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OAKLAND

CITY OF OAKLAND 2019 JUL 11 PM 3:46

AGENDA REPORT

TO: Sabrina B. Landreth
Successor Agency Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: 2016 Telegraph Avenue – Consent to
Assignment of DDA

DATE: July 5, 2019

Successor Agency Administrator Approval

Date: 7/10/19

RECOMMENDATION

Staff Recommends That The Oakland Redevelopment Successor Agency (“ORSA”) Approve A Successor Agency Resolution Authorizing The Agency Administrator Or Designee To Execute A Consent To (A) The Assignment By W/L Broadway Telegraph Owner VII, LLC To 2016 Telegraph Owner LLC, Or A Related Entity, Of the Assignor’s Interest In The Disposition And Development Agreement For Development Of Property Located At 2000-2016 Telegraph Avenue And 490 Thomas L. Berkeley Way, and (B) The Transfer Of All Of The Ownership Interest In 2016 Telegraph Owner LLC, Or A Related Entity, to Keller Holland Telegraph Investors, LLC, Or A Related Entity; That No Further CEQA Analysis is Needed Based Upon Reliance on the 2004 Uptown Mixed-Use Project Environmental Impact Report (EIR) And Addendum.

EXECUTIVE SUMMARY

The Oakland Redevelopment Successor Agency (“ORSA”) has a Disposition and Development Agreement (“DDA”) with W/L Broadway Telegraph Owner VII, LLC (“BTO”). The DDA outlines certain terms under which BTO can obtain fee title and develop ORSA-owned property located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkley Way (the “Property”).

BTO wishes to assign its rights under the DDA and is requesting that ORSA consent to a transfer of the DDA to a new limited liability corporation, 2016 Telegraph Owner LLC (“Telegraph Owner”), or an affiliate. Keller Holland Telegraph Investors, LLC (“KHTI”), a joint venture between affiliates of the Holland Partner Group (“HPG”) and entities controlled by Dick Keller (“Keller”) will acquire Telegraph Owner and develop an 18-story mixed-use residential tower, including 230 apartments, 4,600 square feet of retail, and 78 parking spaces (the “Project”) on the Property. Affiliates of HPG will take the lead in all aspects of Project development and operation and Keller will provide equity capital, while it is anticipated that PNC Bank will provide debt capital.

Staff has determined that HPG and its affiliates have the requisite development experience and financial resources to complete the proposed Project per the terms of the DDA. Staff therefore recommends that ORSA consent to the assignment of the DDA from BTO to Telegraph Owner, and to the subsequent transfer of ownership of Telegraph Owner to KHTI, or a related entity.

Item: _____
City Council
July 16, 2019

BACKGROUND / LEGISLATIVE HISTORY

On October 3, 2017, ORSA, pursuant to Resolution No. 2017-007 C.M.S., authorized an amendment to a Lease Disposition and Development Agreement (“LDDA”) between ORSA and BTO that, among other things, changed the agreement to a DDA to reflect that the Property would be sold and not ground leased with a purchase option.

On December 11, 2018, ORSA, pursuant to Resolution No. 2018-015 C.M.S., authorized an amendment to the DDA consenting to the assignment of BTO’s interest in the DDA to a joint venture between HPG and North America Sekisui House, LLC (“NASH”). However, before the transfer could be executed, HPG informed ORSA that it was seeking a different equity partner and lender.

The Property is listed on ORSA’s Long-Range Property Management Plan as property to be held to satisfy an existing contractual obligation, namely the DDA with BTO.

ANALYSIS AND POLICY ALTERNATIVES

Assignment of the DDA to Telegraph Owner

BTO has requested that ORSA consent to the assignment of the DDA to Telegraph Owner and to the subsequent transfer of all ownership interest in Telegraph Owner, or a related entity, to KHTI, or a related entity.

The terms of the DDA restrict BTO from transferring the DDA to an unrelated third party without express consent and authorization by ORSA. DDA Section 11.3 limits ORSA’s basis for approving a transfer to whether such transfer is being made to an entity or individual that has the expertise and financial capability to develop the Property.

BTO will form a new, wholly-owned subsidiary, Telegraph Owner, a limited liability corporation, and following ORSA’s approval, assign BTO’s rights under the DDA to Telegraph Owner. KHTI, or a related entity, the joint venture between affiliates of HPG and Keller, will acquire Telegraph Owner, after which KHTI, or a related entity, will be the sole member of Telegraph Owner.

Keller is an individual who has financed nearly a dozen apartment projects with HPG, including as an investor in the HPG project currently under construction at 24th Street and Harrison in Oakland. KHTI anticipates obtaining a construction loan from PNC Bank, National Association. HPG’s affiliates, Holland Development, LLC, Holland Construction Management, LLC, Holland Construction, Inc. and Holland Residential (California), Inc., will provide development, construction and property management services to Telegraph Owner. Since Keller and its affiliates will provide equity capital and PNC Bank will provide debt capital for the Project, the following analysis will focus on HPG and its affiliates’ residential development experience and financial capacity.

Developer Experience

HPG was founded in 2001 and is based in Vancouver, Washington. HPG is an established developer of multi-story and multi-family residential properties in the Western United States. HPG consists of five vertically integrated operating companies, including development, construction, acquisition, redevelopment and property management. HPG and its affiliates have completed 39 projects (10,543 units) in Washington, Oregon, California, Arizona and Colorado and have 29 projects (9,037 units) in predevelopment or under construction. In Oakland, HPG and its affiliates are implementing the development of three residential projects:

Address	Floors	Number of Units	Parking Spaces	Retail	Office	Status
1721 Webster Street	24	247	250	1,700 sf	5,000 sf	Under Construction, Expected Completion Feb 2020
24 th & Harrison Street	18	419	443	60,000 sf	-	Under Construction, Expected Completion May 2021
226 13 th Street	7	261	200	14,000 sf	-	Under Construction, Expected Completion Feb 2020

Staff had reviewed HPG’s finances in spring of 2018, though as HPG has since formed a joint venture with another equity partner, a second financial review was necessary. Based on the most recent review of HPG’s portfolio and current development activities, staff has again determined that HPG is well-qualified to undertake the development of the Project.

Financial Capacity

Holland Partner Group, Investments, LLC (“HPGI”) is the investment entity of Holland’s organizational platform. HPGL’s assets under management total multiple billion dollars and include garden-style, mid-rise and high-rise buildings in major metropolitan markets in Colorado, California, Oregon and Washington State. HPGL will provide equity and the Completion Guaranty for the Project.

Staff enlisted Century Urban, a real estate investment, advisory and project management company, to review HPGL’s financial statements. HPGL has stated that it will finance approximately 55 percent of the Project’s cost with debt to be provided by PNC Bank. HPGL also anticipates that its equity partner, Keller, will provide a substantial amount of equity and the permanent financing required for the project. HPGL will therefore only be responsible for a small percentage of the equity necessary to complete the Project.

This approach to financing is consistent with a typical joint venture equity arrangement and with HPGL’s real estate activities to date. HPGL has worked with several of the top national lending and equity platforms, most considered “institutional”, such as UBS, Blackstone and Pacific Life. These financial partners have funded debt and equity on many of HPG’s developments in the

multi-hundred million-dollar range, and several projects substantially larger than the proposed development at 2016 Telegraph Avenue.

As of June 30, 2019, HPGL has funded KHTI with its entire equity portion, in order to meet deadlines for equity contributions related to the federal Opportunity Zone tax program.

Century Urban concluded that HPGL's self-reported net worth, which is reflected on a Statement of Net Worth and Liquidity as "Collateral value available to support guarantee obligations" as of December 31, 2018, meets the net worth requirement set by the DDA to provide the Guaranty.

Century Urban also found that because of HPGL's large number of equity and debt partners and its proven experience financing and completing projects at the scale of the proposed Project, HPGL should be able to finance and complete the Project pursuant to the terms of the DDA under current economic conditions. HPGL's contemplated joint venture partner, Keller, has worked with or is working with HPG both as an equity partner and co-general partner on at least eight multi-family development projects, five of which have been completed, indicating a strong relationship between the two groups. Some of these projects are substantially larger than this Project, which would represent only a small part of HPGL's development project portfolio and would not require HPGL to take on an investment or project at a size or scope that is new to the company.

FISCAL IMPACT

The actions currently under consideration by ORSA concerning the assignment of the DDA from BTO to Telegraph Owner will not result in any direct fiscal impacts to the City of Oakland or ORSA, although the Project will generate significant tax revenues to the City and other taxing entities.

PUBLIC OUTREACH

No public outreach or coordination is required for this legislation other than the posting of the staff report on the City's website.

COORDINATION

Staff consulted with the Office of the City Attorney and the Budget Bureau during the preparation of this report.

SUSTAINABLE OPPORTUNITIES

Economic: Development of the Project will bring an underutilized site in the heart of the Uptown district back to economically viable use. The development of the Property into a mixed-use residential tower will lead to the creation of construction jobs and jobs for the operation of the Project.

Environmental: Telegraph Owner will comply with the City's Green Building Ordinance and is seeking a Leadership in Energy and Environmental Design ("LEED") Silver certification for the Project.

Social Equity: Telegraph Owner will remit a housing impact fee of \$2.645 million, which will be used for the development of affordable housing in Oakland.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On July 20, 2004, the Oakland City Council adopted Resolution No. 78728 C.M.S., which adopted the Uptown Mixed Use Project Environmental Impact Report ("EIR"). The 2004 Uptown EIR directly applies to the Project, which was supplemented with an Addendum, entitled "2016 Telegraph Avenue Project CEQA Analysis," dated June 2017 ("Addendum").

Pursuant to Public Resources Code section 21166 (CEQA Guidelines §15162-15164), the Addendum determined that no changes have occurred in the circumstances under which the proposed Project would be implemented, and that no new information has emerged that would materially change the analyses or conclusions set forth in the 2004 Uptown EIR, and that the proposed Project would not result in any new significant environmental impacts, result in any substantial increases in the significance of previously identified effects, or necessitate implementation of additional or considerably different mitigation measures than those identified in the 2004 Uptown EIR, nor render any mitigation measures or alternatives found not to be feasible, feasible, and therefore that no Subsequent or Supplemental EIR or additional environmental analysis of the Project beyond that contained in the 2004 Uptown EIR and Addendum is necessary.

This action is for an assignment of the development rights which will enable the Project to occur. No changes to the Project studied by the Addendum or the 2004 Uptown EIR are being approved. As such, no new CEQA analysis is required.

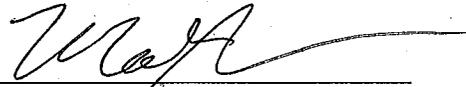
ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that ORSA adopt legislation authorizing its consent to (A) the assignment by W/L Broadway Telegraph Owner VII, LLC to 2016 Telegraph Owner LLC, or a related entity, of the assignor's interest in the DDA for development of property located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way, and (B) the transfer of all of the ownership interest in 2016 Telegraph Owner LLC, or a related entity, to KHTI, or a related entity.

Item: _____
City Council
July 16, 2019

For questions regarding this report, please contact Jens Hillmer, Office of Economic and Workforce Development at (510) 238-3317.

Respectfully submitted,



Mark Sawicki
Director, Office of Economic &
Workforce Development

Reviewed by:
Jens Hillmer, Development Area Manager
Public/Private Development

Prepared by:
Eric Simundza, Urban Economic Analyst II,
Public/Private Development Division

FILED
OFFICE OF THE CITY CLERK
OAKLAND
APPROVED AS TO FORM AND LEGALITY:
BY: 
2019 JUL 11 PM 3:47
ORSA COUNSEL

OAKLAND REDEVELOPMENT SUCCESSOR AGENCY

Resolution No. 2019-_____

A Successor Agency Resolution Authorizing The Agency Administrator Or Designee To Execute A Consent To (A) The Assignment By W/L Broadway Telegraph Owner VII, LLC To 2016 Telegraph Owner LLC, Or A Related Entity, Of the Assignor's Interest In The Disposition And Development Agreement For Development Of Property Located At 2000-2016 Telegraph Avenue And 490 Thomas L. Berkeley Way, and (B) The Transfer Of All Of The Ownership Interest In 2016 Telegraph Owner LLC, Or A Related Entity, to Keller Holland Telegraph Investors, LLC, Or A Related Entity; That No Further CEQA Analysis is Needed Based Upon Reliance on the 2004 Uptown Mixed-Use Project Environmental Impact Report (EIR) And Addendum

WHEREAS, the Oakland Redevelopment Successor Agency ("ORSA") has a Disposition and Development Agreement (the "DDA") with W/L Broadway Telegraph Owner VII, LLC ("BTO"); and

WHEREAS, ORSA has listed the DDA, including a contingent payment of \$1.55 million from ORSA to BTO, as an enforceable obligation on its Recognized Obligation Payment Schedule ("ROPS"), and is obligated to pay Telegraph Owner, BTO's successor in interest under the DDA, \$1.55 million if the developer does not develop the Property, whether the developer is in default or not; and

WHEREAS, BTO wishes to assign its rights under the DDA and is requesting that ORSA consent to the assignment of its interest in the DDA to a wholly owned subsidiary, 2016 Telegraph Owner LLC ("Telegraph Owner"), or an affiliate, which will be owned by Keller Holland Telegraph Investors, LLC, or an affiliated entity, a joint venture between affiliates of the Holland Partner Group ("HPG") and entities controlled by Dick Keller ("Keller"); and

WHEREAS, Telegraph Owner plans to develop an 18-story mixed-use residential tower, including 230 apartments, 4,600 square feet of retail, and 78 parking spaces (the "Project") on the Property; and

WHEREAS, Telegraph Owner and its members and affiliates represent a qualified residential development company that has the financial capacity and experience to develop the Project in accordance with the terms of the DDA; and

WHEREAS, ORSA desires to approve the transfer of the ownership interest in the DDA from BTO to Telegraph Owner, and the subsequent transfer of the ownership of Telegraph Owner to Keller Holland Telegraph Investors, LLC, or an affiliated entity or related party; and

WHEREAS, the City, as the Lead Agency for this Project, conducted a detailed evaluation entitled "2016 Telegraph Avenue Project CEQA Analysis", dated June 2017 ("Addendum") of the proposed Project, which concluded the Project qualifies for an addendum, as well as exemptions from additional environmental review, in accordance with Public Resources Code Sections 21083.3, 21094.5, 21090 and 21166; and CEQA Guidelines Sections 15162 -15164, 15168, 15180, 15183, and 15183.3; and

WHEREAS, ORSA is a Responsible Agency for the Project for purposes of environmental review under CEQA; and

WHEREAS, ORSA has independently reviewed and considered the environmental effects of the Project as shown in the 2016 CEQA Analysis and other information in the record; now, therefore, be it

RESOLVED: That ORSA hereby finds and determines (1) there are no substantial changes proposed in the Project or the circumstances under which the Project is undertaken that would require revisions of the EIR or the Addendum due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3), and that these findings and determinations reflect the independent judgment and analysis of ORSA; and be it

FURTHER RESOLVED: That the Successor Agency Administrator or her/his designee is hereby authorized to consent to (A) the assignment by BTO of its interest in the DDA for development of the Property to 2016 Telegraph Owner LLC, or a related entity, and (B) the transfer of all of the ownership interest in 2016 Telegraph Owner LLC, or a related entity, to Keller Holland Telegraph Investors, LLC, or a related entity; and be it

FURTHER RESOLVED: That the consent to the assignment of the DDA and all documents necessary to carry out this Resolution as authorized hereunder shall be approved as to form and legality by ORSA Counsel and filed with the ORSA Secretary.

IN SUCCESSOR AGENCY, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
Secretary, Oakland Redevelopment Successor
Agency