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OFFICE OF THE CITY CLERK
OAKLAND

AGENDA REPORT

2018 JUL -5 PM 6:00

TO: Sabrina B. Landreth
City Administrator

FROM: Elizabeth Lake
Deputy City Administrator

SUBJECT: California Waste Solutions Exclusive
Negotiating Agreement

DATE: June 22, 2018

City Administrator Approval

Date:

7/5/18

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To 1) Negotiate The Price And Terms Of A Development And Disposition Agreement With CWS For The Relocation Of Its Existing West Oakland Recycling Uses To A Portion Of The North Gateway Parcels Located At The Former Oakland Army Base; 2) Accepting And Appropriating A Project Expense Payment In Connection With The ENA, And 3) Confirming The Application Of An Existing Security Deposit

EXECUTIVE SUMMARY

Staff is recommending that the City Council adopt a resolution authorizing the City Administrator, or designee, to negotiate and execute an 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. More specifically, the development site consists of approximately 12 acres of the North Gateway Area owned in fee by the City and may also include approximately two acres of land owned in fee by Caltrans over which the City holds a permanent easement, as depicted on the Site Map included as **Attachment A** (collectively, the "Property")

The ENA period would be for a period of 12 months, commencing as of the Council's action, with two three-month options to extend by the City Administrator, at her sole discretion. The ENA would allow CWS to perform due diligence, and the City and CWS to conduct negotiations to relocate its existing recycling uses from the West Oakland neighborhood locations of 1819 10th Street, 1820 10th Street and 3300 Wood Street to the Property and develop new state-of-the-art facilities to accommodate those existing uses at the Property (collectively, the "Project")..

BACKGROUND / LEGISLATIVE HISTORY

In December 2012, the City entered into a joint ENA with CWS and another recycler located in West Oakland, CASS, Inc., to jointly relocate their uses to the "North Gateway" area of the Oakland Army Base. That ENA has since expired, but through that process, CWS, CASS, Inc. and City Staff reached an agreement on how to divide the North Gateway Area for the

Item: _____
CED Committee
July 17, 2018

respective recyclers and for each recycler to separately proceed with negotiations with the City. Negotiations between the City and CWS were interrupted by an unrelated lawsuit between the City and CWS. At this point, however, the parties desire to continue negotiations regarding the sale of the Property to CWS, on which CWS desires to relocate its recycling uses from its existing facilities in the West Oakland neighborhood. Sale of the Property to CWS so as to facilitate 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 since 2012.

As such, the City and CWS desire to enter into a new ENA to allow the City and CWS to enter into a period of environmental review and exclusive negotiations for a Disposition and Development Agreement and any required ancillary agreements to transact the Property to CWS. As the City is still in possession of a \$623,840 security deposit from CWS from the prior agreement, Staff proposes to apply that deposit to the new ENA.

ANALYSIS AND POLICY ALTERNATIVES

The North Gateway Area has the potential to allow intensive recycling facilities to move from the West Oakland neighborhood to the former Oakland Army Base, which is an industrial development. Relocating CWS's existing uses to the former Oakland Army Base also 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 results of site investigations, site planning process, environmental analysis and financial analysis. The ENA will require CWS to submit deliverables during the term to develop a plan to achieve financially feasible state of the art facilities to handle its existing recycling uses. In addition, the ENA will require a public outreach plan and allow CWS an opportunity to negotiate the level of community benefits regarding the Project.

FISCAL IMPACT

As a condition of entering into an ENA, CWS will be required to agree to allow the City to transfer the existing \$623,840 towards a security deposit. Also, the City will require CWS to pay a Project Expense Payment ("PEP"), to cover third party consultant costs, in an amount to be determined. The \$623,840 security deposit and all PEP funds will be accepted and appropriated into Fund 5672, Project to be determined, for the administration and management of the ENA in FY 2019-2021.

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 that includes a comprehensive set of conditions and mitigation measures (the "SCA/MMRP")..

Quarterly meetings continue to be held with the West Oakland Community Advisory Group, which was formed as part of the Oakland Army Base planning process. Through these past efforts, the City developed a comprehensive community benefits program for the Oakland Army Base.

The ENA requires CWS to continue community outreach, by creating and implementing a comprehensive plan that will be approved by City Staff.

COORDINATION

The City Administrator's Office has coordinated its efforts with the Bureau of Planning on the prior CEQA/EIR process as well as the Public Works Department and the City Attorney's Office.

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 SB 375 and AB 32.

Social Equity: The West Oakland neighborhood adjacent to the Property has long been attributed with 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 economic stimulus to the neighborhood by preserving and creating additional local job opportunities and would contribute to continued neighborhood job growth and economic stability.

CEQA

As authorization to enter into this ENA is not in-and-of-itself a "project" (pursuant to CEQA Guidelines Section 15378) since it will not result in a direct or indirect physical change in the environment, it is not 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 larger "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 larger "project" would be the development authorized under the Development and Disposition Agreement ("DDA") subject to final review and approval by the City Council following the conclusion of the negotiations authorized under the ENA, and City staff will bring back appropriate CEQA analysis of the larger project prior to any City Council consideration and approval of the DDA.

In addition, as mentioned above, an Environmental Impact Report was certified in 2002 when the Oakland Army Base Area Redevelopment Plan was adopted. An Initial Study/Addendum, which include the SCA/MMRP, was prepared in 2012 when the City Council approved the master plan for the redevelopment project. Any future development by CWS would be subject to the environmental requirements imposed by the SCA/MMRP.

California Surplus Lands Act

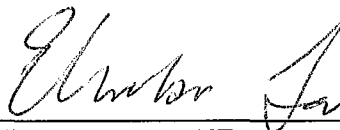
The Property is not subject to the California Surplus Lands Act (CA Government Code 54220 et seq.). All of the properties located within the Oakland Army Base were used for federal military uses for decades, resulting in hazardous materials contamination. In light of this contamination, the properties have both federal and State deed restrictions preventing their use for any residential activities. In addition, the properties were transferred, ultimately, to the City to advance specific development objectives and not for general City uses.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To 1) Negotiate The Price And Terms Of A Development And Disposition Agreement With CWS For The Relocation Of Its Existing West Oakland Recycling Uses To A Portion Of The North Gateway Parcels Located At The Former Oakland Army Base; 2) Accepting And Appropriating A Project Expense Payment In Connection With The ENA, And 3) Confirming The Application Of An Existing Security Deposit

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

Attachments (1):
A. Site Map

Item: _____
CED Committee
July 17, 2018



Attachment A - Site Map

2010 JUL -5 PM 6:00

DRAFT

Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT ("ENA") WITH CALIFORNIA WASTE SOLUTIONS, INC. ("CWS"), PERMITTING STAFF TO 1) NEGOTIATE THE PRICE AND TERMS OF A DEVELOPMENT AND DISPOSITION AGREEMENT WITH CWS FOR THE RELOCATION OF ITS EXISTING WEST OAKLAND RECYCLING USES TO A PORTION OF THE NORTH GATEWAY PARCELS LOCATED AT THE FORMER OAKLAND ARMY BASE; 2) ACCEPTING AND APPROPRIATING A PROJECT EXPENSE PAYMENT IN CONNECTION WITH THE ENA; AND 3) CONFIRMING THE APPLICATION OF AN EXISTING SECURITY DEPOSIT

WHEREAS, the City owns approximately 12 acres of land and 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;

WHEREAS, the City and CWS desire to enter into exclusive negotiations over development of a project to relocate CWS's existing recycling uses from West Oakland to the Property; and

WHEREAS, an Exclusive Negotiating Agreement ("ENA") between the City and CWS will allow the parties to enter into a period of negotiations over possible disposition of the Property and development of a project on the Property, understanding that this does not constitute a binding commitment on the part of the City to any developer or project; and

WHEREAS, the City and CWS previously entered into a joint ENA with CWS and another West Oakland recycling company, and the City currently has an ENA security deposit in the amount of \$623,840 from CWS from this previous ENA ("Existing

Security Deposit");and

WHEREAS, the Property has federal and State deed restrictions prohibiting any residential activities and was transferred to the City to advance specific development objectives and not for any City uses; and

WHEREAS, as a condition of entering into this new ENA, CWS agrees to pay a security deposit and agrees to allow City to apply the Existing Security Deposit; and

WHEREAS, as a condition of entering into the ENA, the City shall require that CWS provide a Project Expense Payment ("PEP"), in an amount to be determined, for the purpose of covering City's third party costs related to studying the proposed project and negotiating the terms for disposition of the Property; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator, or her designee, to negotiate and execute an Exclusive Negotiating Agreement with CWS, or an affiliated entity approved by the City Administrator, for purposes of evaluating the feasibility of, and negotiating terms and conditions for, the potential development to relocate CWS's existing recycling uses in West Oakland to the Property; and be it

FURTHER RESOLVED: That the initial exclusive negotiating period shall be for twelve months from the date, commencing as of the date of this Council action, with an option to extend said period for an additional two (2) three-month periods at the discretion of the City Administrator or his or her designee; and be it

FURTHER RESOLVED: That the City Council hereby accepts any Project Expense Payment from CWS for development of the Property, and appropriates any revenues received from CWS for this purpose to the Joint Army Base Infrastructure Fund 5672, Project to be determined later, within Fiscal Years 2019-2021; and be it

FURTHER RESOLVED: That the City Council hereby accepts an Existing Security Deposit in the amount of \$623,840 from CWS as security for development of the Property, and appropriates said funds to the Joint Army Base Infrastructure Fund 5672, and Project to be determined later; and be it

FURTHER RESOLVED: The Property is not surplus property pursuant to the California Surplus Lands Act; and be it

FURTHER RESOLVED: The City Council finds and determines, after independent review and analysis, that this action is not in-and-of-itself a "Project" (pursuant to CEQA Guidelines Section 15378) since it will not result in a direct or indirect physical change in the environment. Depending on the outcome of the negotiations authorized under the ENA, the action authorized by this Resolution may or may not be part of a larger "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 larger "Project" would be the development authorized

under the Development and Disposition Agreement ("DDA") subject to final review and approval by the City Council following the conclusion of the negotiations authorized under the ENA, and City staff will bring back appropriate CEQA analysis of the larger project prior to any City Council consideration and approval of the DDA; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or his or her designee to negotiate and execute documents and take all other action necessary with respect to the ENA, the Property, the proposed project, and the PEP, consistent with the Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____,

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California