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APPROVED
BY THE CITY COUNCIL

APR 21 1998

OFFICE OF THE
CITY CLERK

AG 98-037

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**CITY OF SACRAMENTO
CALIFORNIA**

NEIGHBORHOODS PLANNING & DEVELOPMENT SERVICES
SPECIAL PROJECTS

April 7, 1998

City Council
Sacramento, California

Honorable Members in Session

**SUBJECT: RESOLUTION AUTHORIZING NEGOTIATION AND GROUND LEASE OF
PROPERTY WITHOUT COMPETITIVE BIDDING FOR THE SUBJECT
PROPERTY AT THE NORTHEAST CORNER OF 57TH AND J STREETS.**

**LOCATION: Northeast Corner of 57th and J Streets
Council District 3**

RECOMMENDATION:

This report recommends that the City Council adopt the attached resolution to approve the following actions:

- Give notice that the City of Sacramento intends to sign a ground lease for the subject site at the northeast corner of 57th & J Streets, without competitive bidding, pursuant to City Code Section 12.02.073(F).
- Find, in accordance with City Code Section 12.02.073(F), that special circumstances exist which make the use of the bid procedure inappropriate. Those special circumstances are that : (i) lessee has six months following approval of the resolution in which to conduct a feasibility analysis to determine viability of developing site; (ii) lessee will be required to construct and pay for all public improvements associated with development of site; (iii) lessee will be required to submit necessary applications for entitlement review and approval by staff and community; (iv) lessee is the owner of the former Shakey's Restaurant across the street at the northwest corner of 57th and J Streets. Development of the subject corner (northeast corner of 57th and J Streets) will permit coordinated development

of two parcels, including improvements to adjoining streets, sidewalks, and on-site parking.

- Approve the execution of the Ground Lease Agreement with Jerry Thompson & Associates, Inc., to explore the feasibility of developing a retail commercial center at the subject site.

CONTACT PEOPLE: Jack Crist, Deputy City Manager, 264-8106
Dean Peckham, Management Analyst, Neighborhoods,
Planning & Development Services, 264-7063.

SUMMARY:

This report recommends that the City Council authorize the City Manager to execute a 20-year ground lease with Jerry Thompson & Associates, Inc. for a City-owned parcel at the northeast corner of 57th & J Streets, and outlines the key business points covering the lease. The lessee will be responsible for making all necessary public improvements and prorating the costs to the property and paying taxes on the property. In exchange, the City will not charge the lessee for the use of the property.

If the lessee exercises the option to purchase the property on or after the twentieth anniversary, the purchase price shall be \$1.00. However, if the option is exercised before the thirtieth (30th) anniversary, the purchase price will be \$1.00 plus thirty-three percent (33%) of the amount by which the Net Present Value (NPV), as defined in the lease, exceeds outstanding developer costs.

The key points are as follows:

- City offers lessee a 20 year ground lease for the subject site, during which time the lessee could purchase the property from the City.
- City is offering premises to developer on an "AS IS" basis, with developer assuming all risks.
- Lessee has six (6) months, from approval of this agreement, in which to conduct a feasibility analysis to determine viability of development. Feasibility analysis will include:
 - Obtaining preliminary title report
 - Environmental testing of the premises
 - Feasibility of obtaining financing
 - Feasibility of obtaining land use entitlements
 - Utilities and infrastructure needs analysis.
- If feasibility analysis is positive, developer has another 18 months (Planning Period) in which to begin construction.

- During the Planning Period, tenant is responsible for the following actions:
 - Environmental review
 - Secure the necessary entitlements
 - Prepare and submit plans for on and off-site public improvements
 - Prepare a budget
 - Obtain financing
 - Prelease the premises.
- City will lease site to developer for no cost, except for public improvements which are necessary to make the site usable and access to site safe.
- Lessee agrees to fully and completely indemnify, defend and hold City harmless for any action arising out of the construction of the Public Improvements.
- Lessee will meet with City quarterly, during Planning Period, to review developer's progress in obtaining the Planning Approvals.
- Upon request of City, lessee will submit evidence of payment of all taxes, when applicable.
- Tenants will maintain all necessary insurance policies.

BACKGROUND INFORMATION

Approximately one year ago Council member Cohn asked the former City Economic Development Office to meet with Mr. Jerry Thompson (lessee) to discuss the feasibility of Mr. Thompson purchasing or leasing the subject site for development of a small commercial development. The site is a heavily-landscaped, vacant 3+ acre parcel currently maintained, under contract, by the City Public Works Department.

Mr. Thompson is also the owner of the property at the northwest corner of 57th and J Streets, which is the original Shakey's Pizza Parlor. Since purchasing the Shakey's, Mr. Thompson has pursued acquiring a license from the State Alcohol and Beverage Control Board and met with various community groups to understand and address their concerns associated with reopening the Shakey's.

One of the key issues expressed by area residents was the lack of on-site parking provided by Shakey's. Mr. Thompson proposes that as part of the development of the City-owned site, that parking for Shakey's would also be provided on the subject site to address area parking concerns.

As noted in the summary, during the 18 month Planning Period Mr. Thompson will be required to secure the necessary Planning entitlements for the site. This will include preliminary and public meetings with area residents to review the site plans and address their concerns.

FINANCIAL CONSIDERATIONS

Currently, the City Public Works Department pays a private contractor, California Landscape Associates to maintain the landscaping on the premises, as well as property to the north and east under the College Medians contract, at an annual cost of \$6,422.00. If the lessee, Mr. Thompson, does develop the site, once construction begins he assumes responsibility for maintaining the subject premises.

Second, assuming that development occurs, the lessee will also be responsible for paying the possessory interest tax on the property, just as a private property owner pays property taxes on their property.

Businesses which eventually occupy the subject premises will also pay sales, utility user, business operations and other local taxes to the City of Sacramento, as well as employing Sacramento area residents

Assuming that development occurs, median improvements to J Street public be reimbursed by the City using the Major Streets Construction Tax Fund, through the Overwidth Pavement Reimbursement Program (Project # TJ94), of the City CIP Program, as defined in City Code Section 9.73. Once the City has received construction cost estimates from the lessee, the City and the lessee would enter in to a standard City overwidth pavement agreement. The lessee would then be reimbursed as funds become available, depending upon the number of similar development projects which are also seeking reimbursement

POLICY CONSIDERATIONS

The lease of the subject premises is consistent with previous Council actions to further economic development throughout the City through the negotiation of leases, sale of property or public/private partnerships. Examples of previous agreements approved by the City Council include:

- Granite Regional Park public/private partnership
- The CALEPA Lease at 10th & J Streets
- The sale of land at 5th & J Streets for the U.S. Federal Courthouse
- Packard Bell Lease at the former Sacramento Army Depot.
- Tenant leases at City-owned parking garages in Downtown Sacramento
- The City transfer of land at the Downtown Plaza for a parking garage.

ENVIRONMENTAL CONSIDERATIONS

This action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Sections 15262 and 15306. This proposed agreement will provide for feasibility and planning studies for possible future actions to be reviewed through the planning entitlement process. No actual physical effects will result from the feasibility

analysis envisioned by this action. No legally binding effect on possible later development of this site will result from this action. The approval of the agreement will result in information collection leading to possible future actions which have not yet been approved by the City.

Any development on the site will require a set of discretionary entitlements, which will require CEQA analysis; such analysis will be conducted at the time that application for such entitlements is submitted by the applicant.

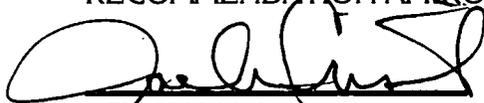
MBE/WBE

None. No goods or services are being purchased.

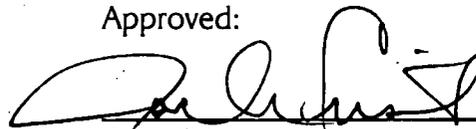
Respectfully Submitted


Dean Peckham, Mgmt Analyst
NPDS - Special Projects

RECOMMENDATION APPROVED


WILLIAM H. EDGAR
City Manager

Approved:


Jack Crist
Deputy City Manager

Attachments: Site Location Map
Resolution #
Ground Lease Agreement

RESOLUTION NO. 98-134

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

APPROVED
BY THE CITY COUNCIL

APR 21 1998

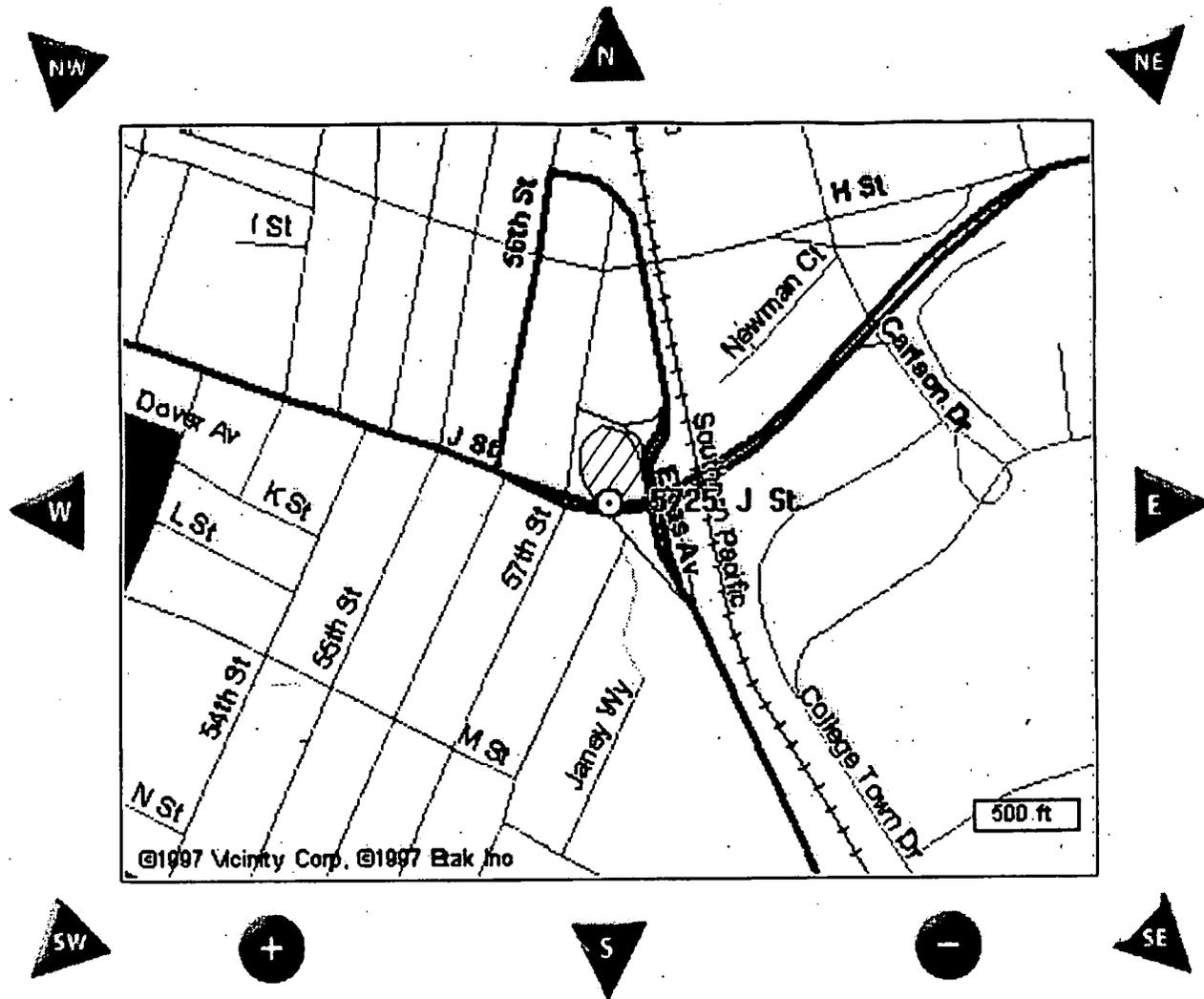
OFFICE OF THE
CITY CLERK

A RESOLUTION PROVIDING NOTICE OF INTENTION TO LEASE PROPERTY WITHOUT COMPETITIVE BIDDING FOR THE NORTHEAST CORNER OF 57TH & J STREETS (ASSESSOR'S PARCEL NUMBER 008-0122-020), PURSUANT TO TITLE 12, CHAPTER 2 OF THE SACRAMENTO CITY CODE; AND AUTHORIZING THE EXECUTION OF A GROUND LEASE AGREEMENT WITH JERAL C. THOMPSON & ASSOCIATES, TO LEASE THE PROPERTY AT THE NORTHEAST CORNER OF 57TH & J STREETS FOR FUTURE COMMERCIAL DEVELOPMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO;

1. That it is in the best interest of the City to use the procedures set forth in City Code Section 12.02.073 (F) instead of the competitive bidding process.
2. Notice is hereby given that the City of Sacramento intends to lease the northeast corner of 57th & J Streets (APN # 008-0122-020), Sacramento, California, without competitive bidding, pursuant to City Code Section 12.020.073(F). The City Clerk is directed to publish this resolution in accordance with the provisions of City Code Section 12.020.074.
3. Upon completion of the publication process pursuant to Section 4 of this Resolution, the City Manager is authorized and directed to execute the lease with Jeral Thompson and Associates for APN # 008-0122-020 for future commercial development.
4. That the City Manager is hereby authorized to execute such other documents as necessary to carry out the purposes and intent of this Resolution.

NORTHEAST CORNER
OF
57TH & J STREETS





3.2

**OFFICE OF THE
CITY ATTORNEY**

SAMUEL L. JACKSON
CITY ATTORNEY

WILLIAM P. CARNAZZO
ASSISTANT CITY ATTORNEY

**CITY OF SACRAMENTO
CALIFORNIA**

April 9, 1998

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ROBERT D. TOKUNAGA

MEMORANDUM

TO: City Clerk's Office

FROM: Samuel L. Jackson, City Attorney
William P. Carnazzo, Assistant City Attorney

RE: **Ground Lease - 57th & J Streets**

Please find attached the original and three executed copies of the Ground Lease re 57th and J Streets, which was forwarded to our office by Dean Peckham. Also attached is the cover sheet, original staff report (signed by Dean Peckham and Jack Crist), and Resolution prepared by Mr. Peckham's office.

Att.

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO
Apr 9 4 17 PM '98