

Agenda Report

DATE: JULY 1, 2002

TO: CITY COUNCIL

FROM: CYNTHIA J. KURTZ, CITY MANAGER

SUBJECT: ACQUISITION FUNDING AGREEMENT BETWEEN THE CITY AND MAGUIRE PARTNERS-385 COLORADO, LLC, FOR THE ACQUISITION OF FEE TITLE TO CERTAIN SUBSURFACE PARCELS WITHIN THE RIGHT-OF-WAY ALONG COLORADO BOULEVARD, LOS ROBLES AVENUE, UNION STREET AND EUCLID AVENUE AND APPROVAL OF ENTERING INTO A LICENSE AGREEMENTS FOR INSTALLATION OF SUBTERRAEANEAN TIE-BACKS AND SOLDIER BEAMS

RECOMMENDATION:

It is recommended that the City Council:

- (1) Approve an Acquisition Funding Agreement (the "Agreement") with Maguire Partners-385 Colorado, LLC, (the "Developer"), for portions of Colorado Boulevard, Los Robles Avenue, Union Street and Euclid Avenue public right-of-way (ROW) segments, with the terms and conditions as set forth in this report, and authorize the City Manager to execute the Acquisition Funding Agreement on behalf of the City of Pasadena; and
- (2) Authorize the City Manager to enter into licenses with the Developer for the installation of subterranean tie-backs and soldier beams and further allow the City Manager to execute all other effectuating documents.

BACKGROUND

The Pasadena Community Development Commission ("Commission") and Developer have entered into that certain Disposition and Development Agreement dated as of June 24, 2002 (the "DDA"). Pursuant to the DDA, the Developer will construct an approximately 270,000 gross square foot office building with ground floor retail and restaurants along the Colorado Boulevard frontage and office related uses along the Los Robles Avenue frontage, and three levels of subterranean parking providing approximately 772 parking spaces.

In order for the Developer to perform its obligations pursuant to the DDA in a timely manner and not interfere with the scheduled construction of the Western Asset Plaza project, staff is recommending that the City acquire fee title to parcels along the subsurface of Colorado Boulevard, Los Robles Avenue, Union Street and Euclid Avenue public right-of-way (ROW) segments and, subsequently, grant licenses to the Developer to use and occupy the ROW to install tie-backs and soldier beams. These subsurface improvements will be used to temporarily support the subterranean walls of the parking garage during construction. The Developer has agreed to pay all costs incurred by the City in the acquisition effort and to fully indemnify the City for all liabilities resulting from such efforts.

If the City is unsuccessful in negotiating the purchase of the acquisition parcels from the present owners for the appraised fair market value, the City could then consider the adoption of a resolution of necessity for the acquisition parcels. If a resolution of necessity were approved, the City would then file a condemnation action to acquire the parcels. Promptly after obtaining fee title to the parcels, the City would then enter into the Tieback Licenses with the Developer.

PAYMENT OF ACQUISITION COSTS

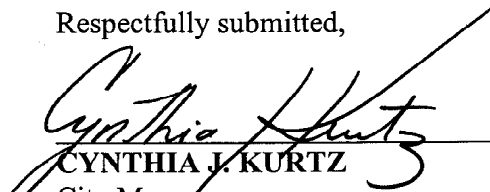
The proposed Agreement requires that the Developer deposit funds with the City which would be placed in a separate, interest-bearing account of the City, to be known as the "Developer's Acquisition Account", with interest accruing to Developer.

The City would be authorized to expend monies from the Developer's Acquisition Account for Acquisition Costs as needed. Once the balance in the Developer's Acquisition Account is less than Fifty Thousand Dollars (\$50,000), the Developer would be required to deposit replacement funds with the City within five days of written request therefore from the City, such that the Developer's Acquisition Account always contains a minimum sum of Fifty Thousand Dollars (\$50,000). In the event that the Developer fails to replenish funds in the Developer's Acquisition Account within five days of written request therefore from the City, the Developer would be in default of the Agreement.

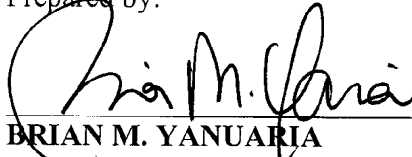
FISCAL IMPACT

The Developer has agreed to pay all costs incurred by the City in the acquisition effort and indemnifies the City for all liabilities resulting from such efforts.

Respectfully submitted,


CYNTHIA J. KURTZ
City Manager

Prepared by:



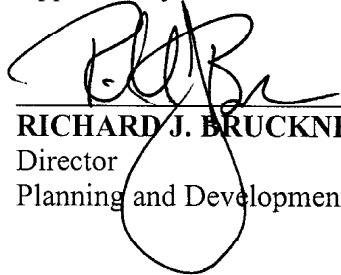
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Approved by:



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Planning and Development Department