



**DATE:** May 17, 2016

**CATEGORY:** Public Hearing

**DEPT.:** Community Development/Finance  
and Administrative Services/City  
Attorney's Office

**TITLE:** **Economic Development Subsidy  
Report and Disposition and  
Development Agreement and  
Ground Leases for Hope Street Lots 4  
and 8**

### **RECOMMENDATION**

1. Hold a public hearing regarding an economic development subsidy pursuant to California Government Code Section 53083 and provide the information to the public contained in Attachment 1 to the Council report.
2. Adopt a Resolution of the City of Mountain View Regarding the Lease and Development of Hope Street Lots 4 and 8 (Attachment 2 to the Council report).
3. Authorize the City Manager to execute the Disposition and Development Agreement and Ground Leases with The Robert Green Company (RGC) for the development of Hope Street Lots 4 and 8 consistent with the business terms negotiated during the Exclusive Right to Negotiate Period and approved by the City Council on May 3, 2016 (Attachment 3 to the Council report).

### **BACKGROUND**

At the January 20, 2015 Study Session, staff presented property information on four downtown surface parking lots (4, 8, 11, and 12). At this meeting, Council expressed support for a mixed-use development on Lots 4 and 8 as the first site to develop, with residential on Lot 12 as the next priority.

On March 31, 2015, Council directed staff to focus initially on development of the Hope Street Lots (4 and 8) and market the long-term ground lease opportunity through a Request for Qualifications (RFQ) and a Request for Proposals (RFP) that would include a hotel and net increase in parking.

On October 6, 2015, Council directed staff to continue discussions with the RGC focused on exploring mixed-use development options on Lot 8, including some type of residential use, and developing a revised project financing strategy.

On January 12, 2016, Council approved the RGC as the best-qualified developer to develop the Hope Street Lots and directed staff to proceed with entering into an Exclusive Right to Negotiate (ERN) Agreement and commence the negotiation process for development of a mixed-use hotel/office development with a unique hotel of at least three-diamond quality, an increase in the number of public parking spaces from 149 to a minimum of 225, revenue generation, and an agreement by the hotel operator to allow enhanced access to hotel employees for labor organizing activities and expedited union voting process.

The City Council discussed the price and terms of the leases with its real property negotiators in a Closed Session on April 19, 2016 and approved the business terms at its May 3, 2016 meeting (Attachment 3). Council deferred a staff recommendation to authorize the City Manager to execute a Disposition and Development Agreement and Ground Leases pending this public hearing in order to provide additional information and transparency pertaining to an economic development subsidy in accordance with California Government Code Section 53083.

A financial participation of \$25.5 million (reduced from the originally requested \$26.4 million) by the City is proposed to offset the project costs associated with the public parking component and the prevailing wage requirement. No out-of-pocket General Operating Fund dollars will be spent on the project. Staff and the RGC explored various financing strategies and the following financial participation provisions were approved by the Council at the May 3 meeting:

- Parking In-Lieu Fee (PILF) Fund—The City currently has \$5.7 million of PILF funding available for the purpose of increasing parking capacity in the downtown area. Staff proposes utilizing the entire \$5.7 million for this transaction, which nets 76 new public parking spaces, with the potential for additional public parking on evenings and weekends.

The amount of PILF funds will be the balance available at the time of payment and may be higher if additional PILF are received, including interest earned on the PILF. Any amounts above the \$5.7 million of PILF will be adjusted by reducing the amount of the Transient Occupancy Tax (TOT) Rebate or the Certificates of Participation (COPs), so the total City participation does not exceed \$25.5 million.

The PILF payment would be paid upon both: (1) closing of construction loan; and (2) developer's evidence of expenditure of its first \$5.7 million in equity.

- Certificates of Participation (COPs)—Staff recommends issuing \$12.0 million in COPs for the project. The projected annual debt service of the COPs is \$870,000 and is proposed to be offset by minimum annual base rent and other project revenues (hotel surcharge, sales tax, possessory interest tax, etc.).
- Transient Occupancy Tax (TOT) Rebate to the RGC—TOT rebate time frame of 10 years:
  - 100.0 percent TOT rebate for Years 1 through 5
  - 90.0 percent TOT rebate for Years 6 through 10

The TOT Rebate will expire upon reaching a Net Present Value of approximately \$7.8 million or after Year 10 of operations, whichever occurs first, at which point the City will receive the full TOT generated. The components of each of the above may be adjusted based on the balance available of PILF at the time of contribution, but the COPs or TOT Rebate will be reduced accordingly, so the total City participation is not more than \$25.5 million.

## **ANALYSIS**

### **California Government Code Section 53083**

California Government Code Section 53083 requires "... each local agency, before approving any economic development subsidy within its jurisdiction, provide all of the following information in written form available to the public, and through its Internet Web site, if applicable:

- (1) The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.
- (2) The start and end dates and schedule, if applicable, for the economic development subsidy.

- (3) A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or revenue lost to, the local agency as a result of the economic development subsidy.
- (4) A statement of the public purposes for the economic development subsidy.
- (5) Projected tax revenue to the local agency as a result of the economic development subsidy.
- (6) Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions."

Section (g)(1) defines an economic development subsidy as "... any expenditure of public funds or loss of revenue to a local agency in the amount of one hundred thousand dollars (\$100,000) or more, for the purpose of stimulating economic development within the jurisdiction of a local agency, including, but not limited to, bonds, grants, loans, loan guarantees, enterprise zone or empowerment zone incentives, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits."

The City will contribute \$5.7 million from the PILF funds toward the project to create 225 dedicated public parking spaces, a net increase of 76 public parking spaces from the 149 spaces that currently exist on Lots 4 and 8. The PILF was created for the purpose of creating additional public parking and is funded through developer in-lieu fees. This is the only "out-of-pocket" funding by the City. However, the City will contribute an additional \$12 million to the project through the issuance of COPs, and approximately \$7.8 million through TOT Rebates to the developer, toward the public parking and the requirement for the developer to pay prevailing wage rates during construction. Debt service on the COPs will be offset from minimum annual base rent and other project revenues.

Including the ground lease rent net of the debt service cost of the COPs, the City is projected to receive net annual revenues as follows:

Year 1	\$335,000
Year 6	\$864,000 (City commences to receive 10 percent of TOT)
Year 11	\$2.8 million (City commences to receive 100 percent of TOT)
Year 21	\$4.2 million (Increase in percentage rent)
Year 31	\$6.8 million (COPs paid off and additional increase in percentage rent)

The net cumulative cash flow projected is as follows:

15-Year Cash Flow	\$17.2 million
30-Year Cash Flow	\$84.3 million
55-Year Cash Flow	\$311.8 million

A summary of the net tax revenues received over the life of the lease are as follows (dollars in thousands):

<b>Cumulative Cash Flow<sup>(1)</sup></b>	<b>Transient Occupancy Tax<sup>(2)</sup></b>	<b>Possessory Interest Tax</b>	<b>Sales Tax</b>	<b>Total</b>
<b>Years 1-5</b>	\$0	\$705	\$210	\$915
<b>Years 1-10</b>	\$832	\$1,484	\$453	\$2,769
<b>Years 1-20</b>	\$21,646	\$3,294	\$1,061	\$26,001
<b>Years 1-30</b>	\$40,343	\$5,500	\$1,879	\$47,722
<b>Years 1-53</b>	\$156,041	\$12,583	\$4,991	\$173,615

(1) Years reflect year of operations; the lease is 55 years and begins in Year -1, with operations beginning in Year One.

(2) TOT net of TOT Rebates in Years 1 to 10.

The information required by California Government Code Section 53083 is attached as Attachment 1 to this report. Notice of the hearing was published in the *San Jose Post Record* 10 days in advance and postcards were mailed to all property owners within 300' of the proposed project.

### Mountain View City Code Section 2.90

City Code Section 2.90 requires that prior to the final execution of any lease with a term exceeding fifty-five (55) years, but not exceeding ninety-nine (99) years, the City Council must make the following findings:

- (a) That the lease and any development on the site is consistent with the City of Mountain View General Plan and any applicable precise plan or specific plan; and
- (b) The property is not now needed for other public purposes; and
- (c) The term of the lease, including any option to extend, is in the best interest of the City; and
- (d) This particular lease offers the greatest economic return to the City when compared to other proposals, if any.

The required findings are presented to Council in Attachment 2 to this report.

### FISCAL IMPACT

The financial terms provide for return to the City as follows:

- Minimum Base Rent
- Percentage rent of gross revenues, with increases in outer years
- Hotel Surcharge
- Bonus Rent
- Participation rent on the sale or refinance of the hotel or office
- A percentage of paid parking revenues if applicable in the future

In addition, the City will receive property taxes (possessory interest), sales tax (estimated at \$180,000, initially), and could potentially also receive bonus and participation rent from the project. The bonus rent is difficult to estimate as it is unknown how much or if the project will perform better than the pro forma. The

participation rent could generate over \$1.0 million on the first sale and could generate over \$2.0 million for future sales.

The estimated annual revenue and net cash flow projections are substantial and were previously noted in the report.

The City currently has \$5.7 million in PILF to fund additional parking spaces downtown and this would be the City's only out-of-pocket contribution toward this project. The project generates the remaining funding needed for the City's participation in the development of this project.

## **CONCLUSION**

With the publication and approval of the information required for an economic development subsidy pursuant to California Government Code Section 53083, and the affirmative findings required by Mountain View City Code Section 2.90, staff recommends authorizing the City Manager to execute the Disposition and Development Agreement and Ground Leases with the RGC for the development of Hope Street Lots 4 and 8 consistent with the business terms approved by the City Council on May 3, 2016.

## **ALTERNATIVES**

1. Reject the recommendations.
2. Provide other direction.

## **PUBLIC NOTICING**

Agenda posting. A notice of the public hearing was also posted in the *San Jose Post Record* at least ten (10) days prior to the public hearing. In addition, staff sent electronic notices and/or postcards to downtown property owners and business owners, and to the Chamber of Commerce, Central Business Association, and Old Mountain View Neighborhood Association.

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Attachments: 1. Economic Development Subsidy Report  
2. Resolution  
3. Council Report, Item 7.1, May 3, 2016