

2013 MAR 27 AM 10:30

Approved as to Form and Legality:

Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 84309 C.M.S.

RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH WEST OAKLAND DEVELOPMENT GROUP, LLC, FOR DEVELOPMENT OF THE BLOCKS SURROUNDED BY 5TH, 7TH, KIRKHAM AND MAGNOLIA STREETS IN WEST OAKLAND

WHEREAS, the California Department of Transportation ("Caltrans") owns two parcels totaling approximately 3.5 acres in West Oakland on the blocks bounded by 5th, 7th, Kirkham and Magnolia Streets (the "Caltrans Property" or "Property"); and

WHEREAS, Caltrans has offered the Caltrans Property for lease or sale to the City of Oakland and other public entities under the Surplus Lands Act; and

WHEREAS, West Oakland Development Group, LLC ("WODG"), a limited liability company made up of the Alliance for West Oakland Development, DSCI, Inc., House of Change, and Tomorrow's Answers, desires to acquire the Caltrans Property for the purposes of development of a high density, transit-oriented, mixed-use project around the West Oakland BART station in multiple phases; and

WHEREAS, WODG owns 1357 – 5th Street, a 3.89 acre parcel across the street from the Property and to the West Oakland BART station; and

WHEREAS, WODG proposes in Phase 1 the development of a permanent 1,500 car parking garage at 1357 – 5th Street to replace existing parking at the West Oakland BART station; and

WHEREAS, WODG proposes to reactive an Exclusive Negotiating Agreement with BART to develop a mixed-use project on the BART site in Phase 1; and

WHEREAS, WODG proposes that in Phase 1, the Property be used for interim service parking to replace BART's existing parking at the West Oakland BART station; and

WHEREAS, WODG proposes in Phase 2, after the 1,500 car parking garage is complete, the development of two residential buildings consisting of 563 units of housing on the 2.76 acre parcel of the Property bounded by 5th, 7th, Kirkham and Union; and

WHEREAS, WODG proposes in Phase 3, the development of mid-rise residential and/or office buildings with street level retail at 1357 – 5th Street, adjoining the 1,500 car parking garage; and

WHEREAS, WODG proposes in Phase 4, the development a building of up to 80 housing units on the remaining 0.69 acre parcel of the Property, located at the south-half block of 7th, Union 5th ad Magnolia; and

WHEREAS, the City and WODG wish to enter into a negotiation period to determine the feasibility of the Project proposal, to perform environmental analysis of the Project, and to negotiate the terms for the acquisition of the Property by the City from Caltrans and the disposition of the Property to and the development of the Project by WODG via a double escrow sale, understanding that this does not constitute a binding commitment on the part of the City to any project or developer for the Caltrans 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 WODG for the purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for, the transfer of the Caltrans Property and its development for a transit-oriented development; and be it

FURTHER RESOLVED: That the initial exclusive negotiating period will be for 12 months from the date of this Resolution, with the option by the City to extend said period by an additional 180 days with the approval of the City Administrator in her sole discretion; and be it

FURTHER RESOLVED: That the City shall require payment of a \$25,000 Project Expense Payment by WODG for purposes of reimbursing City for its staff costs and third party expenses; 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 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 negotiate and enter into agreements and take whatever action is necessary with respect to the ENA, the project, and the purchase of the Property, consistent with this Resolution and its basic purposes.

APR 16 2013

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

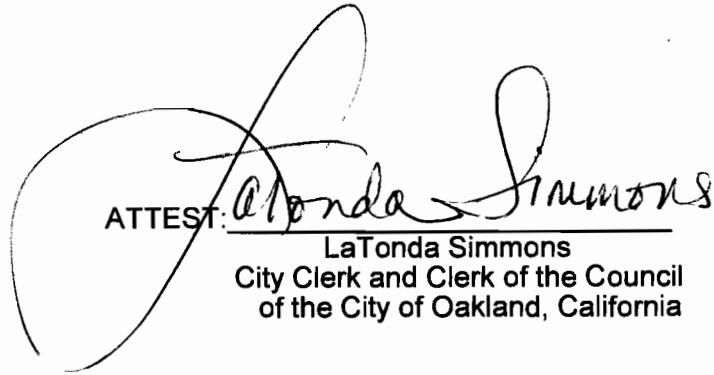
AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF, and
PRESIDENT KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California