

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY:

2017 SEP 28 PM 1:27



Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 86938 C.M.S.

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT A RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXCLUSIVE NEGOTIATION AGREEMENT ("ENA") WITH W/L TELEGRAPH OWNER, LLC, OR AN AFFILIATE FOR DEVELOPMENT OF A MIXED-USE PROJECT ON CITY-OWNED PROPERTY LOCATED AT 2100 TELEGRAPH AVENUE (ASSESSOR'S PARCEL NUMBER: 008-0648-016-03) TO: (1) EXTEND THE TERM BY TWELVE MONTHS FROM OCTOBER 21, 2017 TO OCTOBER 21, 2018, WITH AN ADDITIONAL SIX-MONTH ADMINISTRATIVE EXTENSION OPTION, AND (2) EXTEND PERFORMANCE DEADLINES, RELYING ON A CEQA EXEMPTION PURSUANT TO SECTIONS 15262, 15306 AND SECTION 15061(B)(3) OF THE CEQA GUIDELINES

WHEREAS, the City of Oakland (the "City") owns approximately 1.76 acres of property located at 2100 Telegraph Avenue (the "Property"), which is improved with a two-story public parking structure that includes 351 parking spaces (the "City Garage"); and

WHEREAS, on March 26, 2015, pursuant to Resolution No. 85220 C.M.S., dated October 21, 2014, the City and TB2 Retail Complex, LLC ("TB2"), a limited liability company comprising the Strategic Urban Development Alliance ("SUDA") and Hensel Phelps Construction Company ("HPCC"), executed an Exclusive Negotiation Agreement ("ENA") for development of a mixed-use project on the Property; and

WHEREAS, on July 5, 2016, the City Council passed Resolution No. 86267 C.M.S., authorizing (1) an assignment of the ENA from TB2 to W/L Telegraph Owner, LLC ("W/L"), or one of its affiliates, a joint venture partnership between TB2 and Lane Partners/Walton Street Capital LLC, to evaluate the feasibility and negotiate the terms for development of a mixed-use office/retail project including alternatives with a residential component and/or replacement of public parking currently on the Property (the "Project"); and (2) an amendment of the ENA to extend the ENA term from 24 to 30 months, or from October 21, 2016 to April 21, 2017, with an administrative option to extend the ENA term by an additional six months from April 21, 2017 to October 21, 2017, while also extending certain performance deadlines; and

WHEREAS, on April 21, 2017, a second amendment to the ENA was executed, employing the six-month administrative option to extend the terms of the agreement to October 21, 2017; and

WHEREAS, W/L has met the ENA performance deadlines to date, including continuing Project review required by the California Environmental Quality Act ("CEQA"); and

WHEREAS, additional time is required for the City and W/L to review and analyze alternative project scenarios and economic feasibility, comply with the California Environmental Quality Act (CEQA), and negotiate transactional terms for the lease or sale and development of the Property; and

WHEREAS, the City Council desires to extend the term of the ENA from 36 to 48 months, or from October 21, 2017 to October 21, 2018, with an administrative option to extend the ENA term by an additional six months, or from October 21, 2018 to April 21, 2019, and

WHEREAS, the requirements of CEQA and the CEQA guidelines as prescribed by the Secretary of Resources have been satisfied to date; now therefore be it

RESOLVED: That the City finds and determines, after independent review and consideration, that this action complies with CEQA because the extension of the ENA term is exempt from CEQA pursuant to Sections 15262 (feasibility and planning studies), 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it further

RESOLVED: That the City Administrator or designee is hereby authorized to: (1) extend the term of the ENA from 36 to 48 months, changing the termination date from October 21, 2017 to October 21, 2018, with an administrative option, at the sole and absolute discretion of the City Administrator or designee, to extend the ENA term by an additional six months, or from October 21, 2018 to April 21, 2019; and (2) extend certain ENA performance deadlines; and be it further

RESOLVED: That the City shall require a \$10,000 nonrefundable Project Expense Payment from W/L to reimburse the City for third party expenses; and be it further

RESOLVED: That the \$10,000 nonrefundable Project Expense Payment from TB2 will be appropriated to Miscellaneous Capital Projects Fund (Fund 5999), Organization: Central District Redevelopment (#85245), and Project: Telegraph Plz – TB2 (#1003328); and be it further

RESOLVED: That the City Administrator or designee shall cause to be filed with the County of Alameda a Notice of Determination and/or Exemption for this action; and be it further

RESOLVED: That the City Administrator is further authorized to take whatever action is necessary with respect to the extension of the ENA term and performance deadlines, and other development scenario considerations consistent with this Resolution and its basic purposes; and be it further

RESOLVED: That all documents necessary to effect the amendment to the ENA pursuant to this Resolution shall be reviewed and approved by the City Attorney, and copies shall be placed on file with the City Clerk.

OCT 17

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2017

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON McELHANEY,
~~WILLIAMS~~, KALB, KAPLAN, and CHAIRPERSON REID - 7

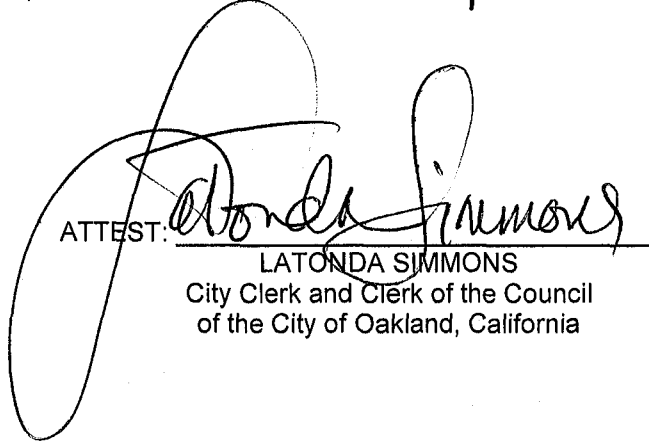
NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused - Guillen - 1

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California