



CITY OF OAKLAND

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OAKLAND

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# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: ENA for 1800 San Pablo Avenue

DATE: February 9, 2012

City Administrator

Approval

Date

2/16/12

COUNCIL DISTRICT: 3

## RECOMMENDATION

Staff recommends that the City Council adopt:

**A Resolution Authorizing An Exclusive Negotiating Agreement With Sunfield Development, LLC Or A Related Entity To Develop A Mixed-Use Project On A City-Owned Property Located At 1800 San Pablo Avenue (APN: 008-0642-018)**

## EXECUTIVE SUMMARY

The purpose of this report is to recommend the adoption of a resolution authorizing a nine-month exclusive negotiating agreement ("ENA"), with an optional administrative three-month term extension, between the City of Oakland ("City") and Sunfield Development, LLC or related entity ("Sunfield"). Sunfield proposes to develop an entertainment-oriented project, including public parking, (the "Project") on City-owned property located at 1800 San Pablo Avenue (the "Property;" see *Attachment A*).

In July 2010, the former Oakland Redevelopment Agency ("Agency") and Sunfield executed a 12-month exclusive negotiating agreement ("Agency ENA"), with a three-month administrative extension, to evaluate the feasibility of the proposed development, to complete environmental review required under CEQA and to finalize negotiations for the sale of the land to the developer and the purchase of a 200-space public garage by the Agency.

In March 2011, the Agency and City approved a purchase and sales agreement to transfer a number of properties from the Agency to the City, including the Property. This transfer took place prior to the dissolution of the Agency on February 1, 2012. Now that the City is the owner of the site, the ENA will be with the City.

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During the Agency ENA period, Sunfield secured a significant number of letters of intent to lease space in the Project and received considerable interest and preliminary commitments from potential lenders and investors. However, the original negotiation period was insufficient for the parties to complete Project environmental review and to finalize negotiations of 1) a disposition and development agreement (DDA) governing the sale and development of the land, and 2) a purchase and sales agreement (Agency PSA) for the acquisition of the public parking garage by the Agency.

On January 31, 2012, the City acquired the Property from the Agency. The recommended new ENA would provide time for the City, as the new landowner, and Sunfield to commence and complete negotiations and to achieve CEQA compliance.

### OUTCOME

Adoption of this legislation will provide additional time to the City and Sunfield to achieve CEQA compliance, to complete exclusive negotiations of the business terms of a Disposition and Development Agreement (“DDA”) and a purchase and sale agreement (“PSA”) between the parties, including the price for the City’s purchase of a new public garage that will be part of the development, and to schedule a public hearing before the City Council to consider whether to approve a DDA and a PSA between the City and Sunfield.

### BACKGROUND/LEGISLATIVE HISTORY

On July 20, 2010, pursuant to Agency Resolution No. 2010-0092 C.M.S, the Agency and Sunfield executed the Agency ENA with a term of twelve months to evaluate Project feasibility and to negotiate the terms of 1) a DDA governing the sale of the formerly Agency-owned Property and development of the Project, and 2) an Agency PSA for the purchase of a new garage by the Agency that will add additional public parking to the burgeoning entertainment district in Uptown.

Although the Agency granted the developer a three-month administrative extension to the ENA term, which expired on October 20, 2011, the additional time was insufficient to complete environmental review required under CEQA and to finalize all negotiations.

On December 29, 2011, in the case of California Redevelopment Association v. Matosantos, the California Supreme Court upheld Assembly Bill ABX1 26 (“AB 26”), which provides for the termination of all California redevelopment agencies. The court also struck down legislation known as ABX1 27 that would have allowed redevelopment agencies to continue in existence by paying a greater share of tax revenues to the State of California and other agencies. Accordingly, the Agency was dissolved effective February 1, 2012. In January and prior to the Agency’s dissolution, the City, pursuant to Resolution No. 2011-0024 C.M.S, acquired the Property from the Agency.

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Sunfield has requested that the City, as the new owner of the Property, enter into a new ENA with the developer to complete all required pre-conveyance activities and to proceed with the Project.

## ANALYSIS

### *Project Description*

The Project site is bordered by 19<sup>th</sup> Street on the north; the Fox Court affordable housing complex on the east; 18<sup>th</sup> Street on the south; and San Pablo Avenue on the west. The proposed building would consist of two below-grade parking levels with approximately 200 spaces and three above-grade floors containing up to 120,000 square feet of commercial space. The building would be a maximum of 90 feet in height. The Project is currently designed at a conceptual level, meaning that the design of the Project would ultimately be refined and would be subject to the City's design review process.

The proposed development will add significant entertainment-oriented retail to the Uptown area and generate new tax revenues for the City. Proposed commercial uses include a variety of restaurants, a health club and other entertainment venues.

The contemplated transaction between the City and Sunfield would involve the sale of the Property from the City to Sunfield and the purchase by the City of approximately 200 parking spaces at development cost from Sunfield as a condominium ownership interest in the Project. The City would use a combination of \$6.4 million in cash and an as yet undetermined portion of land sale proceeds to pay for the garage.

### **Project Marketing and Tenant Interest**

Sunfield, with the assistance of their commercial broker, CB Richard Ellis, has marketed the Project for the last 15 months. To date, Sunfield has secured letters of intent to lease space from the following tenants:

Table 1

Tenant	Square Footage to be Occupied	Length of Lease	Description
Tenant A	2,500 sf (1 <sup>st</sup> Fir)	10 years with two 5-year options	An upscale hamburger restaurant.
Tenant B	5,000 sf (1 <sup>st</sup> Fir) 10,000 sf (2 <sup>nd</sup> Fir)	10 years with two 5-year options	Bowling, billiards, and a sports bar.
Tenant C	3,500 sf (1 <sup>st</sup> Fir) 32,000 sf (2 <sup>nd</sup> Fir)	15 years with three 5-year options	A national movie theater.
Tenant D	1,000 sf (1 <sup>st</sup> Fir) 40,000 sf (3 <sup>rd</sup> Fir)	10 calendar years with three 5-year options	A national fitness club.

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This mix of tenants would occupy approximately 85% of the leasable area in the building. The developer will be required to submit binding leases for Project spaces prior to transfer of the Property.

### *Project Feasibility*

The City and Sunfield have spent considerable time reviewing the financial feasibility of the proposed Project. Total project development costs are currently estimated to be approximately \$46 million. Potential project income, as evidenced by negotiated rents with the tenants listed above and operating expense projections provided by the developer appear to indicate financial feasibility of the Project since Sunfield has provided evidence of significant interest from potential lenders and investors. Sunfield will have to provide binding commitment letters from lenders and investors prior to transfer of the Property.

### *Parking*

#### **The Garage**

The business deal between the City and Sunfield also includes the purchase by the City of approximately 200 parking spaces from Sunfield as a condominium ownership interest in the Project to serve Project tenants and to provide additional parking for existing businesses in the Uptown area where public parking is often in short supply

Since the City has only limited funds to acquire 200 parking spaces, it is critical to establish a purchase price for the garage that is within the City's budget. The developer engaged several contractors to provide initial cost estimates for the construction of the garage and prepared detailed projections of all other development-related expenses. Total current development costs for the garage are estimated to be approximately \$7 million, excluding land cost, which is within a price range that is affordable to the City. The final not-to-exceed price for the garage will be negotiated during the ENA period. It should be noted that the proposed ENA does not guarantee appropriation of the funding required for the acquisition of the garage. Such an appropriation will only occur at the time of Council approval of a DDA and PSA.

#### **Additional Parking Demand**

Sunfield reports that in their discussions with retailers the need for ample parking adjacent to the Project has been the retailers' single most critical issue, and may determine the long-term success of retail operations in this location. The developer anticipates that the Project will generate a significant increase in parking demand that will likely exceed the available spaces in the new development. As a result, staff is analyzing the costs associated with extending the hours of operation of two existing City parking garages (Clay Street and 250 Frank Ogawa Plaza) that are in the vicinity of the Project to provide additional paid parking options to patrons. Interested tenants and/or the developer would be responsible for all additional operating costs resulting from keeping the garages open for longer hours than currently scheduled.

*Project Schedule*

Milestones	Date
ENA Approval	February 2012
Final SEIR Certification	August 2012
DDA/PSA Approval	November 2012
Start of Construction	April 2014
Completion of Construction	October 2015

*The ENA*

The proposed new nine-months ENA term should be sufficient to complete environmental review required under CEQA, to negotiate the terms of a DDA and PSA between the parties, including the purchase price of a public garage that will be part of the development, and to schedule a public hearing by the City Council to consider whether to approve a DDA and a PSA between the City and Sunfield for the development of the Project. In the event that the initial ENA term does not provide enough time for these activities, the City Administrator may grant an ENA extension of up to three months, if she is satisfied with Sunfield's progress in satisfying the requirements of the nine-month schedule of performance of the ENA (a copy of the ENA is attached to this report as *Attachment B*).

*Legal Considerations*

Per the Funding Agreement between the City and the Agency, dated March 3, 2011, the Agency allocated \$6.4 million to the City toward the costs of buying the proposed new 200-space parking garage at the Project. The City also acquired the Property from the Agency on January 31, 2012

Pursuant to AB 26, the State legislation that requires the dissolution of redevelopment agencies effective February 1, 2012, the State Controller has the authority to review and possibly invalidate certain transfers of assets between redevelopment agencies and their sponsoring agencies (e.g., the City Council) occurring after January 1, 2011, that are not contractually committed to third parties.

While there is no absolute guarantee that a State challenge will not be initiated, the City maintains that the funding and property transfers related to the Project are legitimate contractual arrangements between the Agency and the City which should not be subject to successful State challenge.

If, however, a State challenge occurs and is successful, the State Controller may order the assets returned to the City, in its role as the designated Successor Agency to the Agency. If the State Controller makes the determination that the Property and the funds for the purchase of the garage must be returned to the Successor Agency, the City would no longer own the Property or hold the funds under its own auspices, and the Project could not go forward. It would have to be determined at that time, whether Sunfield could enter into an agreement with the City, as Successor Agency, and proceed with the Project, subject to review by a new Oversight Board and the State Department of Finance and State Controller.

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However, since execution of the ENA does not bind the City to a sale of the Property, or appropriate any funding for the garage purchase there is no risk associated with this potential outcome at this time.

### POLICY ALTERNATIVES

<i>Alternative #1</i>	Sunfield does not enter into a ENA with the City (No ENA)
<i>Pros</i>	<ul style="list-style-type: none"><li>▪ The City may select another developer by issuing a Request for Proposal for another project.</li></ul>
<i>Cons</i>	<ul style="list-style-type: none"><li>▪ The proposed Project will not go forward.</li><li>▪ Additional time is required to solicit and select a new developer.</li><li>▪ Current proposed tenant mix may never be recovered.</li><li>▪ The CEQA work may not be completed or will need to be redone for another project.</li><li>▪ The City will not receive a good faith deposit to assist in paying for already completed CEQA work.</li></ul>
<i>Reason for not recommending</i>	Development at this site will be delayed significantly. The developer and City have committed substantial time and money to get to this stage of the Project. The developer also secured letters of intent from a mix of tenants that greatly complements the entertainment orientation of the Uptown District.

### PUBLIC OUTREACH/INTEREST

Per the requirements of CEQA, a Notice of Preparation of the Draft Supplemental EIR for the Project was published on October 18, 2011, which initiated a 30-day public comment period. On November 16, 2011, a scoping session was held at a Planning Commission meeting for the scope of the Draft SEIR. The discussion at the hearing emphasized, among other topics, the inclusion of certain mitigation measures in the SEIR that are already contained in the Uptown Mixed Use Project EIR. These mitigation measures pertain to the topic of "Cultural Resources" and aim to reduce the impact of the Project on significant historical resources that may be present at the site. Planning Commission members also directed staff to bring the draft SEIR to the Landmarks Preservation Advisory Board before the next Planning Commission meeting.

## COORDINATION

Staff consulted with the City Attorney's Office in preparing the attached ENA and related legislation, as well as in regard to CEQA compliance. Staff submitted this report to the Budget Office for review and approval. Finally, staff has worked extensively with the Planning Department to determine the scope and to review the content of the SEIR.

## COST SUMMARY/IMPLICATIONS

### 1. AMOUNT OF RECOMMENDATION/ COST OF PROJECT:

At this time, there are no direct construction costs to the City for the Project under the ENA.

### 2. COST ELEMENTS OF AGREEMENT/CONTRACT:

#### *ENA Deposit (\$ 20,000)*

The City will receive a twenty thousand dollars (\$20,000) refundable good-faith cash deposit ("Deposit") from Sunfield prior to execution of the ENA. The City will apply all or a portion of the deposit to project expenses, such as preparing a fair market value appraisal for the Property (which is estimated to cost approximately \$4,500 at this time) and verification of cost estimates for the Garage (currently to cost approximately \$10,000).

#### *Costs Related to CEQA Environmental Review (\$194,318.41)*

- AECOM, Inc. Contract (\$138,775)
- Planning Application CEQA Fee and Public Works Review Fee (\$55,543)

In order to move the Project forward in a timely manner, the City entered into a contract with AECOM, Inc. for the completion of environmental documents required under CEQA. Additional costs included a review fee for Planning staff and for Public Works staff. Without final certification of the SEIR, the City Council cannot authorize execution of a DDA for the Project.

#### *Costs Related to Site Investigation (\$32,000)*

The City entered into a contract with ARCADIS U.S., Inc. to conduct soil and groundwater investigation at the Property. This investigation is necessary in order to determine the costs of developing the site, which is dependent upon the costs of soil remediation and groundwater treatment. Previous Phase II soil investigations at the Property did not go beyond 6 feet below grade. Additional borings are necessary because the current Project scope includes a 2-story subterranean basement that will be up to 22 feet .

### 3. SOURCE OF FUNDING:

#### *ENA Deposit*

The Deposit will be received as revenue to the City and will be deposited into a fund to be determined. Funds will be appropriated for expenditures related to the Project. Should services be rendered and paid through the as-needed economic consulting contract (Agency Resolution No. 2010-0085 C.M.S.) then funds from the Deposit will be used to reimburse the account (to be determined) from which invoices are paid per the contract.

#### *Costs Related to CEQA Environmental Review*

Staff will continue to cover the costs of the contract with AECOM, Inc. and related expenditures from the following funding sources:

- A portion of the previous ENA Deposit to the Agency from Sunfield
- A fund to be determined (previously Fund 9553 – Unrestricted Land Sale Proceeds)
- A portion of the new ENA Deposit from Sunfield

#### *Costs Related to Site Investigation*

The source of funding for this contract comes from a fund to be determined (previously Fund 9553 – Unrestricted Land Sale Proceeds).

### 4. FISCAL IMPACT

#### *Costs Related to CEQA Environmental Review*

As a partner to this Project, the City entered into a contract with AECOM, Inc. to ensure completion of the CEQA review process in a timely manner. Consequently, the City advanced the costs of this contract, including a planning application fee and Public Works staff review fee.

If the ENA is approved and the Project moves forward, then, according to the ENA, any costs related to CEQA review of the Project that were paid for by the Agency, City, and Sunfield will be divided between the City and Sunfield. Costs will be determined based on the proportional share of gross building area occupied by the City garage in relation to the total gross building area of the Project. Reimbursement to the City of Sunfield's proportional share of such costs will take place in the form of a credit to the City that will be deducted from the cost of the City Garage payable by the City to Sunfield during construction of the City Garage.

If this ENA is not approved, the City will have to cover the remaining balance of the contract. If the ENA is approved, but the Project does not move forward, then the City will have to pay for the remaining balance of the contract less any portions of the ENA Deposit from the previous ENA and proposed ENA applied towards the cost of the contract.

#### *Costs Related to Site Investigation*

The City will be responsible for all costs in this contract. Information from this site investigation will be used for this Project or any other project in the future.



*Sales Proceeds*

The City plans to sell the 44,350 square-foot parcel at its fair market value. The City will use the sales proceeds and the \$6.4 million previously mentioned to purchase the 200 parking spaces. Part of the costs of these parking spaces will be repurchasing a proportional share of the land needed for the parking.

*Taxes*

The proposed Project would also generate sales, utility, gross receipts, property, and parking taxes. Staff will return with detailed tax revenue projections if approval of a DDA for the Project is presented to the City Council for consideration.

*Future Fiscal Impacts*

If Project negotiations culminate in the approval of a DDA and PSA by the City Council in the future, there will be a number of fiscal impacts on the City, which will be specified when staff returns to the City Council for approval of a DDA with Sunfield.

**FISCAL/POLICY ALIGNMENT**

The proposed ENA will provide opportunity to proceed with a Project that is in alignment with the City's priority of fostering sustainable economic growth and development for the benefit of Oakland residents and businesses.

- Develop comprehensive business attraction, retention and growth initiatives to attract green, biotech and other businesses that will result in more jobs for Oakland residents.
- Continue to develop retail space and other attractions that will draw visitors to the City of Oakland.

**SUSTAINABLE OPPORTUNITIES**

***Economic:*** The public parking will support existing and new commercial, retail and entertainment activities in Downtown Oakland. The retail space will provide opportunities for new businesses.

***Environmental:*** By developing in establishing areas, this Project reduces the pressure to construct on agricultural and other undeveloped land, and thereby contributes to the prevention of urban sprawl. The location of the Project in proximity to major public transportation nodes will likely encourage project retail customers to use BART and AC Transit. Staff will negotiate with the developer to incorporate as many "environmental sustainability" features into the design and construction of the project as are practical and financially feasible. The DDA will include specific requirements for these features.

**Social Equity:** If the Property is not sold at its fair market value or if the City opts to acquire a public parking component in the new garage, Sunfield must comply with the City's contracting programs, including the Small/Local Business Construction Program, the Small/Local Business Professional Services Program (L/SLBE) and the Local Employment Program for either the entire Project or only the public parking component of the Project. All of the workers performing construction work for the City funded Project component must be paid prevailing wages. The developer will also be subject to the Living Wage Ordinance.

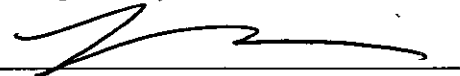
CEQA

The project is subject to the environmental review requirements of CEQA. A Supplemental Environmental Impact Report (SEIR) will be prepared that analyzes the potential environmental impacts of the project. A Notice of Preparation (NOP) of a Draft Supplemental EIR was published on October 18, 2011. The 30-day public comment period on the NOP ended on November 17, 2011. On November 16, 2011, staff conducted the scoping session for the Project to receive comments from the public and the Planning Commission concerning the scope of the forthcoming Draft SEIR. The following schedule has been adopted for certification of the SEIR for the Project.

Release of Draft SEIR	April 3, 2012
Public Comment Period (45 days)	April 3, 2012 to May 18, 2012
Landmarks Preservation Advisory Board Meeting on Draft SEIR	May 14, 2012
Public Hearing on Draft SEIR / Planning Entitlements	May 16, 2012
Certification of Final SEIR and Consideration of Planning Entitlements	August 15, 2012

For questions regarding this report, please contact Esther Tam, Urban Economic Analyst III, (510) 238-6169.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator

Reviewed by:  
Gregory D. Hunter, Neighborhood Investment Officer

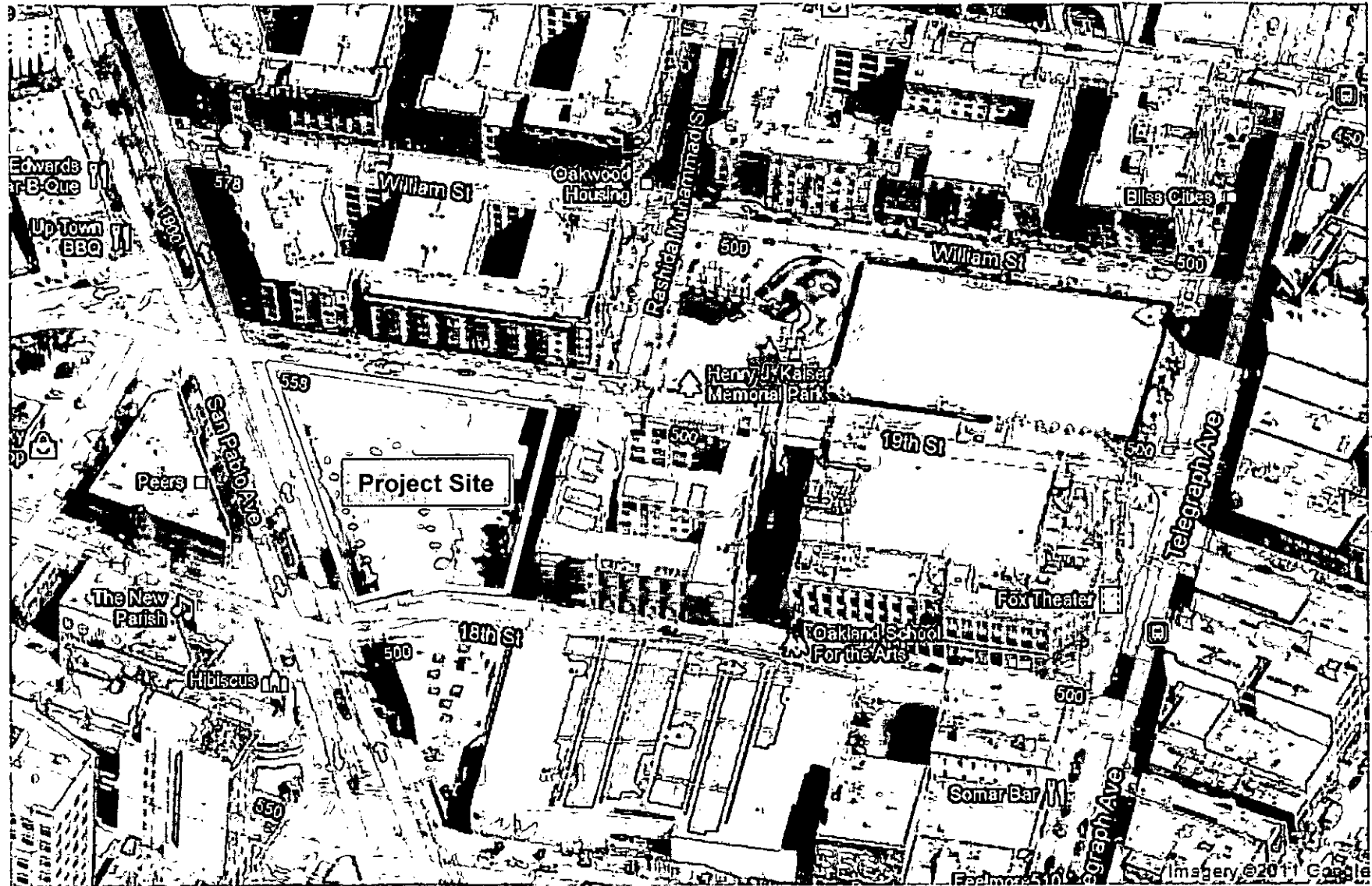
Prepared by:  
Jens, Hillmer, Urban Economic Coordinator  
Office of Neighborhood Investment

Esther Tam, Urban Economic Analyst II  
Office of Neighborhood Investment

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Attachment A: Project Site  
Attachment B: Exclusive Negotiating Agreement (ENA)

# Attachment A - Project Site



**EXCLUSIVE NEGOTIATING AGREEMENT**  
(1800 San Pablo Avenue)

This Exclusive Negotiating Agreement (the "Agreement" or "ENA"), is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Oakland, a municipal corporation (the "City") and Sunfield Development, LLC ("Developer"), a California limited liability company, pursuant to City Resolution No. \_\_\_\_\_ C.M.S., adopted on \_\_\_\_\_.

**RECITALS**

A. WHEREAS, the City owns a property in the Central District Redevelopment Project Area that is approximately 1.02 acres in size, located at 1800 San Pablo Avenue on the west side of the block bounded by San Pablo Avenue, Telegraph Avenue, 18<sup>th</sup> Street and 19<sup>th</sup> Street (the "Project Site" or the "Property"), as further described in Exhibit A, attached hereto and incorporated herein by reference.

B. WHEREAS, on June 20, 2010, when the Redevelopment Agency of the City of Oakland (the "Agency") owned the Property, the Agency and Developer entered into an Exclusive Negotiating Agreement (the "Original ENA") for a period of preliminary study and exclusive negotiations over the proposed development of a mixed-use project on the Property that included approximately 73,500 square feet of retail and recreational uses and a 301-space parking garage. The Developer had proposed granting the Agency an option to repurchase up to 200 new parking spaces in the garage at development cost upon project completion. The original ENA expired on October 20, 2011.

C. WHEREAS, pursuant to the Original ENA, the Agency provided to Developer all existing environmental, geological, engineering and other reports within the Agency's possession or control pertaining to the condition of the Property, and applied approximately \$25,000 of the Developer's Project Expense Payment ("PEP") funds towards the environmental review.

D. WHEREAS, the Agency completed the following activities, which were originally the responsibility of Developer, that Developer was not able to perform, including:

- i. Retain environmental and professional design consultants to prepare necessary environmental documentation required to conduct environmental review under the California Environmental Quality Act ("CEQA") for the proposed project described in the Original ENA (subject to Developer reimbursement pursuant to Section 2.4); and
- ii. Cause the issuance of a Notice of Preparation.

E. WHEREAS, the Agency furnished Developer all material information within its possession or control concerning the Property, including without limitation, copies of all

topographical surveys, environmental reports, engineering studies, soil-bearing test data, and any similar reports and studies with respect to the Property.

F. WHEREAS, the City and Developer now wish to enter into a new Exclusive Negotiating Agreement (the "ENA") to study a revised project proposal (the "Project") on the Property ("Project Site"), which includes up to 120,000 square feet of retail and recreational uses, and a below grade parking garage with approximately 200 parking spaces of which up to 200 spaces will be purchased by the City at development cost upon project completion (the "City Garage"), understanding that this does not constitute a binding commitment on the part of the City to any project or developer for the Property.

NOW THEREFORE, the City and Developer agree as follows:

## 1. NEGOTIATIONS

### 1.1. Length of Negotiation Period

Unless extended by mutual written agreement, the period for exclusive negotiations between the City and Developer under this Agreement shall commence on \_\_\_\_\_ (EFFECTIVE DATE OF RESOLUTION APPROVING THIS ENA, AS DETERMINED BY THE CITY ATTORNEY, WILL BE INSERTED HERE) and end on \_\_\_\_\_ (DATE NINE MONTHS AFTER COMMENCEMENT WILL BE INSERTED HERE) (the "Negotiation Period"); provided, however, that the Negotiation Period may be terminated earlier pursuant to the termination provisions of this Agreement. The City Administrator or his or her designee, at his or her sole and absolute discretion, may extend the Negotiation Period in writing for an additional period of up to three (3) months (the "Extended Negotiation Period"), provided that Developer has made acceptable progress and has, among other requirements as more particularly described below, provided evidence during the Negotiation Period that the Project is feasible within mutually agreed upon timeframes and terms.

### 1.2. Good Faith Negotiations

The City and Developer (collectively hereinafter referred to as the "Parties") shall negotiate diligently and in good faith during the Negotiation Period toward a Disposition and Development Agreement ("DDA") and a Purchase and Sales Agreement for the City Garage ("PSA"), or similar instruments. The Parties contemplate that the negotiations regarding the DDA and the PSA will commence after mutual execution of this Agreement, and will continue while Developer submits certain information to the City and the Parties undertake preliminary planning and analysis of the Project.

The Parties contemplate that the DDA will set forth the terms and conditions for the conveyance of the Property to Developer, the development of the Project on the Property Site by Developer, and subsequent uses of the Project Site by Developer and any successors-in-interest to the Project Site. The PSA will set forth the terms and conditions for the purchase of the City Garage by the City. The conceptual proposal for the Project prepared by Developer shall serve as the basis for such negotiations, with the

understanding that no commitment has been made by the City or Developer to the Project as set forth therein.

If the terms of a mutually satisfactory DDA and PSA (or similar instruments) have not been negotiated by Developer and City staff during the Negotiation Period or if the City Council declines to authorize execution of the DDA or PSA (or similar instruments) for any reason, then, without further action, this Agreement shall automatically terminate and no Party shall have further rights or obligations with respect to the other.

### 1.3. Exclusive Negotiations

The City shall not negotiate regarding development of the Property with any other person or entity during the Negotiation Period.

## 2. SCHEDULE OF PERFORMANCE

In connection with the Original ENA, Developer developed a project description suitable for environmental review purposes. However, Developer must update these submittals as necessary, or at the City's request to reflect the revised Project.

The Parties shall perform the following activities regarding the Project during the Negotiation Period and within the time periods set forth below ("Schedule of Performance"), as summarized in Exhibit B:

### 2.1. Project Team

Within 120 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City the following:

- a) An updated description of the specific financial structure and legal structure of the proposed development team in a form that reasonably satisfies the City that the Project is feasible. This shall include a written description of the specific and general roles, responsibilities, and obligations of Developer, Developer's members and partners, and any other entity participating in the legal entity established by Developer for purposes of developing the Project. Additionally, the written description of roles, responsibilities, and obligations shall identify the principals and other personnel, to the extent identified, from each participating party by name, title or position, and areas of responsibility within the development entity.
- b) Updated copies of balance sheets and income/loss statements to date, prepared in accordance with generally accepted accounting principles, and other financial documentation as reasonably requested by the City covering the last two years of Developer, Developer's members or partners, any entity entering into partnership agreements, operating agreements, joint venture agreements, or similar instruments with the Developer, and any other entity participating in the legal entity established by Developer for purposes of developing the Project.

- c) All documents related to Developer's corporate, LLC, or partnership status, and the status of its members or partners, including but not limited to partnership agreements, operating agreements, joint venture agreements, lists of members of boards of directors, articles of incorporation, by-laws, and proof of good legal standing.
- d) A detailed description, including references, of the Project development team's experience. The team shall cover at a minimum, the architect, the candidate structural engineers, and the marketing and real estate firm for the proposed undertaking.
- e) A written statement concerning any litigation in which Developer or Developer's partners or members are a party that may have an impact on the negotiations. Developer shall provide to the City copies of any litigation documents or filings in connection with such litigation within ten (10) calendar days of the City's written request

2.2. Market Research and Project Marketing

- a) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall contact key tenants and submit to the City Project-specific letters of intent for the retail components of the Project. Upon expiration of any previously submitted letters of intent, Developer shall provide evidence that such letters have been extended or replaced by a new letter of intent.

2.3. Project Design

- a) Within 60 calendar days of the commencement of the Negotiation Period, Developer shall hold at least one public meeting in the community in order to present its proposed development plan for the construction of the Project. Developer shall hold such additional community meetings as reasonably required by the City. The City shall assist Developer in facilitating community meetings.
- b) Within 45 calendar days of the commencement of the Negotiation Period, Developer shall submit the Schematic Design Plans for the Project. The term "Schematic Design Plans" means schematic drawings, exterior elevations, site plans, floor plans and a garage layout, schematic plans for street and sidewalk improvements, including the Pedestrian Walkway, and a sample materials board.
- c) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall submit a plan to incorporate public art along the Project elevation facing the Pedestrian Walkway, which shall include concepts and examples of public art, all possible locations for placement of the public art component, and a plan for maintenance of the public art.
- d) Within 180 calendar days of the commencement of the Negotiation Period, Developer shall submit a list of all public improvements, if any, presently anticipated or required for the Project. For purposes of this subparagraph, the



term “public improvements” shall be defined as any act that may be required to be performed as a mitigation measure under any environmental document for the Project or as a condition to the issuance of any governmental permit for the Project and any other improvement currently anticipated to be required to develop the Project.

2.4. Environmental Site Assessment, Environmental Review, Planning and Other Permits and Approvals

- a) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall identify all relevant zoning, design review, environmental review and code requirements for the Project and shall submit all necessary and applicable zoning permit applications and other land use permit applications for the Project.
- b) Within 240 calendar days of the commencement of the Negotiation Period, the City and Developer shall have completed CEQA environmental review for the Project, including filing of a Notice of Determination.
- c) Within 270 calendar days of the commencement of the Negotiation Period, Developer shall obtain all necessary zoning permits determined appropriate by the Planning Department.

The Developer shall attempt to ensure the timely processing of the environmental review and zoning permits. However, any such efforts are independent of the City’s jurisdiction and authority to issue any reviews or approvals including, without limitation, CEQA or zoning approvals. Nothing in this Section shall be interpreted to imply that the City is required to issue any approvals or permits for any improvements, or influence the City’s independent authority to issue CEQA and zoning approvals. Any costs related to CEQA environmental review of the proposed project under the Original ENA and the Project that were paid for by the Agency, City, and the Developer will be divided between the City and Developer based on the proportional share of gross building area occupied by the City Garage in relation to the total gross building area of the Project.

Reimbursement to the City of Developer’s proportional share of such costs will take place in the form of a credit in favor of the City that will be deducted from the cost of the City Garage payable by the City to the Developer during construction of the City Garage unless the developer pays their share of the expense for the SEIR to the City prior to start of the construction.

In October 2011, the Developer decided to explore a larger project option to include a housing component. The Developer later decided no longer to pursue this expansion. Any costs that results from this exploration, including the revision of the Notice of Preparation and revision of the Scope of Work for the required environmental documentation, is to be paid solely by the Developer. These costs will be part of the Project Expense Payment as set forth in Section 4.0.

## 2.5. City Garage

- a) Within 60 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City a detailed conceptual development costs estimate for the public parking garage. Said construction cost estimate shall be prepared by a firm experienced in providing architectural design, structural engineering and parking consulting services for parking facilities for private and public sector clients.
- b) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City a conceptual plan covering the operational and management structure for the parking garage as it relates to the retail tenants and the general public.
- c) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City a refined development costs for the public parking garage prepared by a firm experienced in providing architectural design, structural engineering and parking consulting services for parking facilities for private and public sector clients that shall be the basis for determining the purchase price of the public parking garage. These final cost projections shall include itemized costs for each construction component related to the City parking, including costs necessary to increase the load-bearing capacity of the garage structure to accommodate the retail component of the Project.
- d) Within 150 calendar days of the commencement of the Negotiation Period, Developer shall provide a list of the life safety and utility systems that will serve all Project components (the "Common Systems") and a preliminary estimate of the costs of operating, maintaining, repairing and replacing such elements. Developer shall provide a list of all structural elements serving the Project, and the preliminary costs of operating, maintaining, repairing and replacing such elements (the "Common Building Elements"). These preliminary cost estimates shall serve as the basis to allocate joint expenses for the operation, maintenance, repair and replacement of Common Systems and Common Building Elements.
- e) Within 150 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City a final plan covering the operational and management structure for the parking garage as it relates to the retail tenants and the general public.

## 2.6. Project Economics and Financing Plan

- a) Within 60 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City a detailed and itemized project pro forma that reflects the predevelopment, construction and lease-up schedule for the Project. The Pro forma shall include a development budget for each Project component, a statement describing the sources and uses of funds to finance each Project component, a 10-year cash flow analysis for each Project component, and an

annotated operating budget to a level of detail reasonably acceptable to the City. The Project development budget for the City Garage shall be based on a preliminary construction cost estimate and include any and all soft (or indirect) costs related to the development of the garage. The Pro Forma shall also include a preliminary estimate of all Common Area Maintenance Charges related to the Project and payable by the City and the owner(s) of the retail and residential component of the Project.

- b) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City the following:
  - (i) An updated and refined Project financing plan describing the sources and uses of funds and a cash flow analysis for the retail component of the Project to a level of detail reasonably acceptable to the City.
  - (ii) Letters of intent from lenders and equity partners, if any, expressing willingness to provide Project financing. Upon expiration of any submitted letters of intent, Developer shall provide evidence that the letters have been extended or replaced by a new letter of intent.

#### 2.7. Project Schedule

- a) Within 120 calendar days of the commencement of the Negotiation Period, Developer shall submit to the City a detailed development schedule for the construction and lease-up of all Project components.

#### 2.8. DDA and PSA

- a) Within 180 calendar days of the commencement of the Negotiation Period, the City shall prepare and submit to Developer a final appraisal report of the fair market value of the Property prepared by an appraiser selected by the City.
- b) Within 270 calendar days of the commencement of the Negotiation Period, the City and Developer shall endeavor to complete the negotiation of a DDA for the Project and the PSA for the City Garage for presentation to the City Council for consideration.

### 3. **CITY APPROVAL OF SUBMISSIONS**

Within 15 business days after the City receives any information or documents required to be submitted by Developer pursuant to Section 2 of this Agreement, the City shall inform Developer of its acceptance or rejection of the submission. The City may approve those portions of a submission that are satisfactory and reject those portions that are not, or may approve all or a portion of a submission subject to conditions requiring further submissions for City review and approval. If the City rejects all or any part of a submission, the City shall provide to Developer written notice of the reasons for such rejection within said 15-day period. Developer shall then have 15 business days to correct or supplement its submission to respond to the City's rejection. City shall consider in good faith approving Developer's

reasonable request for an extension of the 15-day response period for a submission based on factors not within Developer's control, provided, however, that any extension shall not otherwise negatively impact the Schedule of Performance or extend the Negotiation Period. Approvals on behalf of the City shall be granted by the City Administrator, or his or her staff designees.

City reserves the right at its sole and absolute discretion to request updates to any of the submissions required per the ENA or previously submitted per the Original ENA.

#### **4. PROJECT EXPENSE PAYMENT**

Developer shall make a payment of \$ 20,000 to the City (the "Project Expense Payment" or "PEP") within 10 calendar days of the date of this Agreement for purposes of reimbursing City for City staff costs and third party expenses as set out in the budget attached to this Agreement as Exhibit C. Payment of the PEP shall be in the form of a check, wired funds, or a letter of credit in favor of the City drawn by an institution satisfactory to the City. The PEP is non-refundable. In the event that this Agreement is terminated or the Parties fail to reach agreement for any reason, the PEP will not be returned to Developer by the City. Use of the PEP funds may be modified by the City from time to time so long as such amendments are reasonable and do not cause the budget to exceed the total amount of PEP authorized by this Agreement. Developer agrees that in the event Developer requests an extension of the Negotiation Period, Developer will consider in good faith a request by the City to increase the PEP to cover the City's staff costs and reasonable expenses that are otherwise eligible PEP expenses, if the initial PEP has been exhausted or the remaining PEP is insufficient to cover such expenses. At the request of the Developer, the City shall provide a report to Developer on expenditures from the PEP made by the City. The Developer shall give at least five (5) business days of advanced notice to the City for such a request.

#### **5. RIGHT OF ENTRY**

Developer and its agents, contractors and representatives shall have the right to enter upon the Property at any time during the Negotiation Period to conduct investigations, tests, topographical surveys, appraisals, and studies, including geotechnical studies, soils tests and environmental site assessments. Developer shall not alter the Property except as needed to conduct the testing and other activities thereon as authorized by this Agreement, and Developer agrees upon completion of any testing or other activity under this Agreement to remove all debris, litter, equipment, and other materials placed on the Property by Developer and its agents, and to restore the Property as much as reasonably possible to its original condition. The Developer shall give at least five (5) business days of advanced notice to the City prior to entering the Property and shall take steps to minimize any disruption to the operations of any existing lessee, licensee or other City-authorized user of the Property.

Developer shall indemnify, defend and hold the City and its officers, employees and agents, harmless from any and all claims, demands, damages, losses, actions, liabilities, causes of action or judgments, including reasonable attorney's fees, which the City may incur or be required to pay by reason of entry onto the Property and activities thereon by Developer or

Developer's agents, employees, contractors or consultants, including, without limitation, any damages, injury or death to any person or property suffered by any person, firm or corporation, except to the extent the same are attributable to the negligence or willful misconduct of the city or any person or entity acting on the City's behalf or under the City's authority. Notwithstanding any other provision of this Agreement, Developer shall have no liability to the City or any other party by reason of, nor shall Developer have any duty to indemnify, defend or hold any person harmless from or against, any claim, demand, damage, loss, action, liability, cause of action or judgment, including without limitation, any claim for diminution in value of the Property or for environment remediation or clean-up costs, arising out of or in connection with the mere fact of having discovered and/or reported any adverse physical condition, title condition or other condition or defect with respect to the Property. For the duration of this Agreement, Developer shall cause the City to be named as an additional insured on applicable commercial general liability insurance policies with coverage of at least one million dollars (\$1,000,000) and shall cause certificates or such insurance to be delivered to the City.

Notwithstanding any other provision in this Agreement, this right of entry shall not relieve Developer from the necessity of obtaining any applicable governmental approvals or permits that may be necessary to perform such tests or conduct other activities on the Property.

## **6. EFFECT OF NEGOTIATIONS**

Developer understands and acknowledges that any DDA and PSA resulting from the negotiations arising from this Agreement shall become effective only if and after such DDA and PSA have been considered and approved by the City Council in their sole and absolute discretion at a public hearing called for that purpose, and only if and after such DDA and PSA have been executed by the City Administrator. Developer understands that the City Council retains the sole and absolute discretion to approve or not approve the Project or any alternative project proposed by Developer. If the terms of a mutually satisfactory DDA and PSA have not been negotiated by Developer and City staff during the Negotiation Period, or if the City Council declines to authorize a DDA or PSA for any reason, then, without further action, this Agreement shall automatically terminate and no Party shall have further rights or obligations with respect to the other.

## **7. TERMINATION AND EXTENSIONS**

### **7.1. Time of the Essence**

Time is of the essence in this Agreement. Any Party's failure to timely perform according to the terms and conditions of this Agreement shall be considered a material breach of this Agreement.

### **7.2. Notice to Developer of Breach**

In the event that Developer fails to materially perform any of Developer's obligations pursuant to the terms and conditions of this Agreement within the time herein specified, the City shall promptly give Developer notice of such default. Developer shall have a

period of 15 business days from receipt of such written notice from the City to Developer within which to cure such default.

### 7.3. Remedies Upon Developer Default

If Developer fails to cure any material default during the cure period described above, this Agreement may be terminated upon written notice of termination from the City, and thereafter no Party shall have any further rights or obligations hereunder.

### 7.4. City Discretion to Extend Time for Performance

Notwithstanding the above, if the City determines that it is in the best interest of the City, the City may extend in writing the time for Developer's performance of any of the terms and conditions of this Agreement. Any such extension shall be granted in the City's sole and absolute discretion, and in no event shall this provision be construed as conveying any right or entitlement to an extension. Under no circumstances may an extension go beyond the Negotiation Period.

### 7.5. Default by City

If City has breached its obligations to negotiate in good faith or to negotiate exclusively with Developer, Developer may elect either to terminate this Agreement, or to seek specific performance of the exclusive negotiating and good faith obligations of this Agreement. Developer shall not be entitled to recover any damages of any kind or character from City.

### 7.6. Attorneys' Fees and Costs.

In the event of a default under this Agreement or in the event a dispute arises in a judicial or quasi-judicial proceeding concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its or their rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Agreement, reasonable fees of attorneys of the City Attorney's Office, shall be based on the fees the City Attorney pays its outside private attorneys who work on any such dispute. The provisions under this Section 6.5 shall survive the Term.

## 8. INDEMNIFICATION

Each of the Parties hereby covenants, on behalf of itself and its permitted successors and assigns, to indemnify, defend (with legal counsel reasonably satisfactory to the indemnified Party), save and hold harmless the other Party and their respective agents, officers, officials, employees and other representatives of the indemnified Party from all claims, demands, liabilities, actions or causes of actions, including without limitation, reasonable attorney's fees and litigation costs, arising out of or resulting from, or in connection with the negligence or willful misconduct of the indemnifying Party with respect to this Agreement, including,

but not limited to, the indemnifying Party's actions or lack of actions with respect to the Property, the negotiation and execution of this Agreement, or the negotiation and execution of a DDA or PSA for the Project.

#### **9. LIMITATIONS**

This Agreement does not obligate the City to transfer the Property to Developer or any other person, nor does it obligate the City to approve the Project or any other project. Developer acknowledges and agrees that no City commitment to move forward with the Project can be made other than by a resolution of the City Council after a public hearing and subject to the requirements of CEQA and other applicable laws, and understands that adoption of any such resolutions will be at the City's sole and absolute discretion. Any costs incurred by Developer, Developer's members or partners, or other members of the project development team to comply with its obligations under this Agreement or to negotiate the DDA or PSA shall be the sole responsibility of Developer, and in no event shall the City have any responsibility to pay for or reimburse Developer for any of said costs.

Developer understands and acknowledges that the City is subject to the City of Oakland Sunshine Ordinance and the California Public Records Act, and therefore recognizes that the City shall make information regarding the Property, the Project, Developer, and this Agreement available to the public upon request as required by said laws.

#### **10. CAMPAIGN CONTRIBUTION RESTRICTIONS**

Developer is aware of and shall abide by the prohibition on campaign contributions from contractors doing business with the City between commencement of contract negotiations and either (a) 180 days from completion of contract negotiations, or (b) termination of contract negotiations, as set forth in the Oakland Campaign Reform Act. Developer acknowledges that it has executed and submitted to the City a Contractor Acknowledgement of City of Oakland Campaign Contribution Limits.

#### **11. NON-DISCRIMINATION**

Developer agrees that there shall be no discrimination against, or segregation of, any person, or group of persons, on account of sex, race, color, age, marital status, religion, disability, creed, national origin, ancestry, sexual orientation, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-Related Conditions (ARCS) in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, buyers, lessees, subtenants, sublessees or vendees of the Property.

#### **12. NO ASSIGNMENT**

This Agreement is personal to Developer and is not assignable to any other person or entity without the prior written consent of the City, in its sole and absolute discretion. Any attempt to assign this Agreement or any part of the Agreement without the prior written consent of the City shall constitute a breach of this Agreement and shall be void and of no force and effect.

### 13. NOTICES

All notices under this Agreement shall be sufficiently given if delivered, faxed (but only if simultaneously served by another method herein specified), or mailed by registered or certified mail, postage prepaid, addressed to:

DEVELOPER: Sunfield Development, LLC  
562 14<sup>th</sup> Street,  
Oakland, CA 94612  
Att'n: Mr. Sid Afshar

CITY: City of Oakland  
Community and Economic Development Agency  
250 Frank H. Ogawa Plaza, Ste. 5313  
Oakland, CA 94612  
Att'n: [TO BE DETERMINED]

Copy to:  
Deputy City Attorney  
c/o Oakland City Attorney's Office  
One Frank H. Ogawa Plaza, 6<sup>th</sup> Floor  
Oakland, CA 94612  
Att'n: Dianne Millner

If mailed, the written notice shall be deemed received and shall be effective three (3) business days after deposit in the United States mail in the State of California or upon actual receipt by the addressee if earlier.

### 14. GOVERNING LAW

This Agreement shall be construed in accordance with the laws of the State of California, except for those provisions preempted by federal law.

### 15. COUNTERPARTS

This Agreement may be signed in multiple counterparts which, when signed by both Parties, shall constitute a binding agreement.



IN WITNESS WHEREOF, the Parties have executed this Exclusive Negotiating Agreement as of the date first written above.

**“CITY”**

**CITY OF OAKLAND,**  
a municipal corporation

By: \_\_\_\_\_  
City Administrator

Approved as to form and legality:

By: \_\_\_\_\_  
Deputy City Attorney

**“DEVELOPER”**

**SUNFIELD DEVELOPMENT, LLC,**  
a California limited liability company

By: \_\_\_\_\_  
Siavash Sid Afshar

Its: Managing Member

**EXHIBIT A  
(1800 San Pablo ENA)**

**Project Site**

*(attached)*

**EXHIBIT B**  
**(1800 San Pablo ENA)**

**Schedule of Performance**

*(attached)*

**EXHIBIT C**  
**(1800 San Pablo ENA)**

**Project Expense Payment Budget**

<b>Expense Items</b>	<b>Estimated Cost</b>
<b>Consultants</b>	
Verification of Developer's Estimate of Garage Costs	\$10,000.00
Costs to Revise the NOP and revise Scope of work	\$3,000.00
Appraisal for DDA	\$4,500.00
Environmental Review	\$2,500.00
<hr/>	
<b>Total</b>	<b>\$20,000.00</b>

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 FEB 16 PM 5:42

APPROVED AS TO FORM AND LEGALITY:

BY: D. Miller  
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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A City Resolution Authorizing an Exclusive Negotiating Agreement With Sunfield Development, LLC or a Related Entity to Develop a Mixed-Use Project on a City-owned Property Located at 1800 San Pablo Avenue (APN: 008-0642-018)

**WHEREAS**, on July 20, 2010, pursuant to Resolution No. 2010-92 C.M.S., the Redevelopment Agency of the City of Oakland ("Agency") entered into an Exclusive Negotiation Agreement (ENA) with Sunfield Development, LLC (Sunfield) for an initial term of 12 months for purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for the development of a mixed-use project including retail and public parking (the "Project") on the property located at 1800 San Pablo Avenue on the west side of the block bounded by San Pablo Avenue, Telegraph Avenue, 18<sup>th</sup> and 19<sup>th</sup> Street (the "Property"); and

**WHEREAS**, on August 1, 2011, per the terms of the ENA, the original 12-month negotiation period was extended administratively by three months until October 20, 2011; and

**WHEREAS**, during the 15-month negotiating period, the Agency and Sunfield have made significant progress with regard to evaluating the feasibility of the proposed Project; securing letters of intent from potential Project tenants, and initiating required Project review pursuant to the California Environmental Quality Act (CEQA) of 1970; and

**WHEREAS**, On January 31, 2012, the City of Oakland ("City") acquired the Property from the Agency; and

**WHEREAS**, the City desires to commence negotiations with Sunfield and provide the developer with sufficient time to complete and certify a Supplemental EIR required pursuant to CEQA and to complete negotiations of the terms and conditions for the development of the Project; now, therefore, be it

**RESOLVED:** That the City Administrator is hereby authorized to negotiate and enter into an ENA with Sunfield for purposes of completing and certifying the EIR and completing negotiations of the terms and conditions for the development of the Project; and be it further

**RESOLVED:** That the exclusive negotiating period will be for 9 months from the date of this Resolution, with the option to extend said negotiation period by an additional three months with the approval of the City Administrator in her sole and absolute discretion; and be it further

**RESOLVED:** That a \$20,000 nonrefundable good faith deposit from Sunfield will be appropriated to a fund and project to be determined for expenditures related to the Project; and be it further

**RESOLVED:** That if services are rendered and paid through the as-needed economic consulting contract (as approved by Agency Resolution No. 2010-0085 C.M.S.), then certain funds from the good faith deposit can be transferred into a fund to be determined to reimburse the account from which invoices for such services are paid, and be it further

**RESOLVED:** That the City finds and determines, after independent review and consideration, that this action complies with the California Environmental Quality Act ("CEQA") because this action on the part of the City is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection), and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it further

**RESOLVED:** That the ENA shall be reviewed and approved as to form and legality by City Attorney prior to execution; and be it further

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

**FURTHER RESOLVED:** That the City Administrator or her designee is further authorized to take whatever action is necessary with respect to the ENA and the Project consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2012

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,  
SCHAAF AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council,  
City of Oakland