



## Oversight Board AGENDA REPORT

**TO:** Honorable Oversight Board

**Item No. \_\_\_\_\_**

**FROM:** Executive Director

**SUBJECT:** Resolution Approving the Contingent Agreement to Purchase and Sell Real Estate to Tom Malkasian

**MEETING DATE:** June 27, 2018

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### RECOMMENDED ACTION:

Oversight Board will consider for approval the Resolution approving the Contingent Agreement to Purchase and Sell land from the Successor Agency to the Commerce Community Development Commission to Tom Malkasian, and assign the number next in order.

### BACKGROUND:

Pursuant to ABx1 26 ("AB 26") enacted in June 2011, the Commerce Community Development Commission (the "Commission"), and all other redevelopment agencies throughout the state, were dissolved as of February 1, 2012. AB 1484 was enacted in June of 2012 and substantially amended AB 26, and was codified in the Health and Safety Code.

Pursuant to Health & Safety Code § 34175(b), on February 1, 2012, the real property and other assets of each dissolved RDA were transferred to the ownership and control of their "successor agency." Health and Safety Code § 34173(g) requires each successor agency to dispose of such properties and to unwind the affairs of the dissolved redevelopment agencies. The City of Commerce has elected to take on the duties of the successor agency to the Commission (the "Successor Agency"), and by operation of law, the Successor Agency currently owns the land formerly owned by the Commission.

Pursuant to Health and Safety Code § 34191.5, within six (6) months after receiving a Finding of Completion from the Department of Finance ("DOF"), each successor agency was required to submit for approval to its oversight board and the DOF, a Long Range Property Management Plan ("LRPMP") that addresses the disposition and use of the real properties of the respective former RDA. The Dissolution Law mandates that a LRPMP identify that former RDA properties must be used or dispersed in one of the following ways: (1) to fulfill an enforceable obligation; (2) retention for future development, including possible sale of the property; (3) retention of property for governmental use; (4) of liquidation / sale.

On May 24, 2013, the Successor Agency received a Finding of Completion from the DOF, and on May 19, 2014, the DOF approved the Successor Agency's LRPMP, thereby approving the Successor Agency's proposed use or disposition of all the properties listed on the LRPMP.

One property identified in the LRPMP is located at 6350 E. Washington Blvd. in the City of Commerce (also, "subject property"). The subject property consists of a 1.17 acre (51,136 square feet) industrially zoned parcel that is encumbered by a lease with the McDonald's Corporation, who operates a 3,318 square foot fast food restaurant on site. Ground rent is \$5,248 per month, which increases to \$7,872 in December 2022. The subject property is located within a shopping center that is anchored by Costco and just east of Interstate 5.

## **ANALYSIS:**

The Successor Agency has received two (2) Offers to Purchase for said property – both in the amount of \$1.25 million. Based on an appraisal obtained by the City, the subject property (and lease with McDonald's Corp) has a market value of \$1,800,000. Staff believes that entering into an agreement with Tom Malkasian will be more prudent for the following reasons:

- Has history with the City – understands the Local Character and Local Decision-Making
- Has worked in partnership with the City to spur Community Well-Being
- Familiar with the City's culture
- Continues to assist with the City's vision for Environmental / Fiscal Sustainability
- His intent is to keep the integrity of the subject property, including the current lease with McDonald's Corp.

Consistent with the negotiations and the LRPMP, Staff now recommends approval of the proposed Contingent Agreement for Purchase and Sell between the Successor Agency and Tom Malkasian. The Buyer will be required to make a good faith deposit of \$10,000 upon execution of the Agreement, with the balance of the purchase price payable in good funds upon the Close of Escrow.

The Agreement provides for escrow to be opened within two (2) business days after execution of the Agreement by the parties. Escrow shall close on or before the date which is ninety (90) days following the Project Approval Date ("Closing Date"), subject to any extension exercised by Buyers pursuant to the terms of the Agreement.

Pursuant to AB 26 and AB 1484, the proposed Contingent Agreement for Purchase and Sell of the properties must also be approved by the Oversight Board for the Successor Agency. After approval by the Successor Agency and Oversight Board, the Agreement will be submitted to the DOF for its information and review consistent with the approved LRPMP.

## **ALTERNATIVES:**

1. Approve Staff recommendation; or
2. Decline Staff recommendation and provide further direction.

**FISCAL IMPACT:**

The Successor Agency will not keep any of the purchase price. The proceeds of the sale will be handled in accordance with the requirements of ABx1 26 and AB 1484.

Recommended by: Vilko Domic, Director of Finance

Approved as to form: Noel Tapia, Legal Counsel

Respectfully submitted by: Edgar Cisneros, Executive Director

**ATTACHMENTS:**

1. Resolution
2. Contingent Agreement for the Purchase and Sale of the Properties

DS/staff reports, city council/Oversight Board/P&S Agmt – McDonalds 6350 Washington/SR P&S McDonalds by TM 6-27-18 VD