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

TO: Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: April 11, 2006

RE: **Resolution authorizing an Exclusive Negotiating Agreement with Komorous-Towey Properties LLC, to develop a Mixed-use Office and Retail Project on a Portion of a Parcel located at 540 – 17th Street**

SUMMARY

Staff of the Community and Economic Development Agency (“CEDA”) is recommending authorization of an Exclusive Negotiating Agreement (“ENA”) between the Oakland Redevelopment Agency (“Agency”) and Komorous-Towey Properties LLC, (“KTP”), or a related entity, for the development of a mixed-use project (the “Project”) consisting of office and retail on an underutilized portion of a parcel located at 540 – 17th Street (the “Property”, as shown on Exhibit A”), which is occupied by the Oakland Ice Center. The proposed ENA would run for a period of 270 days after Council approval. Staff is recommending that the ENA period commence at the time of Council approval, rather than at signing of the document, to avoid any delays prior to signing that would create an unduly long period of negotiations inconsistent with the Council’s time limit intent.

During the ENA period, KTP will analyze the financial feasibility of developing the mixed-use Project, investigate the physical and environmental condition of the Property and resolve any engineering issues related to the necessary relocation of certain utility equipment currently located on the site. KTP will also prepare all necessary environmental documentation required to complete environmental review under the California Environmental Quality Act (“CEQA”) for the proposed Project.

FISCAL IMPACT

Authorization of the ENA will not commit any expenditure of funds by the Redevelopment Agency.

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BACKGROUND

In September of 2005, KTP submitted an unsolicited proposal to the Agency for the purchase and development of the Property. The Property, a 3,700 square-foot irregularly-shaped parcel that has to be created, would be located along San Pablo Avenue on the western-most portion of an approximately 70,000 square-foot parcel that is currently occupied by the Oakland Ice Center. The Oakland Ice Center parcel was acquired by the Agency in 1991, as part of the purchase of the Rotunda Building. The proportional cost of the Property was approximately \$74,000 at the time.

PROJECT DESCRIPTION

The Property, which is located next to the Cal Art building on San Pablo Avenue, is currently improved with an above-ground pad-mounted electrical transformer, utility connections and meters, a backflow prevention valve set, as well as enclosed trash receptacles serving the Oakland Ice Center. There is also limited surface parking for about five to six staff vehicles and a small loading zone. Although the trash receptacles are shielded from view by an approximately eight-foot high cinderblock enclosure, the Property and side wall of the adjoining Ice Center present an unattractive view for people entering downtown Oakland from 17th Street.

KTP is proposing to purchase the Property from the Agency at its fair market value (minus the cost of relocating all of the existing utilities on the site), and develop an appealing mixed-use building consisting of ground-floor retail/restaurant space and 3 floors of office space that would be used by the architectural firm owned by Thomas Towey and Klara Komorous-Towey, two of the principals of KTP. KTP has also indicated that some of the office space may be used by an engineering firm.

During the recommended ENA period, KTP will perform the following tasks:

- Analyze the financial feasibility of the developing the mixed-use Project.
- Investigate the physical and environmental condition of the property.
- Resolve any engineering and cost issues related to the necessary relocation of certain utility equipment currently located on the site.
- Prepare all necessary environmental documentation required to complete environmental review under the California Environmental Quality Act ("CEQA") for the proposed Project.

KEY ISSUES AND IMPACTS

The proposed Project would displace the utility services, garbage repository and staff parking for the Ice Center. KTP has preliminarily evaluated the effort involved in relocating the utility services to an underground vault immediately adjacent to the Ice

Center Parcel, and believes that this work can be accomplished at a reasonable cost. However, KTP will complete a more definitive constructability and cost analysis during the ENA period. KTP also proposes to retain the Ice Center's garbage and recycling facilities on the Property by co-locating them with similar functions for their new building. Access to the area by Ice Center staff would be achieved via an easement. Additional easements and encroachments would be needed to permit operable windows, sun-shading devices, certain façade elements and exit stairs.

Staff of the Real Estate Division determined that the fair market value of the Property is \$338,000 (or \$91.35 per square foot). This value includes price adjustments to account for the Property's irregular shape and the need to relocate the trash and recycling center for the Ice Center to a new 400 square-foot easement that will be created on the east and north sides of the Property. However, the appraisal also assumed that the Property would be delivered to a buyer free of all utility equipment.

In early September, KTP submitted a counter-offer of \$50,000 for the Property in its "as-is" condition. The counter-offer calls for KTP assuming all responsibility for relocating the existing utilities and subdividing the Ice Rink parcel to create the Property. KTP preliminarily estimates the costs for this work to be between \$270,000 and \$295,000. Real Estate staff concluded that KTP's counter-offer would be acceptable once the projected costs for utility relocations and subdivision work have been subtracted from the appraised fair market value of the Property.

SUSTAINABLE OPPORTUNITIES

Economic

There are no economic opportunities that apply to the proposed action to execute an ENA. However, if the project proceeds, this redevelopment infill project will take an underutilized and unattractive site and transform it into an economically productive use that will also enhance the appearance of this major gateway into downtown Oakland.

Environmental

There are no sustainable environmental opportunities that apply to this particular action. Sustainable issues would be addressed as part of any Disposition and Development Agreement (DDA) resulting from negotiations during the ENA period. KTP has committed to following the Leadership in Energy and Environmental Design (LEED) rating system and making a best faith effort to qualify the proposed Project for LEED certification. Generally, by developing in already built-up areas, the Project would reduce the pressure to construct on agricultural and other undeveloped land, and thereby contribute to the prevention of urban sprawl.

The location of the Property in proximity to major public transportation nodes will likely encourage workers and customers to use BART and AC Transit.

Social Equity

There are no social equity opportunities that apply to this particular action. Social equity issues would be addressed as part of any DDA resulting from negotiations during the ENA period. Since the proposed sale to KTP is a market-rate transaction, KTP will not be required to 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. KTP would also not be subject to Prevailing Wages and the Living Wage Ordinance. However, KTP is a certified small local business and the proposed Project will allow small Oakland businesses to own the building their offices would occupy.

DISABILITY AND SENIOR CITIZEN ACCESS

This report does not include the approval of any specific projects or programs. Disability and senior access issues will be addressed when specific development plans are submitted to the City by the developer for review and approval.

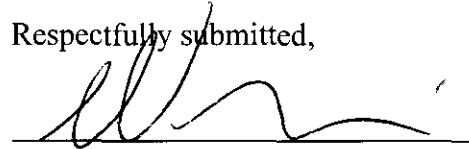
RECOMMENDATION AND RATIONALE

Staff is recommending authorization for the Agency Administrator to negotiate and enter into an ENA with KTP for development of mixed-use Project because the proposed Project meets several goals established in the 5-year plan for the Central District Redevelopment Project Area. The proposed Project will strengthen the Central District's Project Area's existing role as an important office center for administrative, financial, business service and governmental activities and offer improved environmental design within the Project Area, including creation of a definite sense of place, clear gateways, emphatic focal points and physical design which expresses and respects the special nature of each sub-area.

ACTION REQUESTED OF THE AGENCY

Staff recommends that the Agency adopt a resolution authorizing the Agency Administrator to negotiate and enter into an Exclusive Negotiating Agreement between the Oakland Redevelopment Agency and KTP for a period of 270 days from the date of Council authorization.

Respectfully submitted,



Dan Vanderprien
Director of Redevelopment, Economic
Development, Housing and Community
Development

Prepared by:

Jens Hillmer
Urban Economic Coordinator

**APPROVED AND FORWARDED TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE**

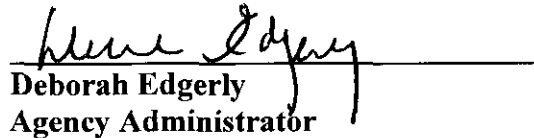

Deborah Edgerly
Agency Administrator



Exhibit A: 540 - 17th Street Project Site (Komorous-Towey)



Proposed
Project Site

540 - 17th Street

Legend

-  Agency-Owned Parcel
-  Proposed Komorous-Towey Project Site



FILED
OFFICE OF THE CITY CLERK
APPROVED AS TO FORM AND LEGALITY:

2008 MAR 29 PM 6:53
[Signature]

Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH KOMOROUS-TOWEY PROPERTIES, LLC, TO DEVELOP A MIXED-USE OFFICE AND RETAIL PROJECT ON A PORTION OF 540 – 17TH STREET

WHEREAS, the Redevelopment Agency owns a parcel located at 540 – 17th Street in the Central District Redevelopment Project Area, which is currently being occupied by the Oakland Ice Rink; and

WHEREAS, a 3,700 square-foot irregularly-shaped portion of the Ice Rink parcel (the "Property") is currently being underutilized because it includes only certain utility services and a trash repository serving the Ice Center; and

WHEREAS, Komorous-Towey Properties, LLC, ("KTP") has proposed to acquire the Property from the Agency at its fair market value for the development of a mixed-use project (the "Project") consisting of office and retail uses; and

WHEREAS, KTP has proposed to be solely responsible for the costs and work necessary to relocate all utility and garbage services on the site, and would like to subtract any such costs from the fair market value of the Property; and

WHEREAS, the Agency and KTP wish to enter into a period of preliminary study and negotiations over the Project proposal, understanding that this does not constitute a binding commitment on the part of the Agency to any project or developer for the Property; now therefore be it

RESOLVED: That the Agency Administrator or her designee is authorized to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") with KTP or a related entity 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 office uses, on the Property; and be it further

RESOLVED: That the exclusive negotiating period shall be for 270 days from the date of this Resolution; 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 has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with 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 further

RESOLVED: That the Agency 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 AGENCY, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS , BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland