



STAFF REPORT

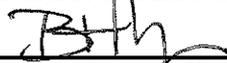
Date: February 10, 2015

To: Bryan H. Montgomery, City Manager

From: Dwayne Dalman, Economic Development Manager

Subject: Extension of Exclusive Option Agreement for Purchase of Real Property for 101 Carol Lane, Oakley, CA (APN 037-132-038) and 111 Carol Lane (APN 037-132-0375)

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Summary and Background

In August, 2013 the City Council authorized an Invitation to Bid for Real Property located at 101 and 111 Carol Lane, Oakley, California. In September, 2013, the City Council accepted a bid from Thomas Properties, Inc., who proposed to purchase the property for \$339,000, or approximately \$10.27 per square foot. Thomas Properties committed to develop the property in a timely manner and consistent with the City's economic development objectives.

Parcel 037-132-0375 is owned by the City. Parcel 037-132-0383 was owned by the Oakley Redevelopment Agency. Due to the state law abolishing redevelopment agencies, that parcel is now owned by the Successor Agency to the Oakley Redevelopment Agency (Successor Agency).

The Successor Agency wishes to transfer its parcel to the City, but the California Department of Finance (DOF) has denied consent to sell the parcel until the Successor Agency has developed and received DOF approval of a Long-Term Property Management and Disposition Plan (Disposition Plan).

In November, 2014, the Successor Agency approved the Disposition Plan and forwarded it to DOF for approval. As Thomas Properties cannot finalize the purchase of the property until DOF approves the Disposition Plan, they have requested an extension of the Exclusive Option Agreement for a period of six months, with the ability to extend for an additional six months if needed.

Fiscal Impact

At such time that the Disposition Plan is approved by DOF, the City will realize \$339,000 in sales proceeds (revenues to the General Fund) and stands to gain a retail center that will provide positive economic development impacts such as retail

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development and job creation. The improvements to the parcel will also generate an increase in the annual property tax revenue.

Recommendation

Staff recommends that the Council adopt the resolution approving the Extension of the Exclusive Option Agreement for Purchase of Real Property for 101 Carol Lane, Oakley, CA (APN 037-132-038) and 111 Carol Lane (APN 037-132-0375).

Attachment

1. Extension Agreement
2. Copy of Exclusive Option Agreement for the Purchase of Real Property
3. Resolution accepting the Extension Agreement

EXTENSION TO OPTION AGREEMENT

THIS EXTENSION is hereby entered into this _____ day of _____, 2015 by and between the City of Oakley, a municipal corporation ("CITY") and Thomas Properties Inc., a California corporation ("THOMAS").

Recitals

- A. The parties entered into an Exclusive Option Agreement for Purchase of Real Property on December 20, 2013 for the option to purchase property commonly known as 101 and 111 Carol Lane, Oakley, California.
- B. The Option Agreement recited that one of the parcels, APN 037-132-0383 is owned by the Successor Agency to the Oakley Redevelopment Agency, and that the California Department of Finance is required to approve a property Disposition Plan before that parcel can be conveyed from the Successor Agency to the CITY.
- C. The Department of Finance has, as of this date, not yet approved the Disposition Plan, and therefore the parties wish to extend the term and validity of the Extension Agreement.

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

- 1. The Option Agreement specified herein is hereby extended for a period of six months from the date first above written. The parties may, upon written communication from one to the other, extend the Option Agreement for an additional six months after the expiration of the initial extension term.
- 2. All of the terms and conditions of the Option Agreement shall remain unchanged except for the term thereof.

CITY
City of Oakley, a municipal corporation

THOMAS
Thomas Properties Inc., a California corporation

By: _____
Bryan H. Montgomery
City Manager

By: _____
Sam Thomas

APPROVED AS TO FORM:

By: _____
Steve Thomas

Derek P. Cole
City Attorney

ATTEST:

Libby Vreonis
City Clerk

**EXCLUSIVE OPTION AGREEMENT
FOR PURCHASE OF REAL PROPERTY**

THIS AGREEMENT is made this 20 day of Dec, 2013 by and between the City of Oakley, a municipal corporation ("CITY") and Thomas Properties Inc., a California corporation ("THOMAS").

Recitals

- A. CITY has published an Invitation to Bid for the purchase of two parcels located at 101 and 111 Carol Lane, Oakley, California, bearing Contra Costa County Assessor Parcel Numbers 037-132-0383 and 037-132-0375. The Invitation to Bid was an open and competitive process pursuant to procedures contained in CITY's ordinances, Title 2, Article 8 of the Oakley Municipal Code.
- B. THOMAS has submitted a proposal to purchase both parcels. CITY has determined that THOMAS' bid is the best and highest bid that meets the CITY's requirements for commercial development of the parcels. THOMAS has also posted with the City, as required by the Invitation to Bid, a Bid Surety of Ten Thousand (\$10,000.00) Dollars.
- C. Parcel #037-132-0375 is owned by the CITY. Parcel 037-132-0383 was owned by the Oakley Redevelopment Agency. Due to the state law abolishing redevelopment agencies, that parcel is now owned by the Successor Agency to the Oakley Redevelopment Agency ("SUCCESSOR AGENCY").
- D. The SUCCESSOR AGENCY wishes to transfer its parcel to the CITY, but the California Department of Finance ("FINANCE") has denied consent to sell the parcel until the SUCCESSOR AGENCY has developed an approved Long-Term Property Management and Disposition Plan ("DISPOSITION PLAN").
- E. The CITY and THOMAS wish to continue in their mutual desire to sell and purchase the two parcels, and thereby enter into this Agreement.

Wherefore, the parties agree as follows:

- 1. CITY grants to THOMAS an exclusive option to purchase the two above-mentioned parcels for the amount, and under the terms and conditions, as specified in THOMAS' bid, a copy of which is attached hereto, marked Exhibit "A", and made a part hereof.

2. The ability of THOMAS to purchase the parcels is contingent upon FINANCE approving the DISPOSITION AGREEMENT and Parcel #037-132-0383 being transferred to CITY's ownership.
3. This Exclusive Option Agreement shall remain in force and effect for one year from the date first above written. The parties may, upon mutual consent as expressed in a writing, extend this Agreement for additional periods as they may determine.
4. Because of the current need to obtain FINANCE's approval for the parcel owned by the SUCCESSOR AGENCY, CITY shall, upon execution of this Agreement, return to THOMAS its Bid Surety posted with the CITY in the amount of Ten Thousand (\$10,000.00) Dollars. As valuable consideration for this Exclusive Option Agreement, THOMAS hereby tenders to CITY, and CITY accepts, a nonrefundable check made payable to the CITY in the amount of Five Hundred (\$500.00) Dollars.
5. CITY will not negotiate with other parties, nor entertain other offers to purchase the property, during the effectiveness of this Agreement.
6. Upon receiving FINANCE's approval for the transfer of the property and upon CITY being in title to the parcel currently owned by SUCCESSOR AGENCY, CITY shall notify THOMAS in writing that it is able to proceed with the sale. THOMAS, within ninety (90) calendar days of the City Council's approval of the sale and purchase agreement with THOMAS, shall close escrow on the parcels being purchased. If THOMAS does not do so, and CITY does not grant any extension of time for the close of escrow, this Exclusive Option Agreement shall terminate and be of no further force or effect.
7. THOMAS understands and agrees that upon successful exercise of its option, it shall have the obligation, at its own cost and expense, to merge the two parcels by a procedure authorized by law.
8. Nothing herein guarantees that any specific project or development will be approved by the CITY if this Option is exercised, any such approval being subject to City Council discretion at a noticed public hearing. However, CITY does warrant that the General Plan and zoning designations allow commercial uses at the subject location.
9. This Exclusive Option Agreement also constitutes a License granted to THOMAS to enter the parcels for the purpose of inspection, surveying, planning and

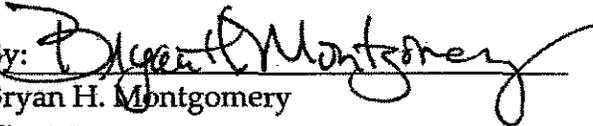
engineering. Upon any such entry, THOMAS shall hold and save CITY harmless from any liability, claim, or damage associated with such entry.

10. The parties acknowledge that FINANCE and/or the SUCCESSOR AGENCY may place conditions or requirements upon CITY for the conveyance to the CITY. It shall be in the exclusive discretion of CITY whether to accept or reject such conditions or requirements, and nothing herein shall compel CITY to complete its acquisition of the property during the pendency of this Agreement. There shall be no liability against CITY, the SUCCESSOR AGENCY or FINANCE for the failure of any such entity to complete the transactions specified herein during the effectiveness of this Agreement, or for the imposition of any terms and conditions which would result in this Option not being exercised.

IN WITNESS WHEREOF, the parties hereunto set their hands in duplicate, the day and year first herein above written.

CITY

City of Oakley, a municipal corporation

By: 
Bryan H. Montgomery
City Manager

THOMAS

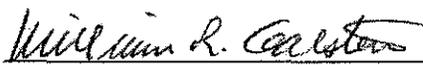
By: 
Sam Thomas, Thomas Properties, Inc.

By: 
Steve Thomas, Thomas Properties, Inc.

ATTEST:


Libby Vreonis
City Clerk

APPROVED AS TO FORM:


William R. Galstan
Special Counsel

**RESOLUTION APPROVING AN EXTENSION TO THE EXCLUSIVE OPTION AGREEMENT
FOR THE PURCHASE OF UNDEVELOPED REAL PROPERTY LOCATED AT 101 AND 111
CAROL LANE, OAKLEY, CALIFORNIA (APNS 037-132-038 and 037-132-037)**

WHEREAS, in September, 2013 the City Council accepted a bid from Thomas Properties to purchase surplus property located at 101 and 111 Carol Lane, Oakley, California for \$339,000 (APNS 037-132-038 and 037-132-037), and

WHEREAS, on December 10, 2013 the City Council approved an Exclusive Option Agreement for Thomas Properties, Inc. to purchase the property and develop within 18 months; and

WHEREAS, parcel 037-132-037 is owned by the City of Oakley and parcel 037-132-038 was owned by the Oakley Redevelopment Agency; and

WHEREAS, due to the state law abolishing redevelopment agencies, that parcel is now owned by the Successor Agency to the Oakley Redevelopment Agency; and

WHEREAS, that parcel has been included in the Long-Term Property Management and Disposition Plan (Disposition Plan) which was approved by the Successor Agency and sent to the California Department of Finance (DOF) for approval in November, 2014; and

WHEREAS, the Successor Agency wishes to transfer its parcel to the City, but DOF has denied consent to sell the parcel until they have approved the Disposition Plan; and

WHEREAS, the City and Thomas Properties wish to continue in their mutual desire to sell and purchase the two parcels.

NOW, THEREFORE BE IT RESOLVED, that by adoption of this Resolution, the Oakley City Council hereby approves an Extension to the Exclusive Option Agreement for the period of six months, with the option for an additional six months extension if DOF has not approved the Disposition Plan.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 10th day of February 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Doug Hardcastle, Mayor

Date

ATTEST:

Libby Vreonis, City Clerk

Date