

**REDEVELOPMENT AGENCY
AND THE CITY OF OAKLAND**
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 MAY 15 PM 6:44

TO: Office of the City/Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: May 27, 2008

RE: **City and Agency Resolutions Authorizing an Exclusive Negotiating Agreement with Avant Housing, LLC, and the Hahn Family to Redevelop Portions of the Block Bounded by Telegraph Avenue, Broadway, 22nd Street, and 21st Street**

SUMMARY

Staff of the Community and Economic Development Agency is recommending that the City Council and the Redevelopment Agency approve resolutions authorizing a seven-months exclusive negotiating agreement (“ENA”) between the Redevelopment Agency, the City, Avant Housing, LLC (“Avant”), and Alex Hahn, Jae Hahn, Sang Hahn and Haitan Hahn (together, the “Hahns”) to develop a mixed-use project including housing, a hotel, retail space and public parking (the “Project”) on the west side of the block bounded by Telegraph Avenue, Broadway, 22nd Street, and 21st Street (the “Project Site”, see Attachment A). Avant is a joint venture between AGI Capital Group and TMG Partners.

The contemplated transaction would involve the sale of two City-owned parcels, the Telegraph Parking Plaza garage (“Telegraph Plaza”) and an approximately 3,065 square-foot triangular portion of a right-of-way on 22nd Street, by the City to Avant, and the repurchase of a new 670-space public parking garage by the City or Agency at Project completion.

The resolutions also authorize the City/Agency Administrator to extend the ENA for up to nine additional months if Avant is diligently pursuing the project and has satisfied certain milestone requirements. The developer would use the additional time to complete the entitlement process, comply with the California Environmental Quality Act (“CEQA”) and negotiate a disposition and development agreement (“DDA”) for the Project with the Agency and/or City.

FISCAL IMPACT

There is no fiscal impact to the Agency or City associated with the proposed ENA. However, if the Project feasibility studies and negotiations culminate in the approval of a DDA by the Council in the future, there will be a number of fiscal impacts on the City and Agency.

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Garage Costs

The Agency has allocated \$32 million for parking development in the Central District Capital Budget for Fiscal Years 2007-09. The purchase of the proposed public parking garage by the Agency would be financed with a portion of these funds. Currently the new garage is projected to cost approximately \$26 million. Final costs would be negotiated during the ENA period.

The Project proposal requires the demolition of Telegraph Plaza, which will result in lost revenues for the City as the existing garage would be no longer in operation. The Agency will reimburse the City for all lost parking revenue while the new garage is under construction for an 18 to 24 months period. The exact amount to be reimbursed can only be determined once the Agency and Avant have agreed on the Project development schedule. Staff will return with the reimbursement amount if approval of a DDA is presented to the Council for consideration.

Sales Proceeds

As part of the transaction, the developer has to purchase portions of the City-owned land that constitutes the Project Site to position the other Project components. The basic terms of the land sale would be (1) for the City/Agency to sell a 20,225 square-foot portion of the land underlying Telegraph Plaza for \$129 per square foot per the terms of an eminent domain settlement agreement between the Agency and the Hahns, and (2) for the City/Agency to sell the remaining portion of Telegraph Plaza, not occupied by the new garage (currently estimated at approximately 22,000 square feet), as well as the vacated portion of 22nd Street to Avant at their appraised fair market value. Exact area measurements of the City land to be sold for this purpose will not be available until the developer has completed the schematic design for the Project.

Taxes

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

BACKGROUND

The Hahns own a 21,000 square-foot parcel at 2150 Telegraph Avenue which is occupied by a "Giant Burger" restaurant (the "Hahn Family Parcel"). The City owns a 3,064 square-foot triangular right-of-way portion on the corner of Telegraph Avenue and 22nd Street, and an approximately 74,000 square-foot parcel at 2100 Telegraph Avenue that is occupied by Telegraph Plaza, a 351-space public parking garage. The Hahn Family Parcel, the triangular right-of-way portion and Telegraph Plaza are identified on Attachment A.

The Hahns also owned a 20,225 square-foot surface parking lot covering two properties located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way; the Agency acquired these

properties pursuant to an eminent domain action in furtherance of the Uptown project. When Council approved the Resolution of Necessity in November of 2004 to initiate condemnation of the Hahns' properties, Council also directed staff to work with the Hahns to develop the Hahn Family Parcel as part of a larger development effort on the Project Site. Accordingly, in March of 2006, the Agency, pursuant to Resolution No. 2006-18 C.M.S., approved execution of an ENA with a joint venture between the Hahns and Toll Brothers, Inc., to develop a mixed-use project, including a public parking garage with at least 650 spaces, on the Project Site. The slowdown in the housing market that began in the summer of 2006 prompted Toll Brothers, Inc., to pull out of the deal and the ENA expired.

On April 3, 2007, the Agency entered into a settlement agreement with the Hahns to resolve the eminent domain action. Certain terms of the agreement call for the parties to engage in good-faith negotiations in contemplation of a DDA, which has to be executed by December 31, 2008, to govern the development of a mixed-use project on the following three parcels:

- An approximately 20,225 square-foot portion of Telegraph Plaza
- A 3,064 square-foot triangular right-of-way portion of 22nd Street
- The Hahns' 21,000 square-foot "Giant Burger" property located at 2150 Telegraph Avenue

Under this scenario, the remaining 54,000 square-foot portion of land underlying Telegraph Plaza would have to be developed separately by the Agency into a public parking garage.

However, at this time, the Hahns have teamed up with Avant and are proposing to develop a mixed-use project including housing, a hotel, retail space and a 670-space public garage in three phases on a site that would include the City's 54,000 square-foot portion of land.

KEY ISSUES AND IMPACTS

The proposed Project offers a comprehensive, long-term redevelopment strategy for the Project Site by a qualified developer. The incorporation of a supermarket and a hotel into the Project offers a couple of attractive amenities for the Uptown Area. The proposal also includes the construction of needed additional off-street public parking in the Uptown area. The City will have the benefit of gaining land sales proceeds by selling portions of the Project Site to the developer, and finally, entering into an ENA satisfies the Agency's legal obligations to the Hahns.

Parking Shortage

Public parking is in short supply in the Uptown Area. The development of the Uptown Apartments by Forest City necessitated the permanent closure of two major parking lots with approximately 1,200 public parking spaces in an area bounded Thomas L. Berkley Way (formerly 20th Street) on the north, Telegraph Avenue on the east, 18th Street on the south, and San Pablo Avenue on the west. Construction of additional parking is an important element in the

overall revitalization of this rapidly changing section of downtown Oakland. The new garage would provide convenient parking to emerging and existing retail, restaurant and entertainment venues in the area. Moreover, the City's current Oakland Retail Enhancement Strategy for the Auto Row/Upper Broadway Corridor, which is only four blocks away from the proposed new garage, establishes the need for significantly more public parking facilities in the area if major retail is to be developed there. The Redevelopment Agency would begin to address this need by building the additional parking on the Project Site.

Avant Housing, LLC

Avant is a joint venture between AGI Capital, a San Francisco-based real estate development company, and TMG Partners, one of the San Francisco Bay Area's largest mixed-use property developers, that was started in partnership with the California Public Employees Retirement System (CalPERS). The new company grew out of an existing partnership between AGI Capital and TMG Partners at the SoMa Grand in San Francisco, a 22-story, 488,000 square-foot, mixed-use project with 246 condominium units and ground floor retail that is currently being marketed. Avant's goal is to develop urban-infill housing in California with an emphasis on the nine Bay Area counties. Avant has not completed any projects on its own, but the extensive development experience of the two companies that make up the joint venture eminently qualify Avant to take on the Project. Avant has recently acquired its first planned urban-infill mixed-use housing development, a property at 260 5th Street in San Francisco's South of Market District, where the company plans to develop residential units, as well as retail space, and possibly, a restaurant.

The Project

Avant proposes to develop a mixed-used project that includes residential, convenience retail (a grocery store), a hotel, possible an office tower and a public parking garage on the Project Site.

Housing

The current downturn in the housing and credit markets that may well last into 2010 has prompted Avant not to schedule construction of the housing component until the public parking has been completed at the end of fall of 2011. Moreover, the third phase of the proposed Project, which could either be an office or residential development to be constructed on top of the new garage, may be optional and is subject to further negotiations. Nevertheless, Avant is prepared to pay for any extra construction costs necessary to strengthen the load bearing capacity of the new parking structure and to construct a 3,000 square-foot element of shell space along each floor of the garage to house the mechanical, electrical and plumbing systems serving the contemplated high-rise residential or office project. Any such costs may be partially or fully off-set by granting the developer all or a portion of the air rights above the garage to accommodate the additional development.

Supermarket and Hotel

Avant's proposal to incorporate a supermarket as part of the Project is very attractive to the Agency because the lack of a convenience grocery store in the Uptown Area has been pointed out by several developers that have completed large residential projects around the district. A supermarket on the ground floor of a mixed-use project would likely satisfy the growing residential population's unmet demand for convenience retail in the area.

Another major part of Avant's proposal is a 120-180-room hotel. Avant has specifically cited the Hotel Indigo franchise as potential candidate for this project component. The Hotel Indigo is a new brand of the InterContinental Hotels Group that aims to attract the mid-market traveler willing to pay a little more for higher style than that typically found in regular hotel rooms. Eleven properties have opened since Hotel Indigo's launch, starting with the first Hotel Indigo in Atlanta, Georgia in October 2004. The chain continues to expand and opened 3 new venues in the first quarter of 2008.

The rapidly changing Uptown Area may well be attractive to hotel operators once the Fox Theater and the Uptown Apartments are complete and leased up, and retail vacancies decrease over time. Moreover, there is no hotel in the Lake Merritt District to serve business travelers. Avant has not scheduled the start of this project component until 2011 upon completion of the public garage. The proposed hotel may fill an emerging market gap in the area by that time.

The ENA

The proposed schedule of performance for the ENA contemplates a seven-month initial project feasibility review period and a potential nine-month ENA extension period. The additional nine months may be granted by the City/Agency Administrator, if she is satisfied that the developer has met the requirements of the seven-month schedule of performance. During the first seven months, Avant must prepare a project financing plan and market studies for the residential, hotel and retail components of the project within 120 days of ENA execution, secure detailed statements of interest for the retail and hotel components of the Project within 180 days of the ENA execution, and complete all necessary environmental documentation required for an Initial Study and issuing a Notice of Preparation, if an Environmental Impact Report is required under CEQA, within 210 days of ENA execution. The additional nine-months of ENA time, which may be granted by the Agency Administrator at their sole discretion, would be used by the developer to secure land use entitlements, refine Project budgets and schedules, comply with CEQA, and complete negotiations for a DDA and a purchase and sales agreement for the new garage.

With regard to the December 31, 2008 DDA execution date, as stipulated in the settlement agreement between the Redevelopment Agency and the Hahns, the execution of the ENA for the Project will extend the time by which the Agency and the Hahns must execute a DDA for a

portion of the Project Site to the same term as the ENA. A term sheet for the ENA has been attached to this report as Attachment B.

PROJECT DESCRIPTION

The Project will be built on portions of the block bounded by Telegraph Avenue, Broadway, 21st Street and 22nd Street and includes three properties: (1) the City-owned 74,000 square foot Telegraph Plaza Garage site, (2) the 21,000 square foot Giant Burger site owned by the Hahn Family, and (3) a 3,064 square foot triangular portion of 22nd Street that once allowed trolleys to turn right at this intersection. Avant's Project mixed-use proposal consisting of retail, housing, a hotel and public parking is more particularly described in Attachment C.

The transaction between Avant and the Agency/City would be structured as a fair market sale of land and a purchase of public parking for its development cost, including the land. The basic terms of the deal would be first, for the City/Agency to sell a 20,225 square-foot portion of the land underlying Telegraph Plaza for \$129 per square foot. The purchase price would be paid at close from the balance of the compensation account established as part of the Settlement Agreement with the Hahns, with the remainder paid in cash at close. Second, the City/Agency would sell the remaining portion of Telegraph Plaza (approximately 54,000 square feet) and the vacated portion of 22nd Street to Avant at its appraised fair market value. The Agency would provide seller financing to Avant for their purchase of the property by taking back an interest-bearing short-term promissory note in a principal amount equal to the purchase price of the land underlying the future garage (approximately 32,000 square feet), at a market interest rate to be determined, and a cash payment for the vacated portion of 22nd Street and that portion of the 54,000 square feet (approximately 22,000 square feet) that are not underlying the future garage. The term of the promissory note would be equal to the time required to complete the demolition and construction of the new public garage. The note will be secured by a deed of trust on the property and, if necessary, subordinated to developer loan financing for the Project in a maximum amount to be negotiated. Finally, the City/Agency would purchase the 670-space public parking garage upon completion at its estimated development costs.

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 and the housing will provide customers for new and existing businesses.

Environmental: By developing in already built-up 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 residents and retail customers to use BART and AC Transit. Staff is negotiating 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: Avant will 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 the public parking component of the Project. All of the workers performing construction work for Agency funded Project component must be paid prevailing wage rates. The developer will also be subject to the Living Wage Ordinance.

DISABILITY AND SENIOR CITIZEN ACCESS

The DDA will require that any development on the Project site comply with all applicable local, state and federal regulations including Federal ADA Accessibility Guidelines, the Fair Housing Act and the State of California's Title 24 accessibility regulations. These regulations will require the project to provided access and make units available for people with disabilities.

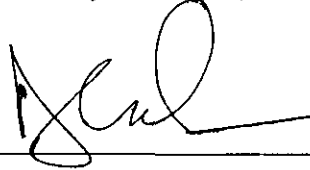
RECOMMENDATION (S) AND RATIONALE

Staff recommends that the Agency and City adopt the attached resolutions authorizing the City/Agency Administrator to execute a seven-month ENA, with a possible nine-month extension, to explore Project feasibility and negotiate terms and conditions for the transfer of Telegraph Plaza. The ENA will also provide a framework for Agency staff to determine if the proposal is the best option for the development of public parking in the Uptown Area. The proposed Project offers a comprehensive, long-term development approach for the Project Site, provides additional financial benefits to the City by making land available for sale to the developer, includes the development of needed additional off-street public parking in the area and satisfies the Agency's legal obligations to the Hahns.

ACTION REQUESTED OF THE REDEVELOPMENT AGENCY

Staff recommends that the City Council and Redevelopment Agency Board authorize a seven-month ENA between the Agency and City, Avant Housing, LLC, and the Hahns to develop a mixed-use project including housing, a hotel, retail space and public parking on the west side of the block bounded by Telegraph Avenue, Broadway, 22nd Street, and 21st Street.

Respectfully submitted,



Dan Lindheim, Director

Community and Economic Development Agency

Reviewed by:

Gregory Hunter, Deputy Director


Economic Development and Redevelopment, CEDA

Prepared by:

Jens Hillmer, Urban Economic Coordinator

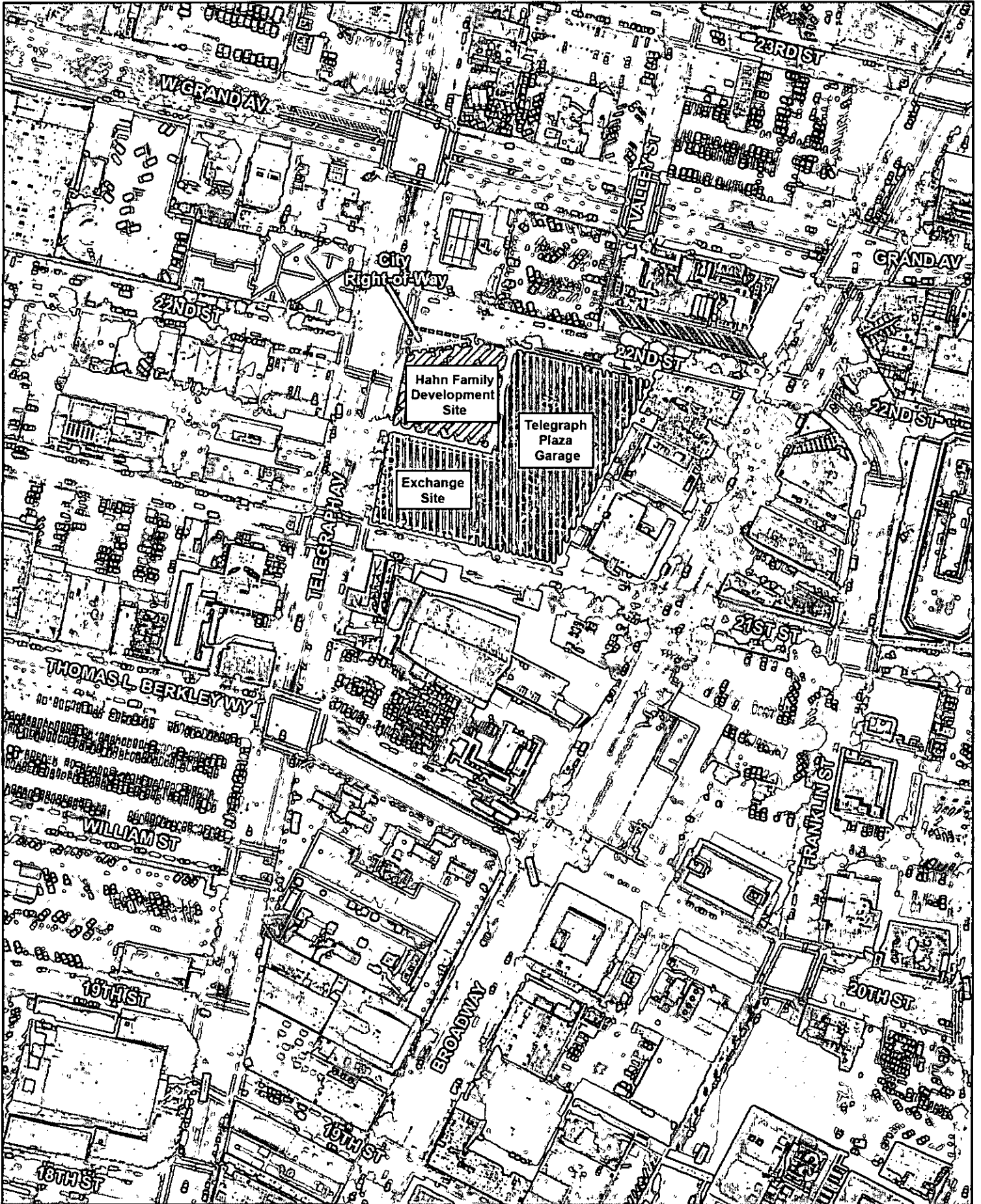
Downtown Redevelopment, CEDA

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:


OFFICE OF THE CITY AGENCY ADMINISTRATOR

Item: _____
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May 27, 2008

Attachment A - Project Site



ATTACHMENT B

TERM SHEET

Telegraph Plaza Mixed-Use Development Proposal

The following terms will be incorporated into an Exclusive Negotiation Agreement (“ENA”) between the Redevelopment Agency of the City of Oakland (the “Agency”), the City of Oakland (City), Avant Housing LLC (“Developer”), a joint venture between AGI Capital Group and TMG Partners, and the Hahn Family, to develop a mixed-use project including a hotel, residential, retail space, and public parking (the “Project”) on portions of the block bounded by Telegraph Avenue, Broadway, 22nd Street, and 21st Street.

These terms will be incorporated into a seven-month ENA following City Council/Redevelopment Agency Board approval. During ENA period, the development team will perform the following tasks:

- identify relevant zoning, design review, environmental review and code requirements and establish a schedule by which relevant zoning, design review, and environmental approvals will be obtained;
- define the project scope and schedule, develop a Project description suitable for environmental review under the California Environmental Quality Act (“CEQA”);
- retain an environmental and professional design consultant to prepare all necessary environmental documentation required to conduct environmental review under the CEQA for the Project and issue a Notice of Preparation if an Environmental Impact Report is required;
- demonstrate financial capacity;
- verify legal status;
- identify the development team;
- demonstrate Project financial feasibility;
- provide a market feasibility study and strategy for all aspects of the Projects, excluding the public parking component;
- solicit detailed statements of interest from retail and hotel operators;
- provide cost estimates for the development of the City/Agency parking garage that are verified by a parking development consultant;
- negotiate the terms of a Disposition and Development Agreement (“DDA”) with the Agency and a Purchase and Sales Agreement with the Agency/City for the public parking garage.

The ENA will allow the Agency Administrator to extend the ENA by up to nine months, if the Agency Administrator is satisfied that the Developer has made acceptable progress in completing certain requirements and has provided evidence that the Project is feasible within mutually agreed upon timeframes and terms during the first seven month of the ENA term. The additional time would be used to permit the Developer to secure land use entitlements, refine Project budgets and schedules, complete CEQA review, and complete the other tasks listed above. The DDA and other agreements will then be brought to the City Council/Redevelopment Agency Board for final discretionary approval. The terms of the ENA are as follows:

1. Site assembly and disposition

- 1.1. The site for the Project is approximately 98,000 square feet located on the western portion of the block bounded by 21st Street, 22nd Street, Telegraph Avenue and Broadway (the "Project Site").
- 1.2. The Developer's conceptual proposal calls for the development of different project components on certain sub-areas of the Project Site.
- 1.3. The Project Site consists of the following three parcels:
 - 1.3.1. A 21,000 square-foot parcel at 22nd and Telegraph Avenue (APN 008-0648-011-03) now owned by the Hahn Family and occupied by a "Giant Burger" fast food restaurant (the "Hahns' Property").
 - 1.3.2. An approximately 74,000 square foot parcel at 21st and Telegraph (APN 008-0648-016-03) currently owned by the City and occupied by the 351-space Telegraph Parking Plaza.
 - 1.3.3. An approximately 3,065 square foot triangular portion of 22nd Street, to be vacated by the City that will square off the block.
- 1.4. The properties currently owned by the City will be transferred to the Agency prior to their conveyance to Developer.
- 1.5. The Agency properties will be sold to Developer in their "as-is" condition subject to Developer's *satisfactory completion of their due diligence process*.
- 1.6. An approximately 74,000 square foot parcel at 21st and Telegraph (APN 008-0648-016-03) currently owned by the City of Oakland ("City") and occupied by the 351-space Telegraph Parking Plaza, would be conveyed to Developer by the City/Agency as follows:

Pursuant to the terms of a Settlement Agreement and Release dated April 3, 2007, between the Agency and the Hahns, the Agency will sell a 20,225 square-foot portion of this parcel for \$129 per square foot. The purchase price will be paid at close from the balance of the compensation account established as part of the Settlement Agreement, with the remainder paid in cash at close. The Agency will sell the remaining portion of this parcel (approximately 54,000 square feet) to Developer at its appraised fair market value, to be determined. The purchase price will be paid in the form of an interest-bearing short-term promissory note to the Agency from Developer in a principal amount equal to the purchase price of the land underlying the future garage (approximately 32,000 square feet), at a market rate of interest to be determined. Developer and Agency may also negotiate a cash payment for that portion of the 54,000 square feet (approximately 22,000 square feet) that are not underlying the future garage. The term of the promissory note will be equal to the time required to complete the demolition and construction of the Public Garage, as defined below, and all interest on the note shall accrue and be payable upon maturity. The note will be secured by a

deed of trust on the property and, if necessary, subordinated to Developer loan financing for the Project in a maximum amount to be negotiated.

- 1.7. The Agency will sell an approximately 3,065 square foot triangular portion of 22nd Street, to be vacated by the City to square off the block for its fair market value and add the sales price of this property to the note referred to above and to the security under the deed of trust.

2. Project development

- 2.1. Developer, will design, construct and sell or operate the following improvements (together known as the "Project") in three phases:

- 2.1.1. *Phase 1:* Developer will demolish the existing City Garage and build a 194,000 square-foot, 670-space parking garage on 6 levels on approximately 32,000 square feet of land on the eastern portion of the property (the "Public Garage").

- 2.1.2. *Phase 2:* Developer will build a mixed-use development on the western portion of the property facing Telegraph Avenue that will consist of the following:

- An approximately 79,000 square-foot, 235-space parking garage on one subterranean level, which will serve the condo project referenced below.
- Approximately 42,800 square feet of retail space on the ground floor with substantial street frontage along Telegraph Avenue.
- An approximately 120 - 180-room hotel on floors 1 through 8 on the north western corner of the property with street frontage on both Telegraph Avenue and 22nd Street.
- An approximately 100 - 120-unit residential condominium project on the southwest portion of the property on 4-stories above the retail component.

- 2.1.3 *Phase 3:* Developer, subject to market conditions and project feasibility assessments, may build a 260,000 square-foot, 201-unit high-rise residential or office project on 17 stories on top of the Public Garage. Floors 7 and 8 will provide approximately 220 parking spaces with a foot print that is identical to the footprint of the Public Garage. Floors 9-through 23 will house the residential or office units in a slender tower located on the southwest corner of the property.

- 2.2. Developer will comply with the City/Agency's employment and contracting programs (including prevailing wage, Small/Local Business Enterprise, Local Employment, Apprenticeship, Living Wage, First Source, and Equal Benefits) for the Public Garage portion of the Project.

- 2.3. Developer shall make reasonable efforts to incorporate "green building practices" into the design and construction of the Project.

3. ENA Schedule of Performance and Submittals

The ENA will be for an initial term of seven months. During this initial negotiation period, the Developer shall complete the following tasks:

3.1 Financial Statements and Other Relevant Documents

Within 45 calendar days Developer shall provide:

- A description of the specific financial and legal structure of the Project. This shall include a written description of the specific and general roles, responsibilities, and obligations of Developer, Developer's members or partners, and any other entity participating in the legal entity established by Developer for purposes of developing the Project. Additionally, the written description shall list 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.
- Copies of balance sheets and income/loss statements, prepared in accordance with generally accepted accounting principles, and other financial documentation as reasonably requested by the Agency covering the last two years of Developer, Developer's members or partners, and any other entity participating in the legal entity established by Developer for purposes of developing the Project. (Developer has the option of submitting said information to the Agency or making such information available to representatives of the Agency for inspection.)
- All documents related to its corporate, LLC, or partnership status, and the status of its members or partners, including but not limited to articles of incorporation, by-laws, partnership agreements, operating agreements, joint venture agreements, lists of members of board of directors, and proof of good legal standing.
- A detailed description, including references, of the Project development team's experience. Developer will identify key individuals, entities and their respective responsibilities. In this paragraph the term pre-development refers to the time-frame from execution of the ENA to approval of a DDA.
- A written statement concerning any litigation in which Developer or Developer's partners or members is a party that may have an impact on the negotiations. Developer shall provide to the Agency copies of any litigation documents or filings in connection with such litigation within five (5) business days of the Agency's written request.
- Documentation evidencing the relationship of the Hahns to the Developer, including the terms and schedule for incorporating the Hahns' Property into the Project.

3.2 Market Research and Project Marketing

- 3.2.1 Within 120 calendar days, Developer shall conduct and complete a market feasibility study for all aspects of the Project (other than the Public Garage), including proposed housing, retail and hotel components, based on the projected development schedule. The findings of the market study will result in a marketing strategy for the Project that shall include identification of key tenants, the estimated gross leasable square feet to be developed for each type of use, the amount of parking that will be required to support such use, and the proposed location of such parking in the Project.
- 3.2.2 Within 180 days, Developer shall contact key tenants and obtain detailed statements of interest for the retail and hotel components of the Project.

3.3 Design and Construction

- 3.3.1 Within 60 days, Developer shall identify all relevant zoning, design review, environmental review and code requirements for the Project, and a schedule identifying when approval of all such zoning, design review, environmental review and code requirements for the Project will be obtained.
- 3.3.2 Within 120 days, Developer shall prepare for approval by the Agency a refined conceptual design for the Project that shall include Project layout, site plan, elevations, the garage lay-out, elevations and other relevant elements.
- 3.3.4 Within 120 days, Developer shall retain environmental and professional design consultants to prepare and complete all necessary environmental documentation required for an Initial Study to determine whether to prepare an Environmental Impact Report (EIR), Negative Declaration, or Mitigated Negative Declaration for the Project as required under CEQA.
- 3.3.5 Within 210 days, Developer shall cause the issuance a Notice of Preparation, if an Environmental Impact Report is required under CEQA.
- 3.3.6 Within 180 days, Developer shall provide detailed conceptual development costs estimates for the Public Garage prepared by the Developer and a firm experienced in providing architectural design, structural engineering and parking consulting services for parking facilities for private and public sector clients. Said construction cost estimate shall include a separate estimate of those construction costs necessary to strengthen the load bearing capacity of the new parking structure, as well as other costs necessary to accommodate a contemplated high-rise development on top of the garage.

3.4 Financial Plan

Within 90 days, Developer shall provide a conceptual financing plan. The financing plan shall include sources and uses of funds, cash flow analysis, and an overall Project pro forma.

If the Developer has satisfied all of the ENA requirements during the initial negotiation period and has provided evidence that the Project is feasible within mutually agreed upon timeframes and terms, the Agency Administrator may in his or her discretion extend the term of the ENA by an additional nine months to complete all environmental approvals and negotiate the terms of a DDA and related documents.

During this extension period, the Developer shall complete the following tasks:

3.5 Environmental Review and Zoning Permits

- 3.5.1 Developer shall retain an environmental and professional design consultant to prepare all necessary documentation required to prepare an EIR under CEQA for the Project, if required.
- 3.5.2 By the end of the ENA period, Developer shall have completed necessary CEQA environmental review procedures and obtained all necessary zoning permits determined appropriate by the Planning Department.
- 3.5.3 The Agency shall cooperate with Developer to attempt to ensure the timely processing of the environmental review and zoning permits. However, any such efforts by the Agency 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 3.5.3 shall be interpreted to imply that the City is required to issue any approvals or permits for any improvements, or to obligate the Agency to influence the City's independent authority to issue CEQA and zoning approvals.

3.6 Financing Plan and Project Schedule

- 3.6.1 Within 180 days, Developer shall provide an updated and refined Project financing plan describing the sources and uses of funds and a cash flow analysis for the housing, retail and hotel components of the Project to a level of detail reasonably acceptable to the Agency; provided that no firm financial commitments will be necessary for the housing, retail and hotel components at such time.
- 3.6.2 Within 180 days Developer shall submit refined and final development costs for the Public Garage prepared by the Developer and 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 Garage.

3.6.3 Within 210 days, Developer shall provide letters of intent from lenders and equity partners, if any, expressing willingness to provide Project financing.

3.6.4 Within 210 days, Developer shall submit to the Agency for approval a detailed development schedule for the construction and lease-up of all Project components.

3.7 DDA and Purchase and Sales Agreement

3.7.1 Within 210 days, Agency and Developer shall complete the negotiations of a DDA for the Project and a Purchase and Sales Agreement for the Public Garage for presentation to the Agency governing board for consideration unless this ENA is otherwise extended subject to the sole discretion of the Agency's governing board.

ATTACHMENT C

Project Description

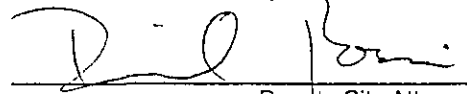
Avant is proposing to develop the following mixed-use project:

- *Phase 1:* Avant proposes to demolish Telegraph Parking Plaza and build a 194,000 square-foot, 670-space parking garage on 6 levels on approximately 32,000 square feet of land on the eastern portion of the property. Upon completion, the developer would convey the public garage to the City as a fully-equipped turnkey parking facility. At the southern end of the parking garage, the developer would construct a 3,000 square-foot element of shell space on each floor of the garage. This space would house the mechanical, electrical and plumbing systems serving a contemplated high-rise residential or office development on top of the garage during the first phase of the Project.
- *Phase 2:* After completion of Phase I, which is anticipated to occur in the late fall of 2011, the developer proposes to build a mixed-use development on the western portion of the property facing Telegraph Avenue that will consist of the following:
 - An approximately 79,000 square-foot, 235-space parking garage on one subterranean level.
 - Approximately 42,800 square feet of retail space on the ground floor with substantial street frontage along Telegraph Avenue.
 - An approximately 120-180-room hotel on floors 1 through 8 on the north western corner of the property with street frontage on both Telegraph Avenue and 22nd Street.
 - An approximately 100-120-unit residential condominium project on the southwest portion of the property on 4-stories above the retail component.
- *Phase 3:* The developer would build a 260,000 square-feet, 201-unit high-rise residential or office project on 17 stories on top of the new public garage. Avant would add floors 7 and 8 of the garage to provide approximately 220 parking spaces. Floors 9 through 23 will house the residential units or office suites in a slender tower located on the southwest corner of the Project Site.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 MAY 15 PM 6:44

APPROVED AS TO FORM AND LEGALITY:


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

**A RESOLUTION AUTHORIZING AN EXCLUSIVE
NEGOTIATING AGREEMENT WITH AVANT HOUSING, LLC,
AND THE HAHN FAMILY TO REDEVELOP PORTIONS OF
THE BLOCK BOUNDED BY TELEGRAPH AVENUE,
BROADWAY, 22ND STREET, AND 21ST STREET**

WHEREAS, the City has received a proposal from Avant Housing, LLC ("Avant") and the Hahn Family (the "Hahns") for a mixed-use redevelopment project, including residential, retail, a hotel and a 670-space parking garage (the "Project"), on the City-owned Telegraph Parking Plaza site ("Telegraph Plaza"), a 3,064 square-foot triangular right-of-way portion of 22nd Street, and the Hahns' 21,000 square-foot "Giant Burger" property located at 2150 Telegraph Avenue (the "Project Site"); and

WHEREAS, the proposal involves the sale of two City-owned parcels, Telegraph Plaza and the 3,065 square-foot triangular portion of a right-of-way on 22nd Street to Avant, and the repurchase of a new 670-space public parking garage by the City or Agency at its development costs at Project completion; and

WHEREAS, the City and the Redevelopment Agency have determined that the City, as the owner of a portion of the Project Site, and the Agency, as sponsor and coordinator of the development of new public parking on the Project Site, should be parties to an Exclusive Negotiating Agreement ("ENA") with Avant and the Hahns; now, therefore, be it

RESOLVED: That the City Administrator is authorized to negotiate and enter into an ENA with Avant and the Hahns for purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for, the transfer of the City parcels, their development for public parking and other uses, and the repurchase of the public parking developed as part of the project; and be it

FURTHER RESOLVED: That the exclusive negotiating period will be for seven months from the date of this Resolution, with the option to extend said period by an additional nine months with the approval of the City Administrator in her sole discretion; and be it

FURTHER RESOLVED: That the ENA shall be reviewed and approved as to form and legality by the City Attorney prior to execution; 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 it 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 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 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, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND PRESIDENT DE LA FLUENTE

NOES-

ABSENT-

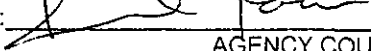
ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 MAY 15 PM 6:44

APPROVED AS TO FORM AND LEGALITY:

BY: 
AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AN AGENCY RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH AVANT HOUSING, LLC, AND THE HAHN FAMILY TO REDEVELOP PORTIONS OF THE BLOCK BOUNDED BY TELEGRAPH AVENUE, BROADWAY, 22ND STREET, AND 21ST STREET

WHEREAS, the Redevelopment Agency has determined that the availability of sufficient public parking is critical to the viability of Oakland's Central District Redevelopment Area and has set aside \$32 million for replacement parking in the Fiscal Year 2007-09 Capital Budget; and

WHEREAS, on April 3, 2007, pursuant to Resolution No. 80483 C.M.S., the Agency entered into a settlement agreement ("Settlement Agreement") for an eminent domain action with the Hahn Family (the "Hahns"), which calls for the parties to engage in good-faith negotiations in contemplation of a Disposition and Development Agreement ("DDA") governing the development of a mixed-use project on a portion of the parcel occupied by the City-owned Telegraph Parking Plaza site (Telegraph Plaza), a 3,064 square-foot triangular right-of-way portion of 22nd Street and the Hahns' 21,000 square-foot "Giant Burger" property located at 2150 Telegraph Avenue in the Central District; and

WHEREAS, the Agency has received a proposal from Avant Housing, LLC ("Avant") and the Hahns for a mixed-use redevelopment project, including residential, retail, a hotel and a 670-space parking garage (the "Project"), on the entire Telegraph Plaza site and the "Giant Burger" property, (the "Project Site"); and

WHEREAS, the proposal involves the sale of two City-owned parcels, Telegraph Plaza and the 3,065 square-foot triangular portion of a right-of-way on 22nd Street to Avant, and the repurchase of a new 670-space public parking garage by the City or Agency at its development costs at Project completion; and

WHEREAS, the City and Agency have determined that the City, as the owner of a portion of the Project Site, and the Agency, as sponsor and coordinator of the development of new public parking on the Project Site, should be parties to an Exclusive Negotiating Agreement ("ENA") with Avant and the Hahns; now, therefore, be it

RESOLVED: That the Agency Administrator is authorized to negotiate and enter into an ENA with Avant and the Hahns for purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for, the transfer of the City parcels, their development for public parking and other uses, and the repurchase of the public parking developed as part of the project; and be it

FURTHER RESOLVED: That the exclusive negotiating period will be for seven months from the date of this Resolution, with the option to extend said period by an additional nine months with the approval of the Agency Administrator in her sole discretion; and be it

FURTHER RESOLVED: That execution of the ENA in contemplation of a DDA for the Project will extend the time by which the Agency and the Hahns must execute a DDA for a portion of the Project Site per the Settlement Agreement to the same term as the ENA; and be it

FURTHER RESOLVED: That the ENA shall be reviewed and approved as to form and legality by Agency Counsel prior to execution; and be it

FURTHER RESOLVED: That the Agency finds and determines, after independent review and consideration, that this action complies with the California Environmental Quality Act ("CEQA") because it 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 Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

