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Staff Report for an Exclusive Negotiating Rights Agreement by and Between Cal-Coast Companies LLC and the City of San Leandro Relating to Development of the Shoreline Consistent with the Conceptual Master Plan

## SUMMARY AND RECOMMENDATIONS

After more than three years of work by the City Council, the Shoreline Development Citizens Advisory Committee, the public and the master developer to create a Conceptual Master Plan for the Shoreline, staff recommends City Council adopt a Resolution that approves a new Exclusive Negotiating Rights Agreement (ENRA) with Cal-Coast Companies LLC (Cal-Coast) for development of the Shoreline consistent with the Conceptual Master Plan.

## BACKGROUND

In October 2008, following a Request for Proposal process, the City entered into a three year Exclusive Negotiating Rights Agreement (ENRA) with Cal-Coast for the development of an approximately 40-acre opportunity site at the City's Shoreline. This original ENRA expired in October, 2011.

During the three years covered by the original ENRA, Cal-Coast worked with an approximately 35-member Shoreline Development Citizens Advisory Committee (CAC) and City staff to develop a Conceptual Master Plan for the Shoreline area that:

- provides complementary amenities to the citizens of the City of San Leandro,
- connects the amenities with current Shoreline uses,
- recognizes the development value of this desirable regional location and how commercial development can fund public amenities and services,
- addresses logical phasing of development,
- requires little or no City investment, and
- results in a Shoreline which is self supporting.

At monthly public meetings, CAC members were educated about the shoreline area, including past development attempts, the Shoreline Enterprise Fund, boating operations, and traffic and environmental constraints of the area. The CAC participated in a visioning process to create a shared vision for the area which included amenities such as a hotel and conference center with banquet facilities, full-service quality restaurants, small restaurants and a café, retail, open space for public events, professional offices, multi-family residential housing, a museum/ interpretive center, boat and kayak rentals.

After evaluation of numerous discussion plans, in June 2010, the CAC reached consensus on a plan for the land-side development.

In order to determine positioning of the buildings and amenities and to proceed with the project, Cal-Coast requested information from the City Council regarding the future of the harbor basin. To assist the City Council in determining additional options for the harbor basin, a consultant was retained to develop three alternatives which retain aquatic recreational opportunities, coordinate with existing and potential land-side uses and establish equilibrium with the natural sedimentation process.

The City Council requested CAC input on the two preferred harbor basin alternatives: the creation of a Marina Park which retained limited boating activity; and the creation of an Aquatic Park which emphasized hand-powered watercraft. Cal-Coast performed a financial feasibility study of the two alternatives to evaluate if revenue generated from the land-side development could support the initial capital costs and on-going maintenance costs of the two alternatives. It was found that the Marina Park alternative would result in a net cost to the City of approximately \$11.1 million over 20 years and that the Aquatic Park alternative would result in a net gain to the City of approximately \$6.85 million over 20 years.

At their July 20, 2011 meeting, the CAC voted to support Discussion Plan 8 for the land-side development at the Shoreline and that the City maintain the boat harbor for as long as feasible, then move to the Aquatic Park alternative should additional revenue not be identified. Discussion Plan 8 and the Aquatic Park alternative have been renamed the Conceptual Master Plan for the Shoreline area and are included as Exhibit B in the ENRA before the City Council this evening.

### **Analysis**

A new ENRA is proposed to incorporate the Conceptual Master Plan as the blueprint for the shoreline development project and to address specifics regarding responsibilities, phasing, and fees. The ENRA before you for consideration includes the following provisions:

#### **General:**

- A three year term with the ability to extend twice for an additional 18 months for a total of up to six years.
- City to retain ownership of the site.
- Requirement that the project be fiscally neutral with respect to the City's General Fund.
- No deposit is required in recognition of the expenses incurred to date by Cal-Coast.
- Project description, including the approximate size of the various buildings and uses and phasing of the features to ensure that residential units cannot be occupied until the majority of

the infrastructure in the phase is complete.

#### City Responsibilities:

- The City will be responsible for its legal counsel and consultant costs related to the negotiation of the ground lease agreement.

#### Developer Responsibilities:

- Developer studies, such as financial feasibility, soils, design, etc., shall be at Cal-Coast's expense and copies shall be provided to the City within ten business days.
- City will select consultant for preparation of the Environmental Impact Report (EIR) and Cal-Coast will pay consultant costs.
- City Planning and Engineering and Transportation staff overtime costs and contract planner costs for the review and processing of the project application to be reimbursed by Cal-Coast.
- Requirements for community participation such as involvement in the Shoreline Development Citizens Advisory Committee, community and town hall meetings and general responsiveness to the public.
- Cal-Coast and its contractors shall comply with Prevailing Wage Laws and the City of San Leandro Living Wage Ordinance. The Living Wage Ordinance also applies to sublessees. Cal-Coast shall meet with labor union and trade organizations and negotiate in good faith to promote labor harmony.

#### Harbor Basin Redevelopment

- The City's desire to have the boat harbor maintained as long as feasible and only if additional revenue is not found for dredging should the harbor basin be redeveloped into an Aquatic Park or similar mutually agreed upon reuse options.
- City will provide ground lease rent credit for the following expenses incurred by Cal-Coast:
  - The portion of the EIR consultant costs related to redevelopment of the boat harbor basin
  - Design, engineering and permitting costs related to the redevelopment of the boat harbor basin
- Should Cal-Coast complete all development requirements, (certification of the EIR, issuance of all necessary permits, and financing commitments) and should the project be found to be financially feasible and consistent with Conceptual Master Plan (Exhibit B), and a ground lease not be executed, the City will reimburse Cal-Coast for the portion of the EIR consultant costs as well as design, engineering and permitting costs related to the redevelopment of the boat harbor basin.
- Should Cal-Coast complete all development requirements for redevelopment of the harbor basin, (certification of the EIR, issuance of all necessary permits, and financing commitments) and should redevelopment of the boat harbor be found to be financially feasible and consistent with Conceptual Master Plan (Exhibit B), and the City decides to close the boat harbor or not approve redevelopment of the boat harbor, the City will reimburse Cal-Coast for the portion of

the EIR consultant costs as well as design, engineering and permitting costs related to the redevelopment of the boat harbor basin.

The proposed sharing of costs associated with the entitlements, with the City contribution of in-kind staff, reflects that this is a public-private partnership. The entitlements and environmental review are of value to the property, of which the City plans to maintain ownership. The City does not plan to hire additional staff and therefore the City's out-of-pocket expenses will be limited to financial consultant and legal costs associated with negotiation of the ground lease agreement estimated to be approximately \$150,000. Should it be necessary to retain outside planning or engineering consulting service for review of the application, Cal-Coast will reimburse the City for such expenses. Cal-Coast will be responsible for the full cost of the EIR which could exceed \$500,000.

An outline of the tasks and milestones for development follows:

#### Shoreline Development Tasks and Developer Milestones

##### **TASK**

ENRA to Council	April 2012
Harbor Basin Alternatives to BCDC Design Review Board	Spring 2012
Refinement of Harbor Alternative w/input by CAC	Summer 2012
Formal Planning Application Submitted by Cal-Coast (phasing plan, site plans, conceptual building elevations, public access plans, etc.)	Summer 2012
RFP for EIR Issued (30-45 days after formal application submitted)	Fall 2012
EIR Consultant Agreement to Council for approval	January 2013
Public Scoping Meetings (2) for EIR	Winter 2013
Market studies and Project Proforma Submitted by Cal-Coast	Spring 2013
Draft EIR available for 45-day public review period	Summer 2013
City Council Work Session on Draft EIR	Fall 2013
City Council Work Session on Project	Fall 2013
Response to Comments/Final EIR	Fall/Winter 2013
Council Work Session on Ground Lease Agreement	Winter 2013
Planning Commission Meetings (may take 2)	Spring 2014
City Council approval of entitlements and Ground Lease Agreement	Summer 2014
Permitting process completed with various agencies	December 2014

#### **Previous Actions**

- On April 4, 2011 the City Council ratified the addition of three individuals to the Shoreline Development Citizens Advisory Committee.
- On October 4, 2010 the City Council approved a Consultant Services Agreement with ESA for preparation of a Harbor Basin Alternative Study.
- On November 10, 2008 the City Council ratified the appointment of 33 individuals as Shoreline Development Citizens Advisory Committee Members.
- On October 20, 2008 the City Council adopted a resolution approving the original ENRA with Cal Coast for development of the shoreline-marina area.
- At the October 15, 2007 City Council meeting, Council approved the RFQ for a Master Developer for the Shoreline-Marina Area.

#### **Applicable General Plan Policies**

- General Plan Goal 9 for the Marina and Shoreline calls for recognizing and taking advantage of the unique business amenities offered by the San Leandro Marina area. The policies and actions include pursuing development of a new hotel along with complementary uses such as restaurants and ancillary retail, office and conference facilities. Future uses and activities which provide the revenue necessary to enable continued boating operations are also encouraged.
- Development of the Conceptual Master Plan is consistent with the San Leandro Marina Focus Area outline in the General Plan.
- The General Plan land use map would need to be updated. This would be included as part of the entitlement process.

### **Environmental Review**

The City retained a consultant to complete an Environmental and Regulatory Opportunities and Constraints Analysis in November 2007. cursory environmental review of the Conceptual Master Plan has been completed through a fatal flaw analysis which included a traffic study and meetings with the Bay Conservation and Development Commission (BCDC). Extensive environmental review will be handled through an Environmental Impact Report to be completed prior to City Council approval of the project.

### **Summary of Public Outreach Efforts**

Since 2005 extensive public outreach on the development has occurred, including:

- 16 Shoreline Development Citizens Advisory Committee meetings;
- 6 town hall meetings;
- 25 Shoreline-Marina Committee meetings;
- 6 City Council work sessions; and
- On March 20, 2012 a meeting was held with Marina berthers to update them on development of the shoreline area and obtain feedback.

### **Legal Analysis**

The report and recommendation has been reviewed and approved as to form by the City Attorney's Office.

### **Fiscal Impacts**

Although legal review for the ENRA is covered under the City's retainer agreement, the City will incur legal and consulting costs related to the negotiation of a ground lease agreement with Cal-Coast in future years, potentially starting as early as FY 2012-13. The estimated cost for legal and consulting fees is \$125,000 over two to three years, to be paid from the Shoreline Enterprise Fund, Shoreline Division (597-57-003-5120).

Cal-Coast will pay any overtime staff costs as well as contract staff costs incurred by the City for the processing of entitlements.

The City will compensate Cal-Coast for the portion of Environmental Impact Report costs related to the redevelopment of the boat harbor and for the design, engineering and permitting of the redevelopment of the boat harbor through ground lease rent credit. The City will not incur any expenses related to redevelopment of the boat harbor basin unless Cal-Coast has completed all development requirements, (certification of the EIR, issuance of all necessary permits, and financing commitments) and the project is found to be financially feasible and consistent with the Conceptual Master Plan (Exhibit B), and a ground lease is not executed or the City decides to close or not

approve redevelopment of the boat harbor. The estimated cost is currently unknown, however, the EIR costs will be based on the consultant's proposal and the EIR consultant service agreement will need to be approved by the City Council. Cal-Coast will be required to submit quarterly reports to the City on design, engineering and permitting costs related to the redevelopment of the boat harbor.

The impact of the development on the City's General Fund revenue and expenditures will be analyzed in the future and presented to the City Council.

**Budget Authority**

No change to the FY 2011-12 budget is recommended. \$25,000 is recommended to be budgeted in FY 2012-13; \$50,000 in FY 2013-14; and \$50,000 in FY 2014-15 for legal and consulting costs related to the negotiation of the ground lease agreement.

**ATTACHMENTS**

None

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