

RESOLUTION NO. 43

A RESOLUTION AUTHORIZING THE AGENCY TO ENTER INTO A CONSENT JUDGMENT WITH DEQ FOR A PROSPECTIVE PURCHASER AGREEMENT FOR BOTH THE EASTWINDS PROPERTY AND THE CITY'S FORMER SEWER TREATMENT PLANT PROPERTY LOCATED IN THE RIVERFRONT RENEWAL PLAN AREA

THE URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE FINDS AS FOLLOWS:

1. That the Troutdale Urban Renewal Agency ("Agency"), the duly formed body to implement urban renewal in Troutdale was formed by the adoption of City of Troutdale ("City") Ordinance. No. 771 on January 27, 2006.
2. That in order to protect the public health, safety, and welfare the City adopted the Troutdale Riverfront Renewal Plan ("Plan") on February 14, 2006, by Ordinance No. 773 to provide urban renewal authority to eliminate blight and foster development and redevelopment within the Troutdale Riverfront Renewal Area.
3. That real property acquisition is an authorized general power of the Agency pursuant to ORS 457.170(3), and as an identified authorized project of the Plan in Section VIII.C.
4. That in support of the Plan the City desires redevelopment of its former sewer treatment plant site, an approximately 12-acre parcel, and the adjacent approximately 8-acre parcel owned by Eastwinds Development, LLC, ("Eastwinds"), as part of a larger consolidated site project.
5. That the Agency Board adopted Resolution No. 39 on September 19, 2017 which authorized the negotiation and purchase of the Eastwinds real property parcels to result in unified ownership of the all the parcels of the entire approximately 20 acre site.
6. That at various locations across the 20 acre site past environmental contamination of varying degrees has occurred, and that upon purchasing the property, the Agency could become liable to the Department of Environmental Quality ("DEQ") for these previous releases of hazardous substances at the site.

7. That in order to protect public health, safety, and welfare and the environment, and to facilitate productive reuse of contaminated property DEQ may enter into a Prospective Purchaser Agreement (“PPA”) to provide a buyer with protection from potential liabilities in accordance with ORS 465.200 through 465.410, and regulations promulgated and applicable law, and that the Agency on October 6, 2017, applied to DEQ for a PPA under ORS 465.327.

8. That the PPA is contained in a court approved Consent Judgment and is intended to protect the Agency from potential liability for pre-acquisition releases of hazardous substances at or from the property is in the public interest, in return for the Agency undertaking certain obligations to expedite removal or remedial action, minimize litigation, be consistent with rules adopted under ORS 465.400.

9. That subject to the Agency fulfilling the requirements of the Consent Judgment PPA, DEQ will release the Agency from liability as set forth in ORS 465.327(1), and will covenant not to sue as set forth in ORS 465.325(7)(a) and (d); and will release from liability to DEQ under any federal or state statute, regulation, or common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq., regarding the release or threatened release of hazardous substances addressed in the Consent Judgment PPA.

10. That by Ordinance No. 773 the Agency was assigned to implement the Plan vision, goals and objectives, which include supporting redevelopment of the Plan Area for a mix of public uses and private development, providing a system of pedestrian and bicycle trails that connects downtown to the Sandy River with connections and expansion of the 40-Mile Loop Regional Bicycle Trail, and improving community access and enjoyment of the Sandy Riverfront portions of the property while protecting the riparian habitat.

11. That the Plan, via Ordinance No. 773, recognized areas of blight, and declared that it serves the public interest, and it is necessary and desirable to acquire real properties in order to implement the Plan redevelopment projects, which will reclaim a long-standing brownfield, support environmental and ecological restoration of the site and riverbank, all benefiting the public health, safety and welfare of the community.

12. That completion of the requirements of the Consent Judgment PPA by the Agency will be of significant public benefit and that all aspects of the work to be performed pursuant to the Consent Judgment PPA must be performed under the direction and supervision of a qualified contractor having experience in hazardous substance remediation and knowledge of applicable state and federal laws, regulations, and guidance.

13. That the Consent Judgment PPA is entered into pursuant to ORS 465.325 and ORS 465.327, that on December 1, 2017, DEQ published notice of the proposed Consent Judgment PPA and provided opportunity for public comment in accordance with ORS 465.320(1) and 465.325(4)(d), during the month of December 2017, during which period no public comments were received for the administrative record.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE:

Section 1. The provisions of the Consent Judgement have been substantially negotiated and the Agency hereby, approves the Consent Judgement Prospective Purchaser Agreement with the State of Oregon Department of Environmental Quality for the purchase of real property in the urban renewal plan area, as in substantial conformity with Exhibit A of the Staff Report, but with any changes the Agency Official may approve.

Section 2. The Agency finds and declares that acquiring the four (4) real property parcels comprising the approximately 20 acre site covered by the Consent Judgement PPA will serve a valuable, desirable and necessary public purpose, and is for an authorized public purpose toward the fulfillment of the adopted Troutdale Riverfront Renewal Plan.

Section 3. The Agency Executive Director and City Manager Ray Young, City Attorney Ed Trompke, and Finance Director Erich Mueller, (each an "Agency Official") are designated to act individually and/or jointly and cooperatively, on behalf of and in the best interest of the Agency and without further action by the Agency, and are hereby, authorized empowered and directed to execute the Consent Judgement PPA on behalf of the Agency, and any and all other required and necessary documents to implement the intent of the Consent Judgement PPA and this resolution.

Section 4. The Agency Official is hereby authorized to execute, acknowledge and deliver the Consent Judgement PPA, including any deeds, certificates of acceptance, and deliver any subsequent addendums, extensions, revisions, modification, or successor documents of the Consent Judgement PPA and other supporting and implementing documents, and to take any other action as may be advisable, convenient, necessary, or appropriate to give full force and effect to the terms and intent of the Consent Judgement PPA, and the execution thereof by any such Agency Official shall be conclusive as to such determination.

Section 5. Further, as applicable, to comply with State statutes, administrative rules or local ordinances, and to act in the best interest of the Agency, and without further action by the Agency, the Agency Officials are hereby authorized, directed, and responsible for fulfilling the ministerial, intergovernmental, technical, compliance, procedural or promotional functions as required for the effective administration and implementation of the Consent Judgement PPA, and to take any other action as may be advisable, convenient, necessary, or appropriate, and the execution thereof by any such Agency Official shall be conclusive as to such determination.

Section 6. Further, consistent with intent of the Consent Judgement PPA, and in the best interest of the Agency, the Agency Official is authorized empowered and directed to prepare the necessary ordinances, resolutions, debt instruments, intergovernmental agreements, and other documents and actions, as necessary for implementation of the property purchase, for consideration and approval by either the City or Agency as appropriate.

Section 7. The Finance Director is authorized to disburse funds, subject to annual appropriations, as necessary to fulfill the Consent Judgement PPA obligations, and is further directed to implement all such actions necessary to ensure budgetary compliance.

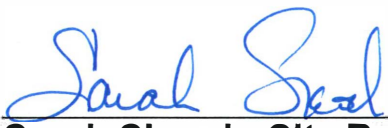
Section 8. This Resolution shall take effect immediately upon adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0



Casey Ryan, Chair
1-25-2018

Date



Sarah Skroch, City Recorder
Adopted: January 16, 2018