



CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Alexa Jeffress
Director, Economic and
Workforce Development
Department

SUBJECT: CASS, Inc. Exclusive Negotiation
Agreement

DATE: September 3, 2021

City Administrator Approval

Date: September 7, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into An Exclusive Negotiation Agreement (ENA) With CASS, Inc. For Relocation Of Its Recycling Facilities To 101 Admiral Robert Toney Way, With A Term Of Nine Months, With Two Three-Month Administrative Extensions, And Payment Of A Nonrefundable ENA Payment of \$60,000; And Adopting California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Staff is recommending that the City Council adopt a resolution authorizing the City Administrator to negotiate and execute an Exclusive Negotiation Agreement (“ENA”) with CASS, Inc. (“CASS”) for a development project on a portion of the North Gateway Area located in the Gateway Industrial District at the former Oakland Army Base. More specifically, the development site consists of approximately 8.4 acres of the North Gateway Area (“City Property”) owned in fee by the City of Oakland (the “City”) and, subject to an agreement to be negotiated with the Port of Oakland (“Port”), may also include approximately 1.6 acres of land owned in fee by the Port (“Port Property”). The City Property and Port Property are depicted on the Site Map included as **Attachment A** (collectively, the “Property”).

The term of the ENA would be for a period of nine (9) months, with two three-month options to extend by the City Administrator, in his or her sole discretion. The ENA would allow CASS to perform due diligence, and the City and CASS to negotiate the terms and conditions of a Disposition and Development Agreement for the development of new state-of-the-art facilities on the Property (collectively the “Project”) and relocate its existing recycling operations from the West Oakland neighborhood locations of 2730 Peralta Street, 2601 Peralta Street, 2800 Peralta Street, 2900 Peralta Street, 2626-8 Poplar Street, 2701 Poplar Street, 1282 26th Street, 2641 Union Street and 2711 Union Street to the Property.

City Council
September 21, 2021

BACKGROUND / LEGISLATIVE HISTORY

In 2012, as a result of negotiations over community benefits, the City approved an Addendum to the 2002 Environmental Impact Report for the Oakland Army Base (“EIR”) that revised the redevelopment project to, among other things, include relocation of two recyclers from the West Oakland neighborhood to the Oakland Army Base. On February 12, 2012, the City entered into an Exclusive Negotiating Agreement (North Gateway Recyclers Project) with CASS and another recycler located in West Oakland, California Waste Solutions (“CWS”) (the “Joint ENA”), to jointly relocate their recycling operations to the approximately 20-acre North Gateway Area of the Oakland Army Base. That ENA has since expired, but through that process, CASS, CWS and City staff established an approach on dividing the North Gateway Area for the respective recyclers, and for each recycler to separately proceed with negotiations with the City. On July 20, 2021, the City Council approved a Lease and Disposition and Development Agreement with CWS to relocate CWS’s recycling facilities to the North Gateway Area (Ordinance No. 13658 C.M.S).

As part of the agreement on the allocation of the North Gateway Area, City Staff agreed to work with the Port to include the acquisition of a 1.6-acre Port Property to support the proposed CASS development plan. In accordance with this allocation, the City and the Port entered into a purchase and sale agreement (the “Port Property Agreement”) for the Port Property authorized by Ordinance No. 13160 C.M.S. adopted on May 21, 2013. The Port Property Agreement expired, and a new agreement is necessary to implement the Project.

Staff is seeking authorization to enter into an ENA to conduct due diligence, undertake the necessary environmental review process, and negotiate the terms and conditions of a Disposition and Development Agreement (“DDA”) for the sale of the City Property to CASS for development of new recycling facilities for relocation of its recycling operations from its existing facilities in the West Oakland neighborhood. Relocation of CASS’s uses outside of the West Oakland neighborhood has been a key objective of the community benefits program identified for the Oakland Army Base since 2012.

ANALYSIS AND POLICY ALTERNATIVES

A decision to proceed with the proposed ENA to relocate CASS’s existing uses to the former Oakland Army Base allows intensive recycling facilities to move from the West Oakland neighborhood to the industrially-zoned Gateway Industrial District at the Oakland Army Base and would put currently undeveloped land into productive use. The relocation would remove a source of diesel emissions, noise, and traffic congestion, and would improve the quality of life for West Oakland residents. Moreover the sites vacated by CASS could be redeveloped to meet the demand for redevelopment consistent with the West Oakland Specific Plan, and generate increased tax revenue for the City. Relocating the CASS facilities also implements the long-standing Army Base community benefits program and the 2012 Addendum to the EIR, and supports the Citywide Priorities of **holistic community safety** and **housing, economic and cultural security**.

The proposed ENA, attached as **Attachment B**, would include the following terms:

- \$60,000 non-refundable ENA fee paid to City
- 9-month initial term

- Two 3-month administrative extensions at the City Administrator's discretion
- A schedule of performance

Alternatively, a decision not to proceed with the ENA would leave the Property undeveloped and underutilized, and a different use would require additional planning and analysis. The existing CASS operations would remain in their West Oakland neighborhood locations.

FISCAL IMPACT

Pursuant to the Joint ENA, CASS paid to the City (a) a good faith deposit in the amount of \$557,000 (the "Prior Deposit") and (b) a \$5,000 project expense payment for purposes of reimbursing the City for third-party expenses incurred by the City in its sole discretion (the "Prior Payment"). CASS has agreed, and City staff is seeking authorization, to reallocate \$55,000 of the Prior Deposit and the Prior Payment to constitute a \$60,000 nonrefundable payment under the new ENA (the "ENA Payment"). \$55,000 of the Prior Deposit will then be accepted and appropriated to the Joint Army Base Infrastructure Fund (5672), Oakland Army Base Redevelopment Organization (85244), Budget Carry Forward Account (58999), Recyclers PEP Project (1001076), OARB-Bay Bridge Gateway Program (SC07). The remaining \$5,000 of the ENA Payment has already been appropriated in the same account. The Prior Deposit balance of \$502,000 will continue to be held in liabilities with the Joint Army Base Infrastructure Fund (5672), Oakland Army Base Redevelopment Organization (85244), Deposit Payable Account (24213), Recyclers ENA CASS Project (P455710), OARB-Bay Bridge Gateway Program (SC07). There are no fiscal impacts to the City for entering into an ENA with CASS as described in this report.

PUBLIC OUTREACH / INTEREST

The City has conducted numerous outreach meetings with a variety of community organizations, neighborhood groups, and business groups as well as outside agencies regarding the planning and development of the former Oakland Army Base. The Property is located in the northern portion of the former Oakland Army Base and was the subject of the EIR in 2002, which was updated in 2012 with an Addendum that specifically addressed the Project.

In accordance with the City's Public Engagement Plan for the Oakland Army Base, the most recent joint meeting between the City and Port occurred on January 27, 2021. City staff discussed the City's intent to negotiate an ENA with CASS in the coming months and to further update any progress with these negotiations in the City's biannual Gateway Industrial District Newsletter.

The ENA requires CASS to continue community outreach by creating and implementing a comprehensive community outreach plan that conforms to the requirements of the City's Public Engagement Plan for the Oakland Army Base.

COORDINATION

Staff coordinated efforts with the Bureau of Planning, Economic & Workforce Development Department, the Department of Finance and the City Attorney's Office. The Office of the City Attorney has also assisted in preparing the form of ENA.

SUSTAINABLE OPPORTUNITIES

Economic: There are no direct economic impacts connected to the request for an ENA with CASS for the Project described in this report. However, if the Project is developed, redevelopment of the Property would have positive economic regional impacts as measured by net direct spending, total output, income and jobs. In addition, the Project would have positive fiscal impacts which could be measured in both City and County tax revenue increases including property taxes, sales taxes and business taxes.

Environmental: There are no direct environmental impacts connected to the request for an ENA with CASS for the Project described in this report. If the Project is developed, relocating CASS's existing facilities out of a residential mixed-use neighborhood and into the industrial North Gateway Area of the former Oakland Army Base would contribute and enhance smart growth principles, leverage the former Oakland Army Base's existing multi-modal transportation facilities, and be consistent with regional growth policies and state growth mandates of Senate Bill (SB) 375 and Assembly Bill (AB) 32.

Race and Equity: There are no direct equity impacts connected to the request for an ENA with CASS for the Project described in this report. The West Oakland neighborhood adjacent to the Property has long been burdened by social and economic inequities and has been historically underserved. If the Project is developed on the Property, relocating a truck-intensive industrial use from this neighborhood to the former Oakland Army Base would provide positive economic stimulus to the neighborhood by removing a source of congestion while preserving and potentially creating nearby additional local job opportunities and would contribute to continued neighborhood job growth and economic stability.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Nothing in this action to authorize entering into an ENA should be interpreted as an approval or a pre-commitment to approve, now or in the future, of the disposition of the City's interest in the Property to any particular party, on any particular terms, or for any particular purposes. Any proposed disposition of the Property, whether made pursuant to the ENA or otherwise, will require further discretionary actions of the City Council, and the City retains full discretion, following conclusion of the response and negotiation periods set forth in the ENA to proceed with disposition of its interest in the Property in compliance with the California Environmental Quality Act ("CEQA"). As such, this action will not result in a direct or indirect physical change in the environment and does not in-and-of-itself constitute a "project" pursuant to CEQA Guidelines Section 15378.

CALIFORNIA SURPLUS LANDS ACT

The Property is subject to a recorded Covenant to Restrict Use of Property Environmental Restrictions, which among other things, includes federal and State restrictions that prohibit any residential housing. The Property qualifies as exempt surplus land under Section 54221(f)(1)(G) of the California Surplus Lands Act (Government Code Section 54220 *et seq.*, as amended) because the Property is validly restricted surplus land subject to Federal and State restrictions which prohibit any residential housing. All of the properties located within the former Oakland Army Base were used for federal military uses for decades, resulting in hazardous materials contamination and have both Federal and State restrictions preventing their use for any residential housing. In addition, the properties were transferred, ultimately, to the City to advance specific development objectives and not for general City uses.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into An Exclusive Negotiation Agreement (ENA) With CASS, Inc. For Relocation Of Its Recycling Facilities To 101 Admiral Robert Toney Way, With A Term Of Nine-Months, With Two Three-Month Administrative Extensions, And Payment Of A Nonrefundable ENA Payment of \$60,000; And Adopting California Environmental Quality Act Findings.

For questions regarding this report, please contact John Monetta, Project Manager II at (510) 238-7125.

Respectfully submitted,



ALEXA JEFFRESS
Director, Economic and Workforce
Development Department

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Attachments (2):

- A. Site Map
- B. Form of ENA