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OAKLAND

2013 FEB 27 PM 4:42

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Scott Miller

SUBJECT: Informational Report on the status of the
Oak to 9th Development Project

DATE: February 20, 2013

City Administrator
Approval

Date

2/25/13

COUNCIL DISTRICT: #2

RECOMMENDATION

Staff recommends that the Council receive an information and progress report on the Oak-to-9th Avenue development project.

OUTCOME

No direct outcome or actions are requested in this informational report. Previous Oak to 9th project approvals, including the Development Agreement, continue to be reviewed in the context of dissolution of the Redevelopment Agency, as explained below. Outcomes from those reviews may result in future actions being requested of the Council.

BACKGROUND/LEGISLATIVE HISTORY

This informational report was scheduled by the Rules Committee, as it has been several years since the project was approved, and the potential impacts which the dissolution of the Oakland Redevelopment Agency could have on the Oak-to-9th project should be discussed with the Council.

The Oak to 9th Development is a large project planned for Oakland's waterfront extending along Embarcadero Road from near Oak Street and the Lake Merritt Channel to the 9th Avenue former bulk cargo terminal (at 10th Avenue). The project area is approximately 64 acres, and the approved master plan includes up to 3100 residential dwelling units, approximately 200,000 square feet of commercial space, approximately 30 acres of parks and public open space, a minimum of 3,950 parking spaces, two renovated marinas, shoreline improvements, new roads, improvements to the Embarcadero adjacent to the project site, and other necessary infrastructure and improvements. The existing building on the project site will be demolished except for a

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portion of the 9th Avenue terminal building and the Jack London Aquatic Center. The trees currently on the property will also be removed. The project site does not include approximately six acres of private-owned property along and east of 5th Avenue that contain a mix of commercial and industrial uses, as well as a small community of work/live facilities. Included with this report as *Attachment A* is the project master plan.

The project approval included General Plan amendments, Redevelopment Plan amendments, a new zoning district to accommodate the project and amendments to the official zoning map, as well as approval of a Development Agreement and a Preliminary Development Plan and Design Guidelines. The Environmental Impact Report (EIR) was certified by the Planning Commission on March 15, 2006, and this certification was affirmed by the City Council on June 20, 2006. Additional City Council and Oakland Redevelopment Agency approvals were passed on July 18, 2006. Subsequent to 2 separate lawsuits filed in Alameda County Superior Court (Oakland Heritage Alliance [GHA] and Coalition of Advocates for Lake Merritt [CALM]), the City revised the EIR, re-circulated it, and the revised EIR was recertified on January 20, 2009. A lawsuit regarding this EIR certification was filed by OHA in February 2009, which was subsequently dismissed. There is no active litigation regarding the project at this time.

Because of the relationship of the Port of Oakland (the original owner of the property), the proximity to the Estuary and the State Tidelands Trust line, as well as contamination caused by former uses on certain parts of the property, approval was also required (and has been granted in varying degrees and for various aspects of the project) from the Port of Oakland, Bay Conservation and Development Commission, State Lands Commission, California Department of Toxic Substance Control, Regional Water Quality Control Board, and the Army Corps of Engineers

ANALYSIS

The Development Agreement (DA) that was entered into in August 2006 with Oakland Harbor Partners (OHP) and all entitlements remain in full effect. The DA includes provisions for the development of affordable housing on the project site. This obligation was intended to be satisfied through a Redevelopment Agency purchase of two parcels, Parcels F and G, from OHP at a discount for the provision of affordable housing. OHP was obligated to remediate contamination on the affordable housing parcels at its expense as necessary to get closure from the regulatory agencies, as well as improve the parcels as needed to render them finished parcels. The Agency was required to purchase the parcels when OHP completes the site improvements and remediation, although the Agency was given the option to purchase them earlier, with a further discount, with OHP continuing to be obligated to install the site improvements and remediate the site.

The Agency was further committed to support the construction of affordable units (between 420 and 465 dwelling units depending on the total residential units built) on the purchased parcels

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under a Cooperation Agreement with a community coalition entered into contemporaneous to the DA. OHP has an obligation under the DA to contribute \$2 million toward the construction of the affordable housing.

Since the dissolution of the Redevelopment Agency, the City Council adopted Resolution No. 83680 C.M.S., effectively transferring the housing obligations for this (and other) projects to the City of Oakland as housing successor. Thus, the requirement to purchase Parcels F and G for affordable housing is now with the City, although it will be funded from affordable housing funds now held by the Oakland Redevelopment Successor Agency (ORSA). This obligation has been listed on ORSA's Recognized Obligation Payment Schedules (ROPS). On ROPS IV governing July through December of 2013, \$23.6 million of housing bond proceeds has been allocated for the land purchase.

Since the actual construction of the vertical development likely won't occur for a few years out, the California Department of Finance would not allow ORSA to retain housing funds for the construction, and instead indicated that ORSA would need to request RPTTF (property tax) funds on a later ROPS at the point when construction of the affordable units would begin.

As previously mentioned, the project includes approximately 30 acres of public parks and open space. The DA requires that the open space be deeded to the City, with remediation of any contamination the obligation of OHP. The DA also calls for formation of a Community Services District (CSD) to operate and maintain public open space on the project site. The CSD would also be responsible for maintenance of street lighting, public right-of-way landscaping, storm water infrastructure, sidewalks within and adjacent to the project site, as well as other improvements.

Discussions are ongoing with OHP regarding potential changes to be proposed to the DA in light of the dissolution of the Redevelopment Agency. Any substantive changes to the DA pursuant to Article XI of the agreement will require review and approval by the City Council.

PUBLIC OUTREACH/INTEREST

As this is an Information Report, no outreach beyond the standard agenda posting has been done.

COORDINATION

This Informational Report was completed with assistance from the Housing and Community Development Department and the City Attorney's Office.

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COST SUMMARY/IMPLICATIONS

The project, as a whole, will result in a net fiscal benefit to the City in the form of increased property taxes, utility user taxes, property transfer taxes, etc., as compared to the costs of providing services to the project. Any changes to the DA will require review and approval by the City Council.

SUSTAINABLE OPPORTUNITIES

Economic: The Oak to 9th project will provide considerable economic benefit to the City through construction jobs, increased property taxes and transfer taxes, additional housing and employment opportunities, and increased access to the City's waterfront.

Environmental: The Oak to 9th project will facilitate cleanup of toxic locations and provide increased areas for recreation along the City's waterfront.

Social Equity: The Oak to 9th project will provide at least 15% of the housing as affordable to very low, low, and moderate income households. In addition, the DA provides requirements for small local business utilization, local hiring and job training, prevailing wages, and equal benefits.

CEQA

This Informational Report is not a project under CEQA. As reported above, an EIR was certified and re-certified for the Oak to 9th project.

For questions regarding this report, please contact Scott Miller, Interim Planning Director, at 238-2235.

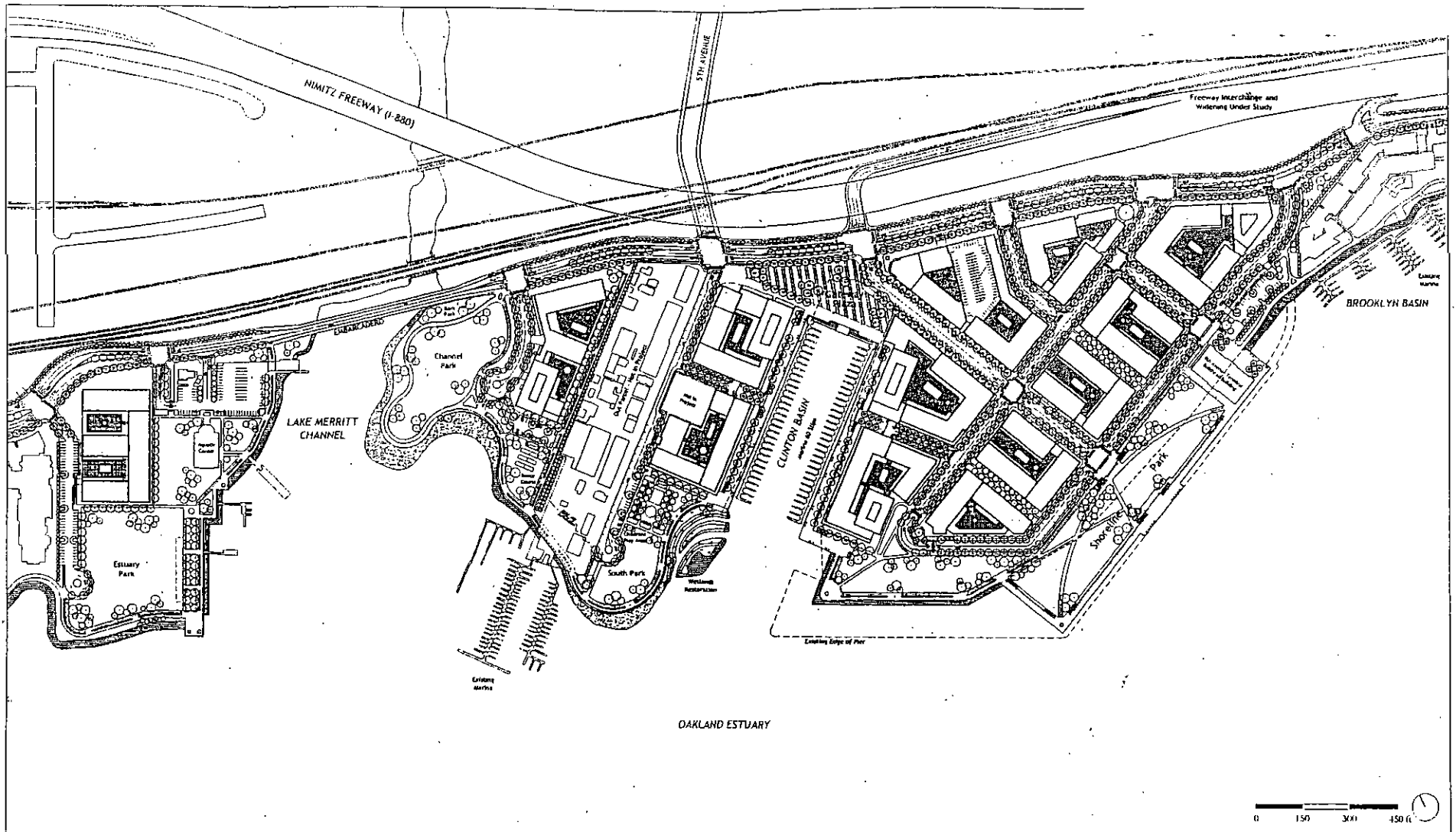
Respectfully submitted,



Scott Miller, Interim Planning Director
Department of Planning and Building

Attachment A: Project Master Plan

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ILLUSTRATIVE DEVELOPMENT PLAN

Brooklyn Basin - Oak to 9th Development Plan

Prepared for Oakland Harbor Partners by ROMA Design Group in association with MVE Architects, Moffatt & Nichol and BKF Engineers

FEBRUARY 2006