

DATE: September 10, 2014
TO: Board of Commissioners
FROM: Patrick Quinton, Executive Director
SUBJECT: Report Number 14-37

Authorizing a Purchase and Sale Agreement to Convey 0.23 Acres of Real Property in the Downtown Waterfront Urban Renewal Area for \$2,500,000

BOARD ACTION REQUESTED

Adopt Resolution No. 7072

ACTION DESCRIPTION

This action will authorize the Portland Development Commission (PDC) Executive Director to execute an Agreement for Purchase and Sale of Property (PSA) between PDC and the McWhinney, Mortenson Development, and Sage Hospitality team (Developer) for the conveyance of the SW Third and Taylor Property (Property), a 10,000 square foot (SF) PDC-owned parcel, for the consideration of \$2,500,000. The Property is located in the Downtown Waterfront Urban Renewal Area (DTWFURA) on the northeast corner of SW Third Avenue and SW Taylor Street (see project summary in Attachment A) in Portland's central business district.

The Developer plans to construct an approximately 204-room, 13-floor, \$48.3 million AC by Marriott hotel (Project).

If approved, this action will be consistent with two PDC interests: (1) to convey the Property to Developer at market rate to be developed without any PDC financial assistance; and (2) to support PDC's initiative of disposing of non-strategic properties.

BACKGROUND AND CONTEXT

Acquisition. The Property is located in Portland's central business district. PDC acquired the Property in August 1999 for the Portland Bureau of General Services to construct an above-ground 348-stall automated parking garage with ground floor retail. PDC demolished a dilapidated structure on the Property shortly after acquisition. The City of Portland subsequently decided to not construct the garage.

Disposition. PDC issued a Request for Proposals (RFP) in 2003 that resulted in negotiations with Winkler Development for an affordable housing project that did not proceed to an agreement. In 2007 PDC entered into exclusive negotiations with adjacent property owner Harsch Development, but those negotiations ended in 2008 without proceeding to an agreement.

PDC issued a Request for Offers (RFO) on May 23, 2014 to solicit offers to acquire the Property at market rate and complete its development without PDC investment or financial assistance in accordance with the DTWFURA Plan and zoning regulations. PDC received three offers which were reviewed according to the Evaluation Criteria listed in the RFO and the PDC Executive Director ultimately selected the Developer as the preferred developer based on the experience of the team and strength of the financial

offer and development schedule. PDC and Developer signed a Letter of Intent (LOI) on August 27, 2014 which set forth the intentions to negotiate the terms of a binding PSA.

Purchase and Sale Agreement. The material terms of the PSA, which are attached as an exhibit to the resolution, include:

- Purchase price of \$2,500,000 for the Property, which represents a fair market valuation as determined by an August 2014 appraisal;
- PDC to provide no investment or financial assistance for development of the Property;
- Developer to have a 180-day due diligence period;
- Developer to provide an earnest money payment of four percent (\$100,000) within five days of execution of the PSA; a second earnest money payment of \$25,000 within 30 days of execution of the PSA unless Developer has submitted a Franchise Application with a \$50,000 non-refundable payment to Marriott Corporation, in which case the second earnest money deposit will be deemed waived; and a final earnest money payment of \$125,000 due upon completion of the due diligence period, which will be reduced to \$100,000 if Developer has participated in at least one Portland Design Commission hearing;
- Developer may elect not to proceed with the transaction if the title or other conditions of the Property are determined to be unacceptable to Developer during the due diligence period;
- Closing to occur within 30 days of the later of (1) end of the due diligence period; or (2) receipt of approval from the Portland Design Commission for development of the Project. Closing shall occur no later than 12 months from execution of the PSA;
- Developer may exercise three 30-day closing extensions at \$15,000 per extension with extension payments non-refundable and not applicable to the purchase price;
- In the event Developer has diligently pursued but not received Portland Design Commission approval within 15 months from the effective date of the PSA, Developer may exercise three additional 30-day closing extensions at \$15,000 per extension with extension payments non-refundable and not applicable to the purchase price. In no event shall Closing occur more than 18 months from the execution of the PSA;
- Upon closing, Developer accepts responsibility for environmental condition of the Property and for compliance with all environmental laws;
- Developer must commence construction on the Property consistent with zoning regulations and DTWFURA Plan, currently anticipated to be a 204-room AC by Marriott hotel, within 36 months of the execution of the PSA; and
- PDC has a right to repurchase the Property for the original purchase price if Developer does not commence construction within 36 months of execution of the PSA.

Environmental Conditions. Through its due diligence activities, PDC discovered low levels of environmental contaminants on the site that will cost approximately \$20,000 to \$30,000 to remediate. These costs will be the responsibility of the Developer.

COMMUNITY AND PUBLIC BENEFIT

Public benefits of executing the PSA include:

- The disposition will generate \$2.5 million in land sale proceeds and will reduce PDC's ongoing ownership and maintenance costs;
- The Property will be redeveloped without direct financial assistance from PDC;
- The Project will redevelop a vacant property with a hotel that will create 24/7 activity, support business and economic development in the central business district, and in its first full year of operations is estimated to generate approximately \$610,000 per year in property tax revenues and \$1,165,000 per year in transient lodging tax revenues;
- The Developer will implement and comply with PDC's Equity Policy and Green Building Policy.

PUBLIC PARTICIPATION AND FEEDBACK

PDC has not conducted any public outreach specific to this disposition and has not received any specific comments related to the proposed disposition. The community will have opportunity to comment on the Project's design as the Property is located in a Design Review overlay district and will be subject to Design Review approval.

BUDGET AND FINANCIAL INFORMATION

The fiscal year (FY) 2014-15 Downtown Waterfront Proposed Budget and Five Year Forecast currently includes funds for ongoing ownership and maintenance of the Property (see Attachment B). The proposed PSA anticipates that PDC will convey the Property to the Developer no later than approximately March 2016. Revisions to the budget will be made to reflect both the income from the sale of the Property and the discontinuation of ongoing ownership and maintenance costs as a result of the sale of the Property.

RISK ASSESSMENT

Entering into this PSA creates minimal risks, as PDC is selling the Property at fair market value and does not have financial resources at risk. The primary risk for PDC is that the proposed development would not be realized in accordance with the terms of the PSA as follows:

1. **Developer May Terminate the Transaction.** There is a risk that Developer will terminate the transaction during the 180-day due diligence period. This is a standard business practice and a common risk in most commercial real property sales, provided that the term of the due diligence period is reasonable, which it is here.
A related risk is that Developer will terminate the transaction subsequent to the end of the due diligence period but prior to closing. This risk is mitigated by Developer providing \$200,000 to \$250,000 in earnest money payments that will generally be non-refundable at the end of the due diligence period as well as by closing to occur within 18 months of the effective date.
2. **Developer May Not Redevelop the Property Successfully.** There is a risk that Developer will not succeed in redeveloping the Property. Subsequent to the end of the due diligence period but prior to closing, this risk is mitigated by the earnest money payment which PDC will retain if the transaction does not close. Subsequent to closing, this risk is further mitigated by (a) Developer paying PDC the purchase price in cash at closing, and (b) PDC retaining a repurchase right in the event Developer does not commence construction within three years of the effective date.

ALTERNATIVE ACTIONS

The Board could decide to:

- Direct staff to incorporate new terms or changes to the terms and conditions into the PSA;
- Direct staff to renegotiate specific terms and conditions; or
- Terminate the disposition process.

ATTACHMENTS:

- A. Project Summary
- B. DTWFURA Financial Summary

PROJECT SUMMARY

Project Name:	SW Third and Taylor Property Purchase and Sale Agreement
Description:	0.23-acre vacant parcel
Location:	Northeast corner of SW Third Avenue and SW Taylor Street
URA:	Downtown Waterfront
Current Phase:	Disposition
Next Milestone:	Closing/Conveyance
Completion Target:	December 2015
Outcome:	Conveyance of SW Third and Taylor Property to the McWhinney, Mortenson Development, and Sage Hospitality team for development according to DTWFURA Plan and zoning, currently anticipated to be a 204-room hotel.



Five-Year Forecast Program Requirements Detail

	Revised- 3 FY 2013-14	Adopted FY 2014-15	Forecast FY 2015-16	Forecast FY 2016-17	Forecast FY 2017-18	Forecast FY 2018-19
Downtown Waterfront URA						
Resources						
Beginning Fund Balance	13,926,476	10,998,336	2,075,764	52,603	667,691	2,603,948
Fees and Charges	4,267	2,295	915	10,591	16,088	1,115
Interest on Investments	63,000	60,000	30,000	10,000	10,000	0
Loan Collections	495,480	408,905	163,010	1,886,929	2,862,605	198,664
Property Income	328,200	1,760,669	20,560	20,560	20,560	20,560
Reimbursements	15,200	15,200	15,200	15,200	15,200	15,200
Total Resources	14,832,623	13,245,405	2,305,449	1,995,883	3,592,124	2,839,487
Requirements						
Program Expenditures						
Administration						
Financial Administration						
A45101320 Debt Management-DTW	8,000	8,000	8,000	8,000	8,000	8,000
Total Administration	8,000	8,000	8,000	8,000	8,000	8,000
Business Development						
Business Lending						
L00210320 BL -General-DTW	0	425,000	135,000	715,000	425,000	425,000
L02100320 BIF-General-DTW	100,000	0	0	0	0	0
L02110320 BIF-Cluster Group-Budget-DTW	50,000	0	0	0	0	0
Small Business & Community Dev						
B55005320 OT/CT Action Plan-DTW	0	65,000	65,000	65,000	0	0
Total Business Development	150,000	490,000	200,000	780,000	425,000	425,000
Housing						
PHB Housing						
H15430320 Affordable Rental Hsg-DTW	0	1,717,345	0	0	0	0
H15900320 PHB Staff & Admin-DTW	0	0	254,565	0	0	0
Total Housing	0	1,717,345	254,565	0	0	0
Property Redevelopment						
Commercial Property Redevelopm						
P32053635 Old Town Lofts-Pkng-DTW-Adm	8,521	29,948	10,045	10,045	10,045	10,045
P32050115 Dtn Retail Strat -DTW-Adm	30,000	0	0	0	0	0
P32052115 Block 8 Redev-DTW-Adm	10,000	0	0	0	0	0
P32080515 One Waterfront South-DTW-Adm	3,600	4,600	0	0	0	0
P32052215 CC 2035-DTW-Adm	51,301	0	0	0	0	0
P32080615 SW 3rd & Oak-DTW-Adm	70,396	73,432	0	0	0	0
P32053625 Old Town Lofts-Retail	31,800	334,600	31,800	31,800	31,800	31,800
P32080415 SW 3rd & Taylor Lot-DTW-Adm	10,500	9,132	0	0	0	0
P32080115 Block 8 - L-DTW-Adm	21,824	49,111	0	0	0	0
P32056615 RiverPlace Marina-DTW-Adm	15,000	15,200	15,200	15,200	15,200	15,200
P32054415 One Waterfront Pl-DTW-Adm	2,700	0	0	0	0	0
P32054115 3rd & Oak Parking Obl-DTW-Adm	0	1,400,000	1,447,000	0	0	0
Commercial Real Estate Lending						
R01100320 CPRL-General-DTW	2,350,000	6,000,000	0	0	0	0
Community Redevelopment Grants						
G01100320 CLG-General -DTW	0	100,000	0	0	0	0
G02100320 DOS-General-DTW	50,000	50,000	50,000	24,000	24,000	12,000
G03100320 SIP-General-DTW	200,000	200,000	200,000	200,000	200,000	200,000
Total Property Redevelopment	2,855,642	8,266,023	1,754,045	281,045	281,045	269,045

Five-Year Forecast Program Requirements Detail

	Revised- 3 FY 2013-14	Adopted FY 2014-15	Forecast FY 2015-16	Forecast FY 2016-17	Forecast FY 2017-18	Forecast FY 2018-19
Total Program Expenditures	3,013,642	10,481,368	2,216,610	1,069,045	714,045	702,045
Personal Services	187,199	119,226	9,300	67,598	71,745	101,867
Transfers - Indirect	633,446	569,047	26,936	191,549	202,386	282,864
Total Fund Expenditures	3,834,287	11,169,641	2,252,846	1,328,192	988,176	1,086,776
Contingency	10,998,336	2,075,764	52,803	667,691	2,603,948	1,752,711
Ending Fund Balance	0	0	0	0	0	0
Total Requirements	14,832,623	13,245,405	2,305,449	1,995,883	3,592,124	2,839,487