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OFFICE OF THE CITY CLERK
OAKLAND

2017 MAR 30 PM 1:09

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: ENA for Disposition of City Owned
Parcel at 73rd and Foothill

DATE: March 20, 2017

City Administrator Approval

Date:

3/30/17

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing An Exclusive Negotiating Agreement With Portfolio Development Properties, LLC Or Related Affiliates, For One Year With One Optional Six-Month Administrative Extension For The Potential Disposition and Development Of A Retail Project On A City-Owned Parcel (APN 039-3291-020) Located At 73rd Avenue and Foothill Boulevard.

EXECUTIVE SUMMARY

The City owns a 1.22-acre parcel of land at the corner of 73rd Avenue and Foothill Boulevard, adjacent to the Eastmont Mall site. Portfolio Development Properties, LLC is interested in leasing or acquiring the parcel for the purpose of developing a retail project with a Starbucks community store in an under-served area along two major commercial corridors in East Oakland. Staff is seeking authorization to negotiate and execute an Exclusive Negotiation Agreement (ENA) for a 12-month period, with an optional six-month administrative extension.

BACKGROUND // LEGISLATIVE HISTORY

The Property is located on the northwest corner of 73rd Avenue & Foothill Boulevard, and is commonly referred to as 73rd and Foothill or the Eastmont Parcel (the "Property"). The site does not have a current street address, but the assessor parcel number (APN) is 039-3291-020. The Property is approximately 53,160 square feet or 1.22 acres, triangular in shape, and zoned CC-1 ("Community Commercial"). The corner location is at a major intersection and East Oakland gateway; 73rd Avenue is used as a major arterial thoroughfare from the 580 freeway to the Coliseum, I-880, and the Oakland International Airport.

The Property was originally used as a Firestone tire and service center that previously operated at Eastmont Mall. The former Redevelopment Agency acquired the site in 2008 for \$2,214,725 with Central City East taxable bond funds. The previous structure and improvements were demolished in 2010 for an additional \$111,230. The site is currently vacant and secured with

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perimeter chain link fencing. The Men of Valor Academy currently provides weed, litter, and graffiti abatement services on the property through an on-call contract with the City.

In September 2009, the former Agency issued a Notice of Development Opportunity (NODO) for ten opportunity sites throughout the City of Oakland. The NODO included the 73rd & Foothill parcel with a preference for a mixed-use education center with shared program space for a new public branch library and Peralta Community College District (PCCD) satellite campus for Merritt College. The preferred alternative also included senior housing, ground floor retail space, and below-grade parking.

At the time, the former Agency received interest from two developers during the NODO process, one from Village Properties for the development of a Walgreen's and the other from Sunfield Development, LLC ("Sunfield") for the development of the mixed-use education center program. Although the former Agency selected Sunfield, the PCCD withdrew their interest in the proposed project and library capital improvement funds were not available to proceed.

After the dissolution of the former Agency in 2011, the Property was transferred to the Oakland Redevelopment Successor Agency ("Successor Agency") in January 2012. The Property is governed by the terms of the Successor Agency's Long Range Property Management Plan (LRPMP), approved by the Department of Finance in May 2014. Per the LRPMP, the Property was finally transferred to the City in August 5, 2015 for the purpose of future development. The Property has received periodic interest, most recently from Northbridge Investments, LLC, but no development project proposal until now has had sufficient merit to warrant entering into an Exclusive Negotiating Agreement.

ANALYSIS AND POLICY ALTERNATIVES

The City has received an unsolicited proposal (**Attachment A**) from Portfolio Development Properties, LLC, ("Portfolio" or the "Developer") to develop a commercial project that includes a Starbucks community store, with additional in-line retail and onsite parking.

The Developer seeks to work with Starbucks Coffee to develop a 3600 square foot "Core 2" Starbucks community store with drive through service. Starbucks "Core 2" stores are described in the proposal as a new urban concept that is part of a push to support economic development and social change in diverse mid-income communities, and will include a dedicated classroom area where local nonprofits will be able to conduct job-skills training classes for youth. There will be a limited number of these "Core 2" stores throughout the country and they will be held to the highest operational standards. The developer will also include additional retail-store space adjacent to the Starbucks store in the same or separate building on the site, as well as open space and surface parking. Early conceptual site plans have been supplied by the developer (**Attachment B**).

Portfolio, who is a preferred developer for Starbucks, will partner with MZ Investments, an Oakland-based real estate investment and development firm. Portfolio and MZ Investments' partnership is comprised of professionals with decades of commercial and retail development

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experience. Portfolio and MZ Investments are the development team responsible for bringing Sprouts Farmers Market to 30th Street and Broadway Avenue, a project which includes over 10,000 square feet of retail, with Starbucks as one of the tenants. Portfolio has partnered with Starbucks on multiple occasions to develop many build-to-suit projects.

Lease vs Sale

In December 2014, Council adopted a policy establishing a preference for entering into long-term ground leases over fee sales of property, unless it was determined that a sale was in the best interests of the City. The intent of the policy was to retain long-term land value appreciation and the City's control over properties in the future. The current developer prefers to purchase the Property at Fair Market Value (FMV), but may consider a long-term ground lease as part of the exclusive negotiations. If the Property is sold, the proceeds could be used to reinvest in another property for long-term appreciation or development.

Compliance with Real Property Conveyance Laws

The property is not subject to the California Surplus Land Act, since the property was not in City use but rather was acquired for economic development purposes. The statute only applies to property that is determined to be "no longer necessary for the [City's] use."

The City's real property disposition law (Chapter 2.42, Article IV, of the OMC) generally requires that real property be marketed through a public and competitive NODO process. However, the real property disposition law does allow the City Administrator and the City Council to waive the NODO process if disposition through means other than a competitive process would be in the best interests of the City. The City Council must adopt findings justifying the waiver of the NODO process if and when the conveyance of the Property to the Developer is approved by Council. In this specific case, initiating and carrying out a full NODO process would require significant staff time and resources, with no guarantee that the City would receive additional acceptable bids. The local development community has long known of the availability of the site, yet the City has received few unsolicited bids. The lengthy NODO process could result in the potential loss of the currently proposed project which, if developed, would positively impact the area and remove a source of blight.

FISCAL IMPACT

1. SOURCE OF FUNDING: The City is not providing funding to the Developer for the predevelopment costs of the project, including the ENA process.
2. FISCAL IMPACT: There is no fiscal impact for the development and execution of the ENA with the Developer besides staff time involving the Economic and Workforce Development Department and Office of the City Attorney. The City will require a Project Expense Payment of \$50,000 during the ENA process to cover any reasonable expenses for the City related to the ENA. All Project Expense Payment funds will be appropriated and deposited into a Fund and Project related to the administration and management of the ENA process (specific Project and Fund information to be determined later).

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The eventual development of the Property will provide direct and indirect fiscal impacts. If the proposed transaction with the Developer leads to a sale of the property, the sale would be conducted at current FMV, determined by a third-party appraiser within six months of disposition. If the proposed transaction with the Developer leads to a long term ground lease, then the project would potentially provide a long term revenue stream for the City. Overall, the project will lead to sale or lease proceeds and transfer tax, and generate ongoing property, sales, business license, and utility tax revenue to the City. Estimates of these values will be determined in the ENA process when the project and terms are more clearly defined.

PUBLIC OUTREACH / //INTEREST

The property is located in Council District 6, as well as the Central City East redevelopment project area. The District 6 Councilmember will continue to sponsor community meetings and will invite Portfolio to solicit community input for the project.

COORDINATION

The Office of the City Attorney assisted in preparation of the staff report and will assist in preparing the Exclusive Negotiating Agreement.

SUSTAINABLE OPPORTUNITIES

Economic: There is no direct economic impact connected to the request for an ENA with Portfolio Development Properties, LLC. However, the proposed project would add additional revenue to the City through lease or sale, in addition to creating new jobs and ultimately generating additional tax revenue. The project would improve neighborhood conditions and make the neighborhood area more attractive to current and prospective homeowners and businesses, in addition to adding a service to both local residents and commuters traveling through the two major commercial corridors.

Environmental: There is no direct environmental impact connected to the request for an ENA. However, the proposed retail project would remove blighted property from this commercial node and will create an infill retail development. The developer will use their good faith efforts to design, develop and construct an environmentally sustainable project in conformance with the "Build It Green" commercial checklist.

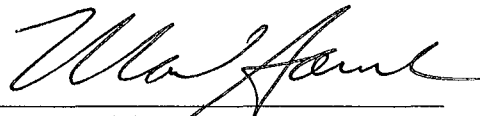
Social Equity: There is no direct social impact connected to the request for an ENA. The proposed Starbucks community retail project would be a positive stimulus to the neighborhood and would provide needed retail and training services to an underserved area. The project will also be a positive stimulus to the neighborhood where the development of land is both welcomed and important to the continued neighborhood growth and stability.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That City Council Adopt A Resolution Authorizing An Exclusive Negotiating Agreement With Portfolio Development Properties, LLC, Or Affiliates For One Year, With One Optional Six-Month Administrative Extension, For The Lease, Disposition And Development Of The City-Owned Parcel At 73rd And Foothill.

For questions regarding this report, please contact Larry Gallegos, Area Manager at (510) 238-6174.

Respectfully submitted,



Mark Sawicki, Director
Economic and Workforce Development

Reviewed by:
Patrick Lane, Project Implementation Manager
Larry Gallegos, Area Manager

Prepared by:
Kimani Rogers, Urban Economic Analyst IV
Project Implementation

Attachments (2):

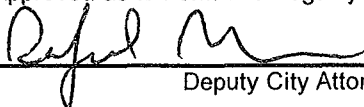
Attachment A – Portfolio Development Properties proposal

Attachment B – Preliminary Conceptual Design

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Approved as to Form and Legality:


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH PORTFOLIO DEVELOPMENT PROPERTIES LLC, OR RELATED AFFILIATES, FOR ONE YEAR, WITH ONE OPTIONAL SIX-MONTH ADMINISTRATIVE EXTENSION, FOR THE POTENTIAL DISPOSITION AND DEVELOPMENT OF A RETAIL PROJECT ON A CITY-OWNED PARCEL (APN 039-3291-020) LOCATED AT 73RD AVENUE AND FOOTHILL BOULEVARD

WHEREAS, the City owns a 1.22 acre parcel of land ("the Property") located on the northwest corner of 73rd Avenue & Foothill Boulevard with no current street address with APN 039-3291-020; and

WHEREAS, Portfolio Development Properties, LLC ("the Developer"), has submitted an unsolicited letter of interest to the City to develop a retail center on the Property; and

WHEREAS, the City and the Developer wish to enter into a period of preliminary study and exclusive negotiations over the proposed disposition of the Property for their project, with the 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, be it

RESOLVED: That the City hereby authorizes the City Administrator to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") with Portfolio Development Properties LLC, or related affiliates approved by the City Administrator, for the purposes of developing a project proposal for City Council review and approval, undertaking the necessary environmental review process, and negotiating the terms and conditions of a Lease or Disposition and Development Agreement; and be it

FURTHER RESOLVED: That the initial exclusive negotiating period will be for twelve (12) months from the date of this Resolution, with the option for the City Administrator to extend said period by an additional six months 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's Office prior to execution; and be it

FURTHER RESOLVED: That the City shall require a \$50,000 nonrefundable Project Expense Payment from the Developer to reimburse City staff costs and third party expenses; and be it

FURTHER RESOLVED: That the City authorizes the City Administrator or her designee to accept, appropriate, authorize, and administer the nonrefundable Project Expense Payment of \$50,000 in a Fund and Project to be determined later; and be it

FURTHER RESOLVED: That the City Council finds and determines, after independent review and consideration, 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 City Administrator or their 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 negotiate and enter into agreements and take whatever action is necessary with respect to the ENA and the Propertyconsistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN
AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California