

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2020 JAN -9 PM 3:47

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Elizabeth Lake
Deputy City Administrator

SUBJECT: California Waste Solutions Exclusive
Negotiating Agreement

DATE: December 30, 2019

City Administrator Approval

Date:

1/9/20

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To Extend The Exclusive Negotiating Agreement (ENA) with California Waste Solutions (CWS) For A Period Of Six Months With One Administrative Option For An Additional Three-Month Extension To Allow CWS To Complete The ENA Benchmarks And For The Parties To Complete The Negotiation Of The Price And Terms Of A Development And Disposition Agreement For The Relocation Of CWS's Existing West Oakland Recycling Uses To A Portion Of The North Gateway Parcels Located At The Former Oakland Army Base.

EXECUTIVE SUMMARY

Staff is recommending that the City Council adopt a resolution authorizing the City Administrator, or designee, to extend the Exclusive Negotiating Agreement (ENA) with California Waste Solutions (CWS) for a development project at the "North Gateway Area" located at the former Oakland Army Base (the Property) for a period of six months along with one administrative option for an additional three-month extension.

The parties have worked together in good faith to expeditiously implement the performance schedule set forth in the ENA, but still require additional time to complete the term sheet and Disposition and Development Agreement itself as well as the Conditional Use Permit process. The ENA extension would allow the City and CWS to complete negotiations to relocate CWS's existing recycling uses from the West Oakland neighborhood locations of 3300 Wood Street, 1819 10th Street and 1820 10th Street to the Property and develop new state-of-the-art facilities to accommodate those existing uses (collectively, the Project).

BACKGROUND / LEGISLATIVE HISTORY

In July 2018, the City and CWS executed an ENA to negotiate the sale of the Property to CWS to relocate its recycling uses from its existing facilities in the West Oakland neighborhood (Resolution No. 87308 C.M.S.). The relocation of CWS's uses outside of the West Oakland neighborhood has been a key objective of the community benefits program identified for the Oakland Army Base in 2012 (Resolution No. 83933 C.M.S.).

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ANALYSIS AND POLICY ALTERNATIVES

Relocating CWS's existing uses to the former Oakland Army Base allows intensive recycling facilities to move from the West Oakland neighborhood to the industrially zoned Army Base and puts the currently undeveloped land into productive use. The Property is conveniently located in the East Bay near the Bay Bridge and has direct access to the I-980 freeway.

Relocating the CWS recycling facilities to the North Gateway Area of the former Oakland Army Base is dependent upon various factors, including site permitting processes, environmental analysis and financial analysis. CWS has made good progress on meeting the performance schedule and has submitted many of the ENA deliverables during the ENA which has assisted with developing a plan to achieve a financially feasible state-of-the-art facility to handle its existing recycling uses. However, CWS is still in the process of obtaining City project approvals, and the City and CWS are still in the process of negotiating the terms of a Disposition and Development Agreement. Providing a six (6)-month extension with one three (3) month administrative extension would allow CWS to complete these actions and for the parties to bring forward a Disposition and Development Agreement for the City Council to consider.

FISCAL IMPACT

CWS will be paying a \$30,000 ENA extension fee, which will be deposited and appropriated to the Miscellaneous Capital Projects Fund (Fund 5999), Organization: Oakland Army Base Redevelopment (Org. 85244), in a new Project to be established in order to offset internal Project costs. There is no fiscal impact or additional cost associated with the proposed extension to the ENA with CWS.

PUBLIC OUTREACH / INTEREST

The City has conducted numerous outreach meetings with a variety of community organizations, neighborhood groups, and business groups as well as outside agencies regarding the planning and development of the Oakland Army Base. The Property is located in the northern portion of the former Oakland Army Base and was the subject of the Army Base Environmental Impact Report in 2002, which was updated in 2012 with an Addendum (Ordinance No. 13131 C.M.S.), that includes a comprehensive set of standard conditions of approval and mitigation monitoring and reporting program (the SCA/MMRP).

As is required by the CWS ENA, a project-specific Public Engagement Plan was prepared by CWS and approved by the City on May 1, 2019.

Pursuant to the Plan, CWS has performed the following outreach:

- Mailed notices to all Oakland residents describing the CWS proposed project.
- Conducted public meetings on July 15, 2019 and September 10, 2019 to discuss project overview including community benefits, jobs, and re-use of the current sites.

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- Hosted a tour to Rethink Waste, a state-of-the-art waste management facility in San Carlos, CA, for community stakeholders.
- Sponsored community events including First African Methodist Episcopal Church (FAME) Oakland's Back to School Shoe Giveaway, Life is Living Festival, Oakland Excellence in Sports Performance Yearly (ESPYS) award ceremonies, Makin Moves Community Festival, and other key events that target residents in West Oakland and throughout the city in an effort to expand outreach database.
- Held presentations at local neighborhood organizations including West Oakland Biz Alert and West Oakland Neighbors. Additional presentations and meetings with key stakeholders are also being scheduled.

COORDINATION

The City Administrator's Office has coordinated its efforts with the Bureau of Planning with respect to the California Environmental Quality Act (CEQA) review and Project approvals, as well as the Public Works Department the City Attorney's Office, and Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Potential redevelopment of the Property could have substantial economic regional impacts which can be characterized in terms of net direct spending, total output, income and jobs. In addition, the project could have positive fiscal impacts which can be measured in both city and county tax revenue increases including property taxes, sales taxes, business taxes, etc.

Environmental: Relocating CWS's existing facilities out of a residential mixed use neighborhood and onto the industrial North Gateway Area of the former Oakland Army Base would contribute and enhance smart growth principles, would leverage its existing multi-modal transportation amenities and would be consistent with regional growth policies and state growth mandates Senate Bill 375 and Assembly Bill 32, as well as allow for updated state-of-the-art recycling facilities, all of which result in environmental benefits.

Race and Equity: The West Oakland neighborhood adjacent to the Property has long experienced social and economic equity issues and has been historically underserved. Relocating a truck-intensive, industrial use to the Oakland Army Base would ultimately provide positive health benefits by moving recycling activities away from the historically environmentally impacted neighborhood in West Oakland and provide economic stimulus to the neighborhood by preserving and creating additional local job opportunities and would contribute to continued neighborhood job growth and economic stability.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

An authorization to enter into this ENA is not in-and-of-itself a "project" (pursuant to CEQA Guidelines Section 15378) since the ENA results in no binding commitment by the City to

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authorize or advance the Project, and it will not result in a direct or indirect physical change in the environment; therefore, neither entering into nor extending an ENA is subject to CEQA. Depending on the outcome of the negotiations authorized under the ENA, the action authorized by this item may or may not be part of a "project" that shall be subject to appropriate environmental review in accordance with CEQA at the "earliest feasible time" prior to "approval", consistent with CEQA Guidelines Sections 15004 and 15352. The "project" would be the development that may be authorized under any final Disposition and Development Agreement. Any such Development and Disposition Agreement would be subject to final review and approval by the City Council following the conclusion of the negotiations authorized under the ENA, and appropriate CEQA analysis of the Project will occur with City Council consideration and approval of the Disposition and Development Agreement.

CALIFORNIA SURPLUS LANDS ACT

All of the properties located within the Oakland Army Base were used for federal military uses for decades, resulting in hazardous materials contamination. In light of this contamination, the properties in the Oakland Army Base have both Federal and State deed restrictions preventing their use for any residential activities. The properties were transferred, ultimately, to the City to advance specific development objectives and not general City uses.

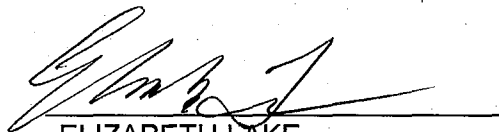
Pursuant to the California Surplus Lands Act (CA Government Code 54220 et seq., "SLA"), properties subject to ENAs executed prior to September 30, 2019 are exempt from the requirements of the new SLA if they close prior to December 31, 2022. As noted above, this action is for an extension of an existing ENA that was executed prior to September 30, 2019.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To Extend The Exclusive Negotiating Agreement (ENA) with California Waste Solutions (CWS) For A Period Of Six Months With One Administrative Option For An Additional Three-Month Extension To Allow CWS To Complete The ENA Benchmarks And For The Parties To Complete The Negotiation Of The Price And Terms Of A Development And Disposition Agreement For The Relocation Of CWS's Existing West Oakland Recycling Uses To A Portion Of The North Gateway Parcels Located At The Former Oakland Army Base.

For questions regarding this report, please contact John Monetta, Project Manager I at (510) 238-7125.

Respectfully submitted,



ELIZABETH LAKE
Deputy City Administrator for Real Estate
and Major Projects

Prepared by:
John Monetta, Project Manager I
Office of the City Administrator

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DRAFT

Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO EXTEND THE EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH CALIFORNIA WASTE SOLUTIONS (CWS) FOR A PERIOD OF SIX MONTHS WITH ONE ADMINISTRATIVE OPTION FOR AN ADDITIONAL THREE-MONTH EXTENSION TO ALLOW CWS TO COMPLETE THE ENA BENCHMARKS AND FOR THE PARTIES TO COMPLETE THE NEGOTIATION OF THE PRICE AND TERMS OF A DEVELOPMENT AND DISPOSITION AGREEMENT FOR THE RELOCATION OF CWS'S EXISTING WEST OAKLAND RECYCLING USES TO A PORTION OF THE NORTH GATEWAY PARCELS LOCATED AT THE FORMER OAKLAND ARMY BASE

WHEREAS, the City owns approximately 12 acres of land and holds an easement on approximately 2 acres of land in the City of Oakland commonly known as the North Gateway Area of the former Oakland Army Base (the "Property"); and

WHEREAS, the Property is designated for mixed use commercial and industrial uses, including recycling uses; and

WHEREAS, California Waste Solutions ("CWS") has existing recycling uses and facilities located in the West Oakland neighborhood; and

WHEREAS, on July 2, 2018, the city Council adopted Resolution No. 87308 C.M.S., which authorized City Administrator to negotiate and execute documents and take all other action necessary with respect to the ENA; and

WHEREAS, the City and CWS entered into an Exclusive Negotiating Agreement dated July 24, 2018 ("CWS ENA"), to allow the parties to enter into a period of negotiations over possible disposition of the Property and development of a project on the site; and

WHEREAS, the ENA has performance benchmarks for CWS to meet; and

WHEREAS, CWS has been diligently working to satisfy the benchmarks but needs additional time; and

WHEREAS the City and CWS need additional time to negotiate the terms of Development and Disposition Agreement; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator, or designee, to extend the CWS ENA for a period of six months from January 24, 2019, with an option to extend said period for an additional one three-month period at the discretion of the City Administrator or designee; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator, or designee, to extend the performance benchmark dates, but in no event shall the last benchmark date be beyond the extended ENA term; and be it

FURTHER RESOLVED: That the City Council finds and determines, after independent review and consideration, that this action results in no binding commitment by the City to authorize or advance the Project; will not result in a direct or indirect physical change in the environment; and does not constitute an "approval" of a "project" pursuant to CEQA Guidelines Sections 15004 and 15352; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or designee to negotiate and execute documents and take all other action necessary with respect to the CWS ENA consistent with this Resolution and its basic purposes, as shall be approved for form and legality by the City Attorney.

IN COUNCIL, 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
City Clerk and Clerk of the Council of the
City of Oakland, California