



IMPROVING OUR COMMUNITY

COLUMBIA GATEWAY URBAN RENEWAL AGENCY

CITY OF THE DALLES

SUPPLEMENTAL AGENDA

Columbia Gateway Urban Renewal Agency

City Council Chamber

313 Court Street, The Dalles, Oregon

Meeting Conducted in a Handicap Accessible Room

Tuesday, December 29, 2015

ADDING:

Action Item before work session discussion to consider approval of an exclusive negotiating agreement with Tokola Properties for a mixed use development.



IMPROVING OUR COMMUNITY

COLUMBIA GATEWAY URBAN RENEWAL AGENCY
CITY OF THE DALLES

AGENDA STAFF REPORT

URBAN RENEWAL AGENCY

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
December 29, 2015	Action Item	

TO: Urban Renewal Agency

FROM: Daniel Hunter, Project Coordinator

DATE: December 16, 2015

ISSUE: Approval of Mixed Use Development, Exclusive Negotiations Agreement and Purchase of Real Property

BACKGROUND: During the spring and early summer the Advisory Committee and Agency Board received information on a potential Mixed-Use Development in downtown The Dalles. On October 30, 2015 City Staff published a Request for Qualification on the proposed property. The deadline for submittal of Statements of Qualification for this Request for Qualifications was December 4, 2015.

On December 4, 2015 one response was received from Tokola Properties & Design. On December 9, 2015 the selection team met and reviewed the Statement of Qualifications provided by Tokola. The consensus from the team is that Tokola Properties & Design has extensive experience with similar projects in Oregon; has demonstrated capacity to work with other stakeholders, including government; has demonstrated financial capacity to complete the project and manage the property once completed.

This project will provide new retail space in the downtown as well as create new opportunities by adding residential units that will house up to eighty permanent residents. These residents will bring renewed spirit to the downtown, increase commercial viability and improve the livability for the area.

The next step in the process is for the Agency to enter into an Exclusive Negotiating

Agreement with Tokola Properties & Design for the purpose of further defining the project, detailing participation levels and form, and develop a project timeline. With the approval of the Agency Board we plan to have this step completed by March 2015.

In addition, we will need to proceed with the purchase of real property previously discussed in Executive Session. The cost of the real property is \$450,000 and is currently held under a purchase agreement between the Agency and Property Owners. The real property for purchase has generally been described as Tony's Town & Country. The real property specifically consists of two tax lots, 2200 and 2300 of Township 1 North, Range 13 East, Section 3 BD.

The current funding plan that has been developed would require a loan from The City to the Agency which the Agency would pay back over a 5 year period with 4% annual interest. This approach could be modified depending on the final proposal for the Granada Block if the winning proposal requires less Urban Renewal participation than is currently budgeted for.

The authority of the Agency to pursue this development is provided in Sections 500 and 501, 600 through 602 and 606 of the Columbia Gateway Urban Renewal Plan; and is consistent with Sections 401 through 405 and 608 of that Plan.

On December 15, 2015 the Urban Renewal Advisory Committee met. At that meeting was the agreement and real property purchase received unanimous approval to recommend to the Agency Board.

AGENCY ALTERNATIVES

1. Move to Approve, that the Agency Manager proceed with an Exclusive Negotiating Agreement between the Agency and Tokola Properties & Design for the purpose of completing a mixed-use development in downtown The Dalles; and that the Urban Renewal Agency take the actions necessary to purchase the property for that development.
2. Do not approve.

EXCLUSIVE NEGOTIATING AGREEMENT

THIS EXCLUSIVE NEGOTIATING AGREEMENT (the "Agreement") is made and entered into as of the last date of signature indicated below (the "Effective Date") by and between the Columbia Gateway Urban Renewal Agency, a municipal corporation ("Agency"), the City of The Dalles, a municipal corporation ("City") and Tokola Properties, Inc., an Oregon corporation ("Tokola").

RECITALS

A. The City of The Dalles owns a surface parking lot, which includes the properties described as Assessor's Map No. 1N 13E 3BD Tax Lots 1300 and 1400, located at the intersection of First Street and Federal Street in The Dalles, Oregon. The Agency has acquired a legal interest in the property upon which the business known as Tony's Town and Country was located, and which is described as Assessor's Map No. 1N 13E 3BD Tax Lot 2200 and 2300, located at the intersection of Second Street and Federal Street, and also referred to in this Agreement as the "Tony's Property". The properties listed herein are referred to as the "Property".

B. Tokola has submitted a proposal to the Urban Renewal Agency Advisory Committee and the Agency Board for the redevelopment of the Tony's Property.

C. This Agreement confirms the basis upon which the Agency, the City, and Tokola (the "Parties") are prepared to negotiate the terms of a Disposition and Development Agreement ("DDA") and related documents for the redevelopment of the Tony's Property and the City's surface parking lot (the "Project"), which must be approved by the City Council and the Urban Renewal Agency Board.

D. The terms of this Agreement are as follows:

TERMS

1. Good Faith Exclusive Negotiations. Agency, City, and Tokola agree and covenant to negotiate the terms of the DDA and any intervening Memorandum of Understanding (as defined below) in good faith. Agency and City acknowledge that Tokola has expended substantial time and expense, and will continue to expend time and expense, in preparing a more detailed proposal, conducting its due diligence, and refining its development proposal. During the term hereof, Agency and City agree that Tokola shall have the exclusive right to conduct due diligence and to negotiate with Agency and City for the rights to develop the Property, and that the Agency and City will not accept, solicit, pursue or entertain any other offers or other indications of interest with respect to the Property for any development, sale or other transaction.

2. Duration. The term of this Agreement shall be 180 days from the Effective Date. This Agreement may be extended for two 120 day renewal terms upon the approval of the City Council and the Urban Renewal Board. This Agreement shall automatically terminate upon execution and delivery of the DDA, which shall thereafter, control the rights of the Parties with respect to the Property. The Parties may terminate this Agreement by mutual agreement if latent conditions are discovered on the Property or events occur that would, presently or with the passage of time, prevent the entry into a DDA. Notwithstanding the above, either the Agency and City, or Tokola, may at their sole option, terminate this Agreement by notice in writing if any other party makes a material misrepresentation in the course hereof, otherwise fails to act in good faith, or if any party becomes insolvent, or in the terminating party's reasonable estimation, is otherwise unable to perform as outlined in the Base Development Criteria.
3. Base Development Criteria. The Base Development Criteria for negotiations are a Request for Qualifications that closed on December 4, 2015. This outlined an expression of the expectations of the City, the Columbia Gateway Urban Renewal Advisory Committee, and the Agency, with regard to the transaction contemplated herein, and shall serve as guidance at the inception and during the negotiations among the Parties. RFQ is attached as "Exhibit A".
4. Memorandum of Understanding. Tentative agreements on the terms of the DDA may be memorialized in a written Memorandum of Understanding ("MOU"), or series of memoranda, during the Terms of this Agreement. Any such MOUs will provide the continuing framework for final preparation of the DDA.
5. Projected Financial Contributions. Tokola has requested public financial participation for the Project in an amount estimated at \$1.8 million. This public participation is subject to negotiation and will be outlined in the agreed upon MOUs and the final DDA.
6. Co-application/Cooperation. City, Agency, and Tokola shall be co-applicants on any land use permit application sought in connection with this Agreement or subsequent Memoranda issued during the term hereof. Tokola shall bear responsibility for all land use application and permit fees, unless otherwise agreed to by the City as stipulated in an MOU. Agency, City, and Tokola shall each promptly provide to the other all information reasonably related to the Property and the Project which may be obtained without material expense, upon written request. Agency, City, and Tokola shall cooperate in connection with any applications, permits, approvals or entitlements sought by Tokola from any governmental authorities with respect to the Project, including easements, provided the Agency and City shall not be required to incur any material cost or liability connection with such applications, permits or approvals.
7. Due Diligence. Tokola may conduct due diligence and inspections of the Property, including such physical, legal, and engineering inspections, tests and

investigations as it may deem necessary or desirable, including soils and environmental studies. Such studies and investigations may include, without limitation, zoning, land use, environmental, title, design review, covenants, conditions and restrictions, financing, leasing markets, project feasibility and related matters. The scope and cost of the due diligence and inspections shall be the sole discretion and responsibility of Tokola.

8. Access. Agency and City shall provide Tokola full access to the Property for the purpose of conducting Due Diligence. Tokola shall repair or restore any damage caused by the entry of Tokola or its agents upon or under the Property.
9. Indemnity and Insurance. Tokola hereby agrees to indemnify, defend and hold the Agency and the City, including their appointed and elected officials, officers, employees and agents, harmless from and against any and all claims for injury to persons or damage to property caused by or resulting from the acts or neglect of Tokola or its representatives or consultants on or about the Property. During the term of this Agreement, Tokola shall maintain insurance with respect to its activities on or about the Property, naming the Agency and City as an additional insured, in amounts as follows: (i) commercial general liability insurance with a combined single limit of not less than \$1,000,000 per occurrence and with at least \$5,000,000 aggregate; (ii) automobile liability insurance with combined single limit of not less than \$1,000,000 per occurrence; (iii) employers liability insurance with a limit of not less than \$1,000,000; and (iv) in addition to the primary limits specified in (i) and (ii) above, excess liability insurance with a limit of not less than \$4,000,000 for each occurrence and in the aggregate. The indemnity required under this Section 9 shall survive termination of this Agreement.
10. No Assignment. Neither party shall assign or transfer its interest in this Agreement or the Property until termination of this Agreement or execution and delivery of the DDA.
11. Brokers. Agency and City represent and warrant that they are represented by Red Tail Hawk LLC in the acquisition of the Tony's properties. Agency, City and Tokola each represent and warrant to the other that there is no other broker, finder or other representative in connection with this Agreement. Agency, City, and Tokola agree to indemnify, defend and hold the other harmless from any other claims or liability for any fee, commission or other compensation with respect to this Agreement, the DDA or other transactions contemplated hereby, asserted by any other broker, finder or other representative claiming through the indemnifying party. This Section 11 shall survive termination of this Agreement.
12. Confidentiality. Agency, City, and Tokola agree that all information submitted by Tokola during the term hereof is submitted on the condition that the Agency and City shall keep said information confidential. Agency and City agree not to disclose said confidential information provided by Tokola, including but not

limited to financial statements regarding Tokola or the Project, and pro forma information. This nondisclosure agreement shall survive termination of this Agreement, but shall not apply to the extent any such information is publicly available, has been disclosed by other parties or is required to be disclosed by the Wasco County District Attorney under Oregon public record laws. Agency and City further agree that they shall not disclose the terms of this Agreement, the MOUs or the DDA, prior to the termination or expiration of this Agreement, or the execution of the DDA, whichever occurs first, unless disclosure is required by the Wasco County District Attorney under Oregon public records law.

13. Governing Law. This Agreement shall be governed by the laws of the State of Oregon.
14. Time is of the Essence. Time is of the essence of this Agreement.
15. Amendments. This Agreement may be amended only by written agreement of the Parties hereto.
16. Notices. All notices under this Agreement must be in writing and either (i) personally delivered, (ii) delivered by express mail, Federal Express or comparable courier service, or (iii) delivered by certified mail, postage prepaid, return receipt requested, as follows:

To the Agency:	_____ 313 Court Street The Dalles, OR 97058
To the City:	City Manager 313 Court Street The Dalles, OR 97058
To Tokola:	Tokola Properties, Inc. P.O. Box 1620 Gresham. OR 97030

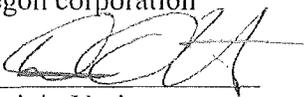
All notices shall be deemed effective upon receipt. Any party may from time to time change its address for purposes of this Section by notice in writing to the other party.

17. Binding Effect. During the Term hereof and any extensions thereto, the Parties shall negotiate in good faith to complete and execute the definitive DDA upon terms and conditions consistent with this Agreement and the MOUs. No sale agreement or other right, obligation or estate in land shall be created except by delivery of the definitive DDA and all other related and necessary instruments, duly authorized by the Columbia Gateway Urban Renewal Board and The Dalles

City Council, and all necessary Tokola corporate action and executed by authorized representatives of the Parties. If the DDA is not executed and delivered prior to the expiration of the Term and any extensions thereto, or if Tokola elects, in its sole discretion, by notice in writing to the Agency and City not to pursue development of the Project, this Agreement shall terminate and be of no further force or effect, except Sections 9, 11, and 12, which shall survive termination. If during the course of negotiations it becomes clear that the Parties will not reach an agreement, Tokola shall not unreasonably withhold consent to early termination of this Agreement.

TOKOLA

Tokola Properties, Inc.
An Oregon corporation

By: 
Dwight Unti
President

Date: 12-18-15

CITY OF THE DALLES

An Oregon municipal corporation

By: _____
Stephen E. Lawrence, Mayor

Date: _____

COLUMBIA GATEWAY URBAN
RENEWAL AGENCY

An Oregon municipal corporation

By: _____
Stephen E. Lawrence, Chair

Date: _____