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OAKLAND
2015 SEP 02 AM 9:47


AGENDA REPORT

TO: Sabrina B. Landreth
CITY ADMINISTRATOR

FROM: Mark Sawicki

SUBJECT: Oakland Acura ENA for Oakport St
Parcel

DATE: August 24, 2015

City Administrator
Approval 

Date 8/31/15

COUNCIL DISTRICT: 7

RECOMMENDATION

Staff recommends that the City Council adopt the following legislation:

A Resolution Authorizing the City Administrator or Designee to Negotiate and Execute An Exclusive Negotiating Agreement with Oakland Acura or Affiliated Entity for Twelve Months with One Optional Six Month Administrative Extension for the Development of the 3.625 Acre (APN#: 041-3902-021) Oakport Street Parcel

OUTCOME

Adoption of the proposed resolution will authorize the City Administrator or designee to enter into an Exclusive Negotiating Agreement (“ENA”) with Oakland Acura, or affiliated entity (“Dealership”) for the future disposition of the City owned 3.625 acre Oakport Street parcel (“Property”). The ENA will allow the Dealership to complete its due diligence regarding the Property, secure requisite financing, and negotiate a term sheet for ultimate disposition of the Property. The project envisions a new Acura Dealership of up to 35,000 square feet, complete with showroom, service department, parts department and surface parking lot featuring the latest environmental and sustainable storm-water features (“Project”).

BACKGROUND/LEGISLATIVE HISTORY

The City-owned 3.625-acre (APN #: 041-3902-021) parcel is located south of 66th Avenue between the Damon Slough and the former Zhone campus at 7001 Oakport Street. The Property consists of a vacant parking lot with paving, lighting, and landscaping improvements and has approximately 350 feet of frontage. Oakport Street is currently a two-way, two-lane street and is improved with concrete curbs, gutters, and lighting and runs parallel to Interstate I-880, which gives the property excellent freeway visibility (*Attachment A-Aerial of Oakport St Parcel*).

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In 2000, the former Redevelopment Agency sold a vacant 14.5-acre site to Zhone Technologies, Inc., for the purpose of developing a 300,000 square foot corporate campus. However, instead of developing a 300,000 square foot campus, only a 180,000 square foot campus was developed. Plans for the Zhone campus originally called for four buildings, but only three buildings were eventually developed: 1) a 30,000 square foot warehouse building at the southern rear portion of the property; 2) a 60,000 square foot office building that fronts the I-880 freeway; and 3) a 90,000 square foot partially completed "core and shell" office building. The fourth and final 120,000 square foot office building that was originally planned was never developed.

At the time of the original sale, the former Agency entered into a disposition and development agreement that required a repurchase option in the event the property was never fully developed within a given timeframe. As a result of the fourth building never being completed, the former Agency exercised its option in 2007. The un-developed portion (3.625 acres) was subdivided and ultimately repurchased for the original sales price of \$9.50 per square foot or \$1,500,097. The agreement with Zhone also included another \$200,000 which the former Agency agreed to pay for the additional parking site improvements for a total of \$1,700,097. However, according to the last available appraisal completed in 2010 by an independent Member of the Appraisal Institute or MAI appraiser, Yovino and Young, the estimated value of the property was \$3.4 million or approximately \$21.53 per square foot. Today, the property is estimated to be worth upwards of \$30 per square foot or approximately \$4.7 million.

The property is not subject to the State Surplus Lands Act since the property was originally purchased by the former Redevelopment Agency for the purposes of future development and the Property has not been in a City use.

ANALYSIS

The Property occupies a strategic location directly across from the Oakland Alameda County Coliseum Complex, which attracts over three million patrons per year for sporting events, concerts, and family entertainment. The Property is also near the Oakland International Airport and is adjacent to the Oakland Airport Business Park. Over the years, major public improvements have occurred along Oakport Street between 66th and Hegenberger that enhance the area's character as a district for auto, truck, and motorcycle retail uses. The Property is also situated in an area known as the Coliseum Auto Mile, which runs along I-880 between High Street and 98th Avenue and features dealerships such as One Toyota of Oakland, Coliseum Lexus, Paul Blanco's Auto Dealership, Freightliner, and TEC Oakland (Volvo, Mack, GMC Trucks). In addition, the area also features the Bob Dron Harley Davidson Motorcycle dealership located on Hegenberger. Nearby auto parts retailers such as Napa Auto Parts are located on 66th and Coliseum Way, as well as nearby auto service facilities, providing an excellent complement to existing and new dealerships.

Proper dealership location is also important as well as the convenience that clustered dealerships offer patrons wishing to research and compare several auto brands in a single visit. The Property undoubtedly offers excellent exposure potential from the I-880 corridor since it is one of the most frequently-traveled thoroughfares in the Bay Area. For this reason alone, the property has the potential

to become a major automobile destination along I-880, anchored by the numerous dealerships previously mentioned. While much of Oakland's auto retail activity has historically been along Broadway Auto Row, the Oakport property offers a tremendous opportunity for a new auto dealership with convenient freeway access and visibility.

Oakland Acura submitted an unsolicited formal letter of interest on June 11, 2015 and is currently amenable to entering into a long term ground lease with the City (*Attachment B-Oakland Acura LOI*). The dealership needs to find a new location since their current property, 277 27th Street, is being sold. However, rather than permanently closing or moving to another City, the dealership is very interested in relocating its business to the City owned parcel immediately adjacent to 7001 Oakport Street. Introducing a new dealership on Oakport Street would not only complement the existing auto dealerships, but would also draw additional buyers and foot traffic to the area and as a result should increase overall sales.

Architectural renderings featuring the new planned facility at the new location have not yet commenced, but the dealership would start the design process during the ENA period. Nonetheless, Oakland Acura currently estimates spending upwards of \$5.5 million on a brand new showroom facility. It is anticipated that the new facility would require programmed space for uses such as: showroom center; office area; service department with service bays; parts department; and surface parking lot featuring the latest environmental and sustainable storm-water features.

In September of 2014, the County of Alameda purchased the larger 10.87 acre former Zhong campus located at 7001 Oakport Street from LBA Realty. The County has not released any details regarding their plans for the property, but has previously indicated their interest in consolidating a number of their departments and offices to the property. In addition, the City, County, and the master developer are currently in a three party ENA for Coliseum City, which includes the area east of the freeway including the 120 acre Oakland-Alameda County Coliseum Complex. It should also be noted that the current Coliseum City ENA excludes properties west of I-880 freeway, so there is no obligation from the City to reserve the Property for the Coliseum City project.

Anticipated Fiscal and Economic Benefits to the City/Community

1. Jobs Retained- A total of 50 full time and 16 part-time Oakland jobs are expected to be retained.
2. Sales Tax- The dealership expects to generate approximately \$2 million in annual total gross sales tax, with approximately \$200,000 in net sales tax to the City on an annual basis.
3. Business Tax- Approximately \$47,000 in annual business tax fees are currently generated at the existing Acura location on 27th Street. The dealership currently estimates approximately \$65,000 in annual business tax fees being generated since the dealership expects revenue to increase at the highly visible new freeway location.

4. Ground Lease Payments- Although lease terms will need to be negotiated, based on a potential fair market value of \$4.7 million or more, and a fair market return rate of 6%, the City could expect an annual lease payment of up to \$300,000.
5. Property Tax- Assuming fair market value of \$4.7 million, the City would generate at least \$18,000 per year in property tax. If improvements of \$5.5 million are added to that value, the City would generate approximately \$40,000 per year in property tax.

PUBLIC OUTREACH/INTEREST

The Coliseum Specific Plan and CEQA/EIR process was completed earlier this year surrounding the Coliseum Arena site including the area where the Property is located. As part of that process, staff solicited input from the community regarding the land use and zoning designations for that area at nearly three dozen public meetings over a two year period. The zoning for the Oakport Street parcel is currently D-CO-3, which conditionally permits auto sales.

COORDINATION

Economic and Workforce staff worked closely and coordinated with the Bureau of Planning and Building on the Coliseum CEQA/EIR Specific Plan process. In addition, the City Attorney's Office, Real Estate Services and former Redevelopment Agency staff were directly responsible for the acquisition of the Property. Staff from these groups will also work on the terms of an ENA, and potentially a Lease Disposition and Development Agreement.

COST SUMMARY/IMPLICATIONS

There is no direct negative impact to the General Purpose Fund. To the contrary, if the existing Oakland dealership is retained, the General Purpose Fund should directly benefit with the additional sales and property taxes, and other revenues.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: Excluding staff time and related costs, no additional costs are anticipated to enter into the ENA.
2. COST ELEMENTS OF AGREEMENT/CONTRACT: A standard project expense payment in the amount of \$25,000 shall be required from the Dealership as a condition of the ENA and shall be made payable to the City of Oakland for exclusive negotiating rights on the Property.

SUSTAINABLE OPPORTUNITIES

Economic: By retaining the existing Oakland dealership, approximately 66 local jobs will be retained approximately 15 of those positions have a current Oakland address. Positions will range from sales management, service, parts, and administration. Additionally, sales positions with the company will have the opportunity to earn performance based bonuses and commissions. The new proposed

dealership will also complement the other existing dealerships and should increase the amount of potential buyers of vehicles along the Coliseum auto row.

Environmental: The new dealership will propose a new state of the art facility complete with sustainable building materials and methods and shall incorporate storm water filtration standards for the entire parking lot area.

Social Equity: The project will provide much needed local construction jobs and will produce new sales, administrative, and service jobs to run the operations and facility and will provide a positive stimulus for the local economy.

CEQA

The ENA period will be used to determine feasibility and make sure all necessary environmental requirements will be met for the proposed development of the Project. Furthermore, the authorization to enter into the ENA with Dealership 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.

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

Respectfully submitted,



Mark Sawicki, Director
Office of Economic and Workforce Development

Reviewed by:

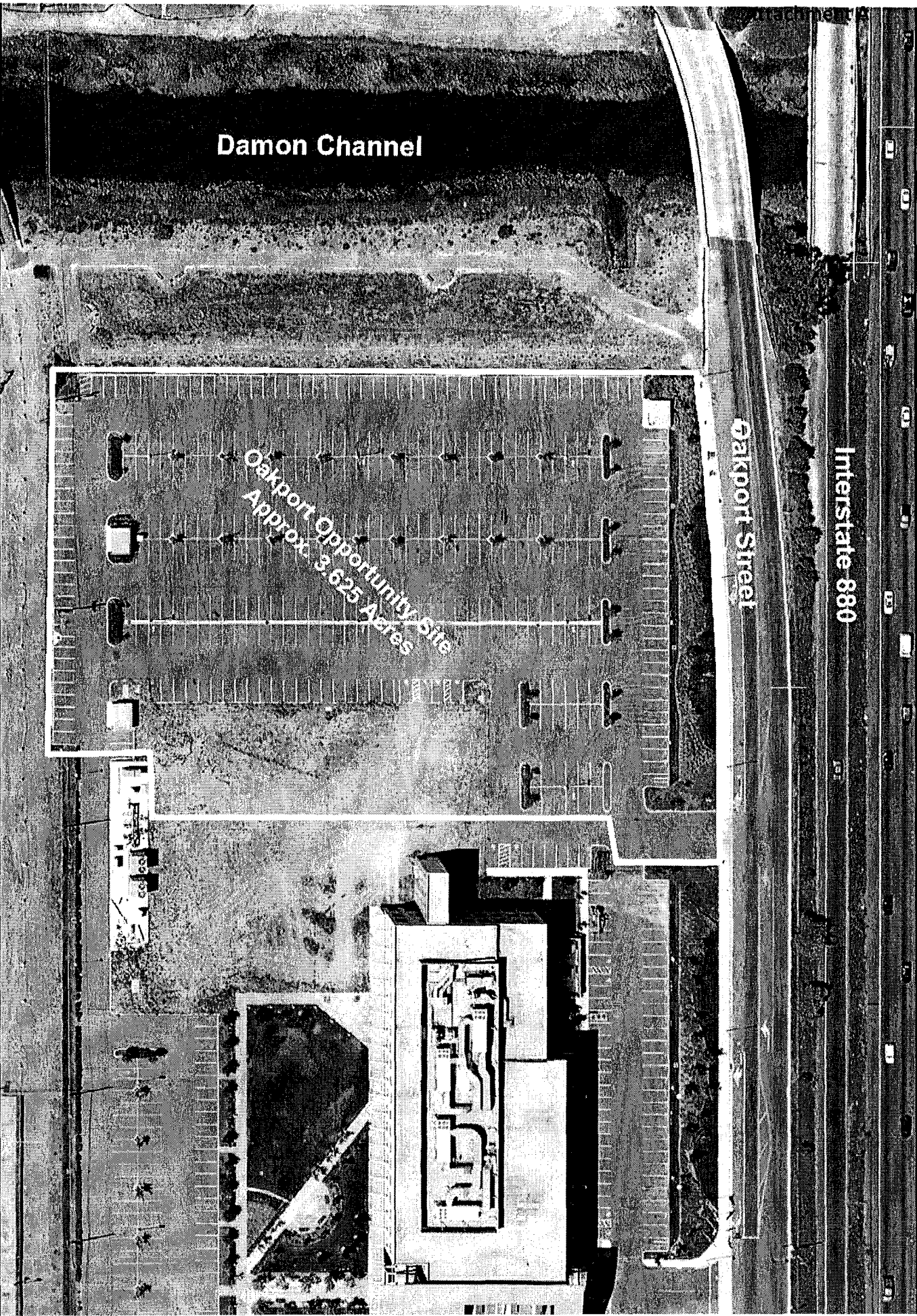
Larry Gallegos, Project Area Manager

Attachments (2):

Attachment A. Aerial of Oakport St Parcel
Attachment B. Oakland Acura LOI

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CED Committee
September 15, 2015

**Oakport Opportunity Site
Oakland, California**



Damon Channel

*Oakport Opportunity Site
Approx. 3,625 Acres*

Oakport Street

Interstate 880



June 11, 2015

Mr. Larry A. Gallegos
Manage Neighborhood Investment
City of Oakland
250 Frank Ogawa Plaza 5th Fl.
Oakland, CA 94612

Re: 3.625 Acre, Site Oakport ST, Oakland, CA (APN# 041-3902-015-03) ("the Property")

Dear Mr. Gallegos;

Please use this letter to confirm Oakland Acura interest in pursuing the purchasing or leasing the above reference site for our new auto sales and service facility. This letter outlines the basic terms and conditions under which Oakland Acura would consider entering into an option to purchase or, alternatively, option to ground lease the Property from the City of Oakland.

The Option to Purchase (or) Option to Ground Lease (at Seller's /Lessor's sole election) would be consistent with the following general terms.

Option to Purchase

Property: The Property is a 155,000 +/- square feet parcel of land located on Oakport Street in Oakland, CA (APN# 041-3902-015-03) together with all appurtenant easements. Current use is as a paved parking lot.

Option Period: The Option Period shall commence on the date that both Buyer and Seller execute the Option to Purchase Agreement and shall expire ninety (90) days after, provided, however, Buyer shall have the right to exercise one (1) thirty (30) day extension of the Option Period by delivering notice of such exercise prior to the expiration of the expiration date.

Deposit: An initial deposit in the amount of \$50,000 would be deposited with Escrow Holder within five (5) business days following execution of the Option to Purchase by both Buyer and Seller. The deposit would be refundable to Buyer if Buyer elects to terminate the Option to Purchase during the Due Diligence Period.

Option Consideration:

The Option Consideration shall be payable to Seller as follows:



Oakland Acura
277 27th Street
Oakland, CA 94612
510.444.8383
Fax: 510.273.6843



1. The Initial Deposit, plus an additional deposit of \$250,000 resulting in a total of Three Hundred Thousand (\$300,000), would be deposited into escrow upon delivery of Buyer's Due Diligence Approval Notice to Seller.
2. Option Payments would be non-refundable (subject to Seller's performance) and credited against the Purchase Price at closing.

Purchase Price: The purchase price is subject to further negotiations and will be at fair market value.

Due Diligence Material:

Seller shall deliver to Buyer copies of such documents and information, as Buyer shall reasonably request with ten (10) days after the mutual execution of an Option to Purchase. Buyer shall have Ninety (90) days after the execution of the, to be issued Option to Purchase, to satisfy itself in their complete discretion as to the feasibility of the transaction contemplated herein and to make such inspections and to obtain such Due Diligence Materials as Buyer may elect.

Prior to expiration of the Due Diligence Period Buyer shall either approve the conditions of the Property and waive its termination right by delivering a "Due Diligence Approval Notice" or elect to terminate the Option to Purchase. Buyer shall have the absolute discretion, to terminate the Option to Purchase at any time during the Due diligence Period, at which time all obligations of Buyer and Seller would come to an end and the Deposit would promptly be refunded to Buyer.

Development Approvals:

During the Option Period, Buyer may undertake, at its sole cost and expense, to procure such approvals as may be necessary to develop the Property, and all requisite general land use entitlements for the Property, including, but not limited to, execute all documents reasonably necessary to allow Buyer to pursue applications for and obtain such approvals to develop the Property.

Seller shall not be bear of become obligated pay any expense or assume any liability in connection with any such approvals.

Purchase Agreement: The Purchase Agreement shall be drafted by Seller and subject to Buyer's approval. The Agreement shall provide for an "all cash" non-contingent closing (except in the event of a breach by Seller) with all closing costs to be allocated in accordance with custom and otherwise contain customary and usual terms for a transaction of this nature in Alameda County.



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Option to Ground Lease

General Terms: Except for the terms below, the Option to Ground Lease shall be on the same terms and conditions as above.

Option Exercise: The Option to Ground Lease may be exercised by delivering to the Ground Lessor, before the expiration of the Option Period written notice of the exercise, which shall state that the option is exercised without conditions or qualifications. The Exercise Notice is to be accompanied by:

1. Copies of the Ground Lease, as drafted by Lessor, which shall be attached to the Option to Ground Lease as an exhibit, executed by Ground Lessee.
2. Ground Lessee's check payable to Ground Lessors in the amount of the Security Deposit and first month's Rent.
3. On receipt by Ground Lessor of the Exercise Notice, copy of executed Ground Lease Lessee's, security deposit and first month's rent, Ground Lessors shall execute the Ground Lease and deliver an executed copy to Ground Lessee.

Form of the Ground Lease:

The draft of the Ground Lease shall be prepared by the counsel for Ground Lessor and will be attached as an exhibit to the Option to Ground Lease. Ground Lease shall contain such terms, covenants, representations and warranties as are customary or appropriate in transactions of the nature.

Base Rent: The annual Base Rent shall be determined by further negotiations. Base rent shall be adjusted every five (5) years during the term by the lesser of cumulative annual CPI changes over each five year term not to exceed two percent per year.

Lease Term: The Ground Lease Term shall be for a primary term of sixty six (66) years.

Utilities: This is a NNN lease, Ground Lessee shall make arrangements and pay all charges for water, sewer telephone, gas, electricity, and other utilities supplied to or used on the Property.

Option to Buy: Ground Lessee would like to explore with Ground Lessor the possibility of an Option to Buy the Property during the Ground Lease Period.



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277 27th Street
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Right of First Offer:

Ground Lessee shall have the ongoing Right of First Offer to Purchase the Property.

It is expressly understood that, this Letter of Interest shall not constitute a binding agreement between the parties, but only reflects the general terms and conditions the Buyer/Ground Lessee would have interest in entering into an option to Purchase or Option to Ground Lease the Property following the execution and delivery of a mutually acceptable formal agreement.

Seller and Buyer shall use their good faith and reasonable efforts to enter into the Option to Purchase or Option to Ground Lease within thirty (30) days of the date hereof, provided either party may terminate these discussions at any time in their sole and absolute discretion.

If you are in agreement with the forgoing, please countersign a copy of the letter in the places set forth below and return a counterpart copy of this letter to me no later than June 20, 2015.

Sincerely

By: Gordon Walton
Its: President

ACCEPTED AND AGREED
ON THIS _____ DY OF JUNE 2015

By: _____

Its: _____

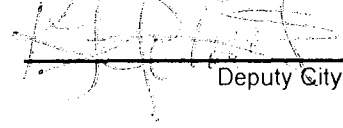


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Approved as to Form and Legality:



Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT WITH OAKLAND ACURA OR AFFILIATED ENTITY FOR TWELVE MONTHS WITH ONE OPTIONAL SIX MONTH ADMINISTRATIVE EXTENSION FOR DEVELOPMENT ON THE 3.625 ACRE (APN#: 041-3902-021) OAKPORT STREET PARCEL

WHEREAS, the City of Oakland (“City”) owns approximately a 3.625 Acre (APN#: 041-3902-021) (“Property”) parcel located adjacent to 7001 Oakport Street; and

WHEREAS, Oakland Acura (“Dealership”) submitted a proposal to purchase or lease the Property to develop a new Acura Dealership featuring a new showroom, service center, parts department consisting of an approximately 35,000 square feet building (the “Project”) on the Property; and

WHEREAS, the City and Dealership wish to enter into a period of preliminary study and exclusive negotiations of the proposed Project, with the understanding that such study and negotiations do not constitute a binding commitment on the part of the City to the proposed Project or Dealership for the Property; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator or designee to negotiate and enter into an Exclusive Negotiating Agreement (“ENA”) with Oakland Acura or affiliated entity for the purposes of studying and evaluating the feasibility of the development of the proposed Project for the development of a new auto dealership for City review and approval, undertake the necessary environmental review process, and negotiate the terms and conditions of a Lease Disposition and Development Agreement (“LDDA”); and be it

FURTHER RESOLVED: That the initial exclusive negotiating period will be for twelve (12) months from the date hereof, with the option by the City Administrator or designee in his/her sole discretion to extend said period by an additional six months; 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 Property is exempt from the State Surplus Lands Act since the

property was purchased by the former redevelopment agency for the purposes of future development and the Property has not been in the City's use; and be it

FURTHER RESOLVED: That the City finds and determines, after independent review and consideration, that the authorization to enter into the ENA with Dealership 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 negotiate and enter into other agreements and 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, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON McELHANEY

NOES -

ABSENT -

ABSTENTION -

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