

Title

Resolution to Authorize the City Administrator to Negotiate a Sales Agreement for the City-Owned Property at 350 S. Fifth Avenue

Memorandum

Attached for your review and action is a resolution authorizing the City Administrator to negotiate with the purchaser selected by City Council for the sale of City-owned real property at 350 S. Fifth Avenue.

On March 4, 2013, City Council directed the City Administrator to execute a contract for services with a real estate broker for the sale of 350 S. Fifth Avenue. City Council found the real property was no longer needed for municipal or other public purposes. City Council requested sale proposals so that all available options for sale of the property be known when City Council considers the payment of the City's \$3.5 million financial obligation for the property. A balloon payment of the loan principal is due December 16, 2013.

Selling the property will reimburse the General Fund for 350 S. Fifth Ave.-related expenditures, increase funding for the City's Affordable Housing Trust Fund and add to the City's tax base.

Colliers International was selected. A summary of Colliers International's marketing material is attached. The marketing of the property highlighted the City's preferences for less housing density than allowed by zoning and for mixed uses of the property.

The deadline for submitting purchase proposals was October 18, 2013, and five proposals were received. A summary is attached.

The offers from Dennis Dahlmann("Dahlmann") and CA Ventures are the strongest (cash, no contingencies, sales agreement, close in 2013) of the five proposals. Differences between the two offers are slight, but may be significant to City Council. Dahlmann is proposing a purchase price of \$5,250,000. CA Ventures is proposing \$5,150,000. Dahlmann is proposing to build to less than the maximum density allowed by D1 zoning. CA Ventures' offer assumes the ability to build to the maximum density allowed by D1 zoning.

Based on the higher offer price, the City Administrator recommends City Council authorize negotiations with Dahlmann. If negotiations with Dahlmann are unsuccessful, the City Administrator recommends City Council authorize negotiations with CA Ventures. Working with Colliers and the City Attorney, staff will attempt to have a sales agreement for City Council consideration on November 18.

Additional terms to be negotiated are provisions that will protect the City if development does not occur on the property, if such protection is desired by City

Council.
Body

Whereas, The City is the owner of a certain parcel of real estate commonly described as 350 South Fifth, the Old Y Lot;

Whereas, City Council has determined that the offers received by the City as of October 18, 2013 are viable and credible, and that two offer desirable conditions for the City;

Whereas, City Council has determined that the offer from Dahlmann is in the best interest of the City;

RESOLVED, That City Council direct the City Administrator to negotiate a purchase agreement for the sale of the City-owned property at 350 South Fifth with Dahlmann;

RESOLVED, that the purchase agreement shall obligate Dahlmann to build and otherwise create the following improvements on the 350 S. Fifth Avenue property: (i) a structure with a FAR of no less than 400%; (ii) a structure that includes without limitation, destination retail/restaurant space on the first floor, large-plate office space on the remaining lower floors, and residential apartments on the upper floors (with no residential apartment to exceed 3 bedrooms); (iii) a substantial landscaped open space, which open space shall include a grand fountain; (iv) a structure and site plan that will adopt and be bound by the recommendations of the City's Design Review Board; and (v) ordinance-required parking that will be provided on site, with access to such parking effected via below-grade interconnection with the City's Library Lane Parking Structure (collectively, "Dahlmann's Promised Use");

RESOLVED, That the purchase agreement provide that if Dahlmann does not obtain a certificate of occupancy for a structure consistent with Dahlmann's Promised Use prior to January 1, 2018, that the property and any and all appurtenant fixtures and improvements shall revert to the City upon payment by the City to Dahlmann of the lesser of \$4,200,000 (the "Asking Price") or the appraised value by March 1, 2018.;

RESOLVED, That the purchase agreement provide that Dahlmann shall not sell, assign, or otherwise transfer the 350 S. Fifth Avenue property to any third party without first providing the City an opportunity to exercise a right of first refusal to purchase, assign, or otherwise receive the property at the lesser of the sale, assignment, or transfer price agreed upon by the third party, the appraised value, or the City's Asking Price.;

RESOLVED, That if negotiations are unsuccessful, the City Administrator is

authorized to negotiate with CA Ventures with terms analogous to the prior three RESOLVED clauses, using the CA Ventures offer proposal as the basis for identifying “CA Ventures’ Promised Use”;

RESOLVED, That any purchase agreement shall obligate the purchaser to build and otherwise create the following improvements on the 350 S. Fifth Avenue property a structure and site plan that will be based on the best available standards for energy efficiency;

RESOLVED, That any purchase agreement obligate the purchaser of 350 S. Fifth Ave. to discuss with the A.A.A.T.A. in good faith whether the purchaser can help facilitate A.A.A.T.A.’s goal of limiting on-street bus transit and/or storage.;

RESOLVED the purchase agreement include protections against the property not being developed; and

RESOLVED that the purchase agreement be provided for consideration at the November 18 City Council meeting.