Baa3 with a Positive Outlook***

The revision of the outlook from negative to positive reflects a more favorable outcome for the city in regards to the Haberman lawsuit, reducing the judgement to \$75 million from approximately \$150 million. Additionally, the combination of improved budget management and federal funds is strengthening the city's reserves and liquidity.

*(Moody's Investors Service Rating Action, February 3, 2022)*

## ***On April 9, 2022, New York State enacted legislation to authorize the City flexibility to issue longer term bonds and use an underwriting process or negotiated private sale***

- This allows the City to secure the best terms for such bonds and lessen the impact of the settlement on the City's budget and the residents of Long Beach
- Until final terms of bonds are determined, it is too soon to definitively address ultimate impact

# Zoning Legislation

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## ***Effectiveness of the Formal Agreement requires the City Council to enact certain zoning amendments to allow Haberman to complete the revised Project***

- The City worked with the City's planning and zoning consultant to draft zoning legislation appropriate for the City of Long Beach
- Zoning extends the current Residential Business A District eastward to Lincoln Boulevard, with certain modifications applicable to district
- Institutes a Community Benefit Bonus Policy, modeled after that used by other NY municipalities
  - Allows builders to seek a bonus of additional height, density, setback reductions and/or and other relief in exchange for providing a community benefit to the City
  - Grant of the bonus is subject to discretionary recommendation by the Building Commissioner and approval or disapproval of the City Council
- Approval of the revised zoning and community benefit bonus policy will be addressed at a future City Council meeting after the proposal has been subject to any necessary environmental impact review