

**Notice of Development Opportunity  
(NODO)**

**6226 Moraga Ave., Oakland, CA 94611**

**March 16, 2018**

## A. INTRODUCTION

The City of Oakland (“City”) is pleased to offer an exciting opportunity to develop the subject property located within Montclair, one of Oakland’s most desirable neighborhoods. Investment and development interest in Oakland’s neighborhoods is increasing as more professionals and businesses are moving to Oakland. Montclair is an attractive neighborhood because it is close to freeways, public transportation, shopping, and restaurants. Montclair is located in the Oakland hills east of Piedmont. The general boundaries of this high-end neighborhood are Highway 24 to the north, Highway 13 to the west, Joaquin Miller Rd. to the south, and Skyline Blvd. to the east. Montclair is relatively affluent and is primarily a residential neighborhood. This ±3.75 square mile area has a median household income above \$131,967 compared to Oakland as a whole which has a median household income of ±\$46,529. In the center of the neighborhood is a compact upscale shopping district known as Montclair Village which is located next to Highway 13 and encompasses approximately 5 square blocks. The subject property is less than 1/4 mile north of the commercial district. The hills of Montclair are heavily forested, generally characterized by winding streets and large single-family houses, and include several of the highest ranked public schools in Oakland (Montclair Elementary, Thornhill Elementary, Joaquin Miller Elementary, and Montera Middle School).<sup>1</sup>

The City is seeking proposals from qualified and interested parties to develop one or two parcels known as 6226 Moraga Ave., Oakland, CA 94611 (“Property”) for residential, retail, commercial, industrial, or any other use permitted by the Use and Occupancy Classifications under the California Building Code and the Property’s zoning under the City of Oakland Planning Code.

Parcel A (APN 48F-7361-11) is about 23,884 square feet, generally unimproved and upsloping. Parcel B (APN 48F-7361-12) is about 15,652 square feet, includes the historic Montclair Fire Station (also known the as old Fire Station #24), and is also upsloping. There is limited parking on the Property. The City has a preference for leasing versus a sale, but will consider all types of proposals, including, but not limited to:

- purchase through a Purchase and Sale Agreement (PSA);
- purchase through a Disposition and Development Agreement (DDA)<sup>2</sup>;
- lease through a Lease Disposition and Development Agreement (LDDA)<sup>3</sup>;
- lease, long-term lease, ground lease, or other type of lease;
- any other type of agreement.

The City is seeking the highest and best offer, but expects at least \$1,250,000 to purchase both parcels (or fair market rental value if the parcels are to be leased). Parcel A can be purchased separately for \$750,000. Parcel B can be purchased separately for \$500,000. The City reserves the right to sell at any price, above or below the list price, or not to proceed with a sale or lease at

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<sup>1</sup> Source: Local Appraiser

<sup>2</sup> A contract between a developer and the City that involves the sale of City-owned land to the developer.

<sup>3</sup> A contract between a developer and the City that involves the lease of City-owned land or property to the developer.

all. Any final sale price may be dependent on appraisal, City staff approval, and/or City Council approval.

Economic Development staff will assist with expediting the permit approval process and will monitor the permit application throughout the development review and approval process. Furthermore, Economic Development staff will act as a liaison and provide the selected respondent with assistance navigating City departments and processes and coordinating with the community.

## **B. SUBMITTAL REQUIREMENTS**

**Written responses to this NODO are due by 5:00 p.m. on May 18, 2018.** All packages should contain a transmittal letter **and 5 hard copies** of the complete response. Size 12 font or larger in Times New Roman type is required. Each copy of the proposal must be 3-hole-punched on the left side of each page. Packages should be directed to the following address only:

**Jinnhua Su, Real Estate Agent  
City of Oakland  
Real Estate Services Division  
250 Frank Ogawa Plaza, #4314  
Oakland, CA 94612**

During the evaluation period, City staff may request written clarifications of proposals and may, at their sole discretion, hold discussions with all or any of the respondents under serious consideration.

The submission requirements are indicated below. To facilitate review by City staff, please submit materials under clearly labeled **tabs for each section and subsection in the order listed in the evaluation criteria below. Some sections and subsections may not be applicable to your proposal.**

## **C. EVALUATION CRITERIA**

While the nature of the proposed project and the **offer price** are major factors in the selection criteria, the selection process will also weigh additional City objectives such as how well the project serves the public interest. The City will use the following criteria in assessing proposals.

### **1. Experience of Developer and Key Individuals (8 points)**

- a) Success in projects of similar type, with particular emphasis in urban areas.
- b) Record of completing a minimum of 2 developments of similar nature on budget and on schedule.
- c) Project experience with the permitting and approval processes of local governments and other public agencies.
- d) Demonstrated success in maintaining high-quality, efficiently-operated projects.
- e) Business experience in the City.

- f) Professional references which shall include a minimum of 3 references associated with the proposed project.

**2. Project Design (7 points)**

- a) Describe in detail the residential or business concept being proposed and how it will fit into and complement the culture and quality of life in Montclair.
- b) Project description and conceptual architectural rendering indicating the layout of space, color scheme, style of interior, and any modifications to the building exterior or grounds.
- c) Narrative (and if possible illustrations) of the theme, look and feel of the proposed use. Concept will ultimately be shared with the community.
- d) Parking plan.
- e) Space plans for the interior and exterior operations of the total gross square feet of one or both lots.
- f) Itemized interior and exterior improvement plan.
- g) Itemized budget and staffing plan for operations.

**3. Financial Capacity (15 points)**

- a) Evidence of developer to raise sufficient equity/debt capital to complete the project in a reasonable time.
- b) Financial strength of developer and other team members (personal and corporate). Please be specific and include financing references where appropriate.
- c) Commitment and ability to fund pre-development activities.
- d) Financial statements for the prior 2 years and year-to-date financial statements for any existing Oakland-based business operations owned or operated.
- e) No seller financing is available.

**4. Project Financial Feasibility (15 points)**

- a) Detailed financial information for how the respondent will fund the start-up costs, tenant improvement costs, and 3-year operations pro forma.
- b) Development schedule and timeline to complete the development.
- c) Ongoing revenue to the City (i.e., sales tax).

**5. Community and Public Objectives (10 points)**

- a) Demonstrated ability to work with the City to develop designs that are sensitive to the architectural environment.
- b) Willingness to incorporate green building and energy efficient components in the design of projects.
- c) Willingness to comply with various “City Programs and Policies” (Local / Small Local Business Enterprise Program, Oakland Labor Compliance Program, Oakland Disadvantaged Business Enterprise Program, Local Employment and Apprenticeship Programs). These programs and their guidelines are available

from the Contract Compliance Office of the City Administrator's Office or at <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/index.htm>

- d) Jobs created and commitment to hire Oakland residents.
  - e) Willingness to comply with other City policies and procedures found on the City's website at <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/index.htm>
  - f) Compliance with zoning and public works requirements, and ability to secure a conditional use permit and other licenses as required.
  - g) Business hours of operation appropriate for the surrounding community.
  - h) Project that will increase the vitality of Montclair.
  - i) Willingness to work with neighborhood stakeholders on the project concept.
- 6. Other Factors as Appropriate (other relevant considerations developer would like the City to consider) (10 points)**
- 7. Quality and Completeness of Proposal (5 points)**
- 8. Offer Price and Net Proceeds to the City (30 points)**

**D. CITY REQUIREMENTS**

**The following City requirements are APPLICABLE TO ALL PROPOSALS:**

**1. Environmental**

Prior to execution of a PSA, DDA, LDDA, lease, or other type of agreement, the project must be assessed in accordance with the California Environmental Quality Act (CEQA).

**2. Nondiscrimination**

All recipients of this NODO must agree not to discriminate on the basis of race, color, ancestry, national origin, religion, gender, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), any other arbitrary basis, or any other protected class under state and federal law.

**3. Conflicts of Interest**

No public official of the City who participates in the decision-making process concerning a project may have or receive a direct or indirect economic interest in the developer or the project. Developers are responsible for ensuring that such conflicts of interest do not occur.

#### 4. Public Records

The respondent should understand that under the California Public Records Act and the City's Sunshine Ordinance, all documents that are submitted in response to this NODO, including financial information, are considered public records and will be made available to the public upon request.

#### 5. Property Conditions

The respondent shall acknowledge receipt of the Attachments (list starting on page 9). The selected respondent is required to conduct her/his own property, area, and document inspections. The Property will be sold "as-is, where-is".

#### 6. Property Encumbrance

A DDA; LDDA; Conditions, Covenants & Restrictions; and/or a Deed Restriction will be recorded against the Property to ensure compliance with the terms and conditions agreed upon.

7. The City reserves the right to accept or reject any and all proposals, whether minimum qualifications are met, and to modify, postpone, or cancel the NODO without liability, obligation, or commitment to any party, firm, or organization. Furthermore, a proposal **MAY BE REJECTED** for any of the following reasons without limitation:
  - a. Proposal received at designated location after designated time.
  - b. Proposal not in compliance with any of the City Programs and Policies as mentioned in Subsections C5c and C5e.
  - c. Proposal missing any of the required submittal exhibits.
  - d. Proposal not containing the required elements organized in the required format.
  - e. Proposal considered not fully responsive to this NODO.
  - f. Proposal contains excess or extraneous material not called for in the NODO.
  - g. Proposal containing inaccurate or misleading responses and/or information.
  - h. Below is a list of prohibited uses. This list is subject to change at the sole discretion of the City.
    - I. Any form of adult entertainment (direct or indirect)
    - II. Any activity directly or indirectly connected with the municipal marijuana industry
    - III. Any activity directly or indirectly connected with the sale of tobacco
    - IV. Any activity directly or indirectly connected with the sale of firearms or ammunition
    - V. Any other activity directly or indirectly prohibited by zoning, federal, state, county, and/or City statute
    - VI. Plan for amplified sound (by City-issued permit only)

8. All responses to the NODO become the property of the City. The NODO does not commit the City to award a contract or to pay any cost incurred in the preparation of the proposal.
9. The City reserves the unqualified right to modify, suspend, or terminate at its sole discretion any and all aspects of the NODO process; to obtain further information from any and all respondents and/or their teams; to waive any defects as to form or content of the NODO or any responses by any respondents and/or their teams; and to negotiate the final scope of work and services, fee schedule, or purchase offer price with the selected respondents.
10. Once a final award is made, all NODO responses become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the California Public Records Act or the City's Sunshine Ordinance.

**E. PROPOSED SCHEDULE OF BIDDING ACTIVITIES – SUBJECT TO CHANGE**

1. Public solicitation		March 16, 2018 (Fri)
2. Open house	(a)	TBA
	(b)	TBA
	(c)	TBA
3. Bid submittal deadline		May 18, 2018 (Fri)
4. Interviews with the respondents (if necessary)		May 21 thru June 1, 2018
5. Staff review and ranking		June 8, 2018 (Fri)
6. City Council Closed Session (deposit deadline)		July 3, 2018 (Tues)
7. Approval by City Council		September 17, 2018 (Mon)
8. Target award date		September 28, 2018 (Fri)
9. Finalize agreement		October 26, 2018 (Fri)

**THE ABOVE DATES ARE STAFF ESTIMATES AND MAY CHANGE WITH OR WITHOUT NOTICE AT THE SOLE DETERMINATION OF THE CITY. THE CITY IS NOT RESPONSIBLE FOR ANY EVENTS OR INCONVENIENCES DUE TO CHANGES TO THE ABOVE SCHEDULE.**

**F. POST-BID INTERVIEWS**

If necessary, the post-bid interviews will be conducted May 21 – June 1, 2018. Post-bid interviews will be conducted on an “as-needed” basis. The purpose for the interview is to allow staff to secure clarity regarding components of the proposal submitted.

**G. PROPOSAL NEGOTIATION AND AWARD OF CONTRACT**

The selected respondent will be invited to exclusive negotiations regarding the terms of the PSA; DDA; LDDA; lease; other type of agreement; Conditions, Covenants & Restrictions; and/or

Deed Restrictions. If an agreement cannot be reached in a reasonable time frame (as determined by the City or its designee) with the selected respondent regarding its final scope of work, acquisition and development budget, business plan, or any other aspect of its proposal, negotiations will proceed with the next highest scoring respondent until an agreement is reached or the list is exhausted.

**I. ETHICAL STANDARDS**

The respondent will conduct work in a manner that will uphold the values, integrity, and respect of the profession.

The respondent will uphold the stated intent as well as the letter and spirit of applicable policies, laws, ordinances, and regulations which are adopted by the City or any governmental bodies or agencies with jurisdiction.

The respondent will not engage in, encourage, or condone dishonesty, fraud, deceit, discrimination, or misrepresentation.

The respondent will fully disclose to the City any economic, unethical, or potentially unethical relationships which could reasonably be interpreted as a conflict of interest by the Oakland City Auditor or by other affected parties with regard to this development project.

The respondent will ensure a good faith effort at full disclosure, technical accuracy, sound methodology, clarity, and objectivity in the collection, analysis, interpretation, and presentation of information.

The respondent will achieve and maintain the highest level of professional competency for the respondent and the respondent's employees, contractors, and consultants.

**J. LETTER OF ACKNOWLEDGEMENT**

The respondent's, or principle of the respondent's, signature on the submittal attests to the accuracy and truthfulness of the submittal.

**K. LENGTH OF TIME BID VALID**

The statements made in the submitted proposal must not expire sooner than 90 days from the submittal deadline.

**L. CHANGES TO THE NODO**

If additional information, documents, or requirement changes are issued after the respondent's submittal, the bidder is required to acknowledge (in writing) within 5 business days of receipt that they have received and reviewed the updated material(s). The acknowledgement is evidence of receipt, not necessarily of agreement.



**M. NOTICE OF CONFLICTS OR ERRORS IN DOCUMENTS**

If the respondent notices a conflict or error in the NODO, they are required to notify the City within 3 business days of becoming aware of said conflict or error.

**N. CLARIFICATION OF BIDS**

If the City requests clarification on subject matter submitted in the respondent's response, the respondent will have 5 business days to respond to said inquiry from the City.

**O. CONFLICT OF INTEREST DISCLOSURE**

If the respondent has an economic interest in any of the subcontractors or supplier used to fulfill the obligations of the NODO, they are required to disclose (in writing) said interest to the City prior to contract award. If any subcontractor has an economic interest in any supplier used to fulfill the obligations of this NODO, they are required to disclose (in writing) said interest to the City prior to contract award.

The respondent is required to disclose if any City employees have an economic interest in the respondent's company, subcontractors, or suppliers.

The respondent is required to disclose all pending disputes with the City prior to contract award.

The respondent shall avoid all conflicts of interest in its relationship with the City. The respondent specifically agrees to the following:

The Fair Political Practices Act and/or California Government Code Section 1090, among other statutes and regulations, may prohibit the City from contracting with the respondent if the respondent, or an employee, officer, or director of the respondent's company, or any immediate family of the preceding, is serving as a public official, elected official, employee, board, or commission member of the City who will award or influence the awarding of the contract or otherwise participate in the making of the contract. The making of a contract includes actions that are preliminary or preparatory to the selection of a contractor such as, but not limited to, involvement in the reasoning, planning, and/or drafting of solicitations for bids, NODOs, RFPs, feasibility studies, master plans; or preliminary discussions or negotiations.

The respondent covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this NODO. Without limitation, the respondent represents to, and agrees with, the City that by contracting with the City, no conflict of interest is created between the City hereunder and any interest the respondent may have with respect to any other person or entity (including, but not limited to, any federal or state regulatory agency) which has any interest adverse or potentially adverse to the City.

**P. Other Respondent Disclosures**

1. Please disclose the details of all current claims, including prior or pending lawsuits, against the City, the prior Oakland Redevelopment Agency, or the Oakland Redevelopment Successor Agency. This applies to all persons and entities with an ownership interest.
2. Please disclose the subject matter of all current claims, including prior or pending lawsuits, resulting from business operations. This applies to all persons and entities with an ownership interest.
3. Please disclose the details of campaign contributions, gifts of money, property, or services to members of the Oakland City Council.

**ATTACHMENTS AND DISCLOSURES**

1. NODO Advisory
2. Photos
3. Parcel Maps
4. Parcel Descriptions
5. Floor Plans
6. Preliminary Title Report
7. Easement affecting Parcel A
8. Seismic Report (1992)
9. City of Oakland Environmental Data
10. Asbestos Report (2011)
11. Underground Storage Tank Removal
12. Building and Planning Advisory
13. Ch. 15.020 of the Building Code (excerpts)
14. Use and Occupancy Classifications
15. RH Hillside Residential Zones Regulations
16. Market Overview