



20 N. Swinton Avenue
Delray Beach, FL 33444

Agenda Item: #9.A.
May 7, 2018

~ CRA BOARD SUMMARY ~

TO: CRA Board of Commissioners

FROM: Jeff Costello, CRA Executive Director

DATE: May 7, 2018

RE: Discussion – Letter of Interest – Equity Delray, LLC

Recommended Action:

Board direction is requested.

Background:

On October 24, 2013, CRA Board awarded the RFP to Equity and directed staff and attorneys to enter into negotiations for a Purchase and Sale Agreement with Equity Enterprises USA, Inc. On May 22, 2014, the CRA Board approved Resolution No. 2014-02 for the Purchase and Sale Agreement (Effective Date June 12, 2014).

Subsequently, on August 14, 2014 the CRA issued an RFP for three (3) CRA-owned properties located south of West Atlantic Avenue, between SW 6th and SW 9th Avenues, with a submittal deadline of September 17, 2014. Equity Enterprises USA, Inc. was the only respondent. On March 12, 2015, the CRA Board approved Resolution No. 2015-06 for the Second Amendment to the Purchase and Sale Agreement authorizing the sale and conveyance of only two (2) of the additional properties to Equity Delray, LLC. The amendment also modified Section 1.13 (Project Description) of the Agreement to indicate 50,830 square feet of retail space, 23,000 square feet of Class "A" office space, and no less than 112 multifamily residential units of which 39 units shall be within townhouse-style structures. There have been five amendments to the Purchase and Sale Agreement since its original approval, which primarily related to modifications to the legal description and associated time frames.

On December 8, 2016, the CRA terminated the Purchase and Sale Agreement between the CRA and Equity Delray, LLC in accordance with Paragraph 10, TERMINATION, in the Agreement dated June 12, 2014.

On February 16, 2017, the CRA received an unsolicited Letter of Interest from Pasadena Capital, Inc. for approximately 2.5 acres of CRA-owned property in the SW 600 Block to accommodate a free-standing Publix grocery store. On February 23, 2017, the CRA Board directed staff to pursue negotiations with Pasadena Capital to purchase land in the 600 block for a grocery store. On June 8, 2017, the CRA Board approved the Agreement for Purchase and Sale between the CRA and Pasadena Capital for the CRA-owned properties in the SW 600 Block on W. Atlantic Avenue, between SW 6th and 7th Avenues (approximately 2.75 acres).

On November 7, 2017, Pasadena Capital, Inc. notified the CRA that the Publix Real Estate Committee denied the approval of the project. On November 9, 2017, the CRA received a Letter of Termination

from Pasadena Capital's attorney. On November 27, 2017, the Publix Real Estate Committee reconsidered the project and approved it with the caveat that the CRA's repurchase date be extended to December 31, 2022. On December 1, 2017, the CRA received a letter from Publix indicating that the Real Estate Committee approved the site contingent that the date of construction commencement be no sooner than December 31, 2022. On December 6, 2017, the CRA received a letter from Pasadena Capital, Inc. reflecting the above and requesting that the CRA reinstate the agreement.

At its meeting of December 14, 2017, the CRA Board authorized staff and counsel to negotiate the sale and purchase with Pasadena and publish notice as required. At the February 8, 2018 meeting, the CRA Board did not approve Resolution No. 2018-01. At the February 22, 2018 CRA Board meeting, the Board amended the agenda to discuss placing the item on the March 8th CRA Board meeting agenda for further discussion. After a lengthy discussion, the Board voted to place the previously considered Resolution and Purchase and Sale Agreement with Pasadena Capital, Inc. on the March 8th agenda for reconsideration. At its meeting of March 8, 2018, the CRA Board did not approve Resolution No. 2018-01.

On April 9, 2017, the CRA received a letter of interest from Equity Delray, LLC (copy attached) expressing their continuing interest in the CRA-owned properties in the SW 600 – 800 Blocks of W. Atlantic Avenue, based on the original agreement between the CRA and Equity Delray, LLC, subject to the following revised conditions:

1. Production of a Bond after contract closing and prior to commencement of construction
2. Vacant possession of the land and existing buildings, free of tenancies.
3. Equity will be responsible for the Agreement with Publix to locate on the property. Equity requests an exclusive due diligence and negotiating period of 90 days after contract signing and prior to closing the sale to allow them to recommence negotiations with the various tenants with whom they had reached agreement earlier or to find suitable replacements.
4. Inclusion of a reverter clause if significant construction progress is not undertaken within twelve months of closing.
5. The reversion clause is null and void once Clause 4 above is satisfied.

At the May 7th CRA Board meeting, as a separate agenda item, the CRA Board will be discussing the proposed Request for Qualification/Proposals (RFQ/P) for the CRA-owned properties in the SW 600-700-800-900 Blocks on W. Atlantic Avenue.

Alternative Actions:

1. Continue with direction.
2. Reject the Letter of Interest from Equity Delray, LLC and direct staff to issue a Request for Qualification/Proposals for CRA-Owned properties in the SW 600-700-800-900 Blocks.
3. Direct CRA staff and CRA General Counsel to enter into negotiations with Equity Delray, LLC for a new agreement based on the terms of the original agreement, which will require the publication of a new thirty (30) day Notice as required by Florida Statutes Chapter 163.380(3)(a).

CRA Attorney Review:

The CRA Attorney has reviewed and approved as to form and legal sufficiency.

Finance Review:

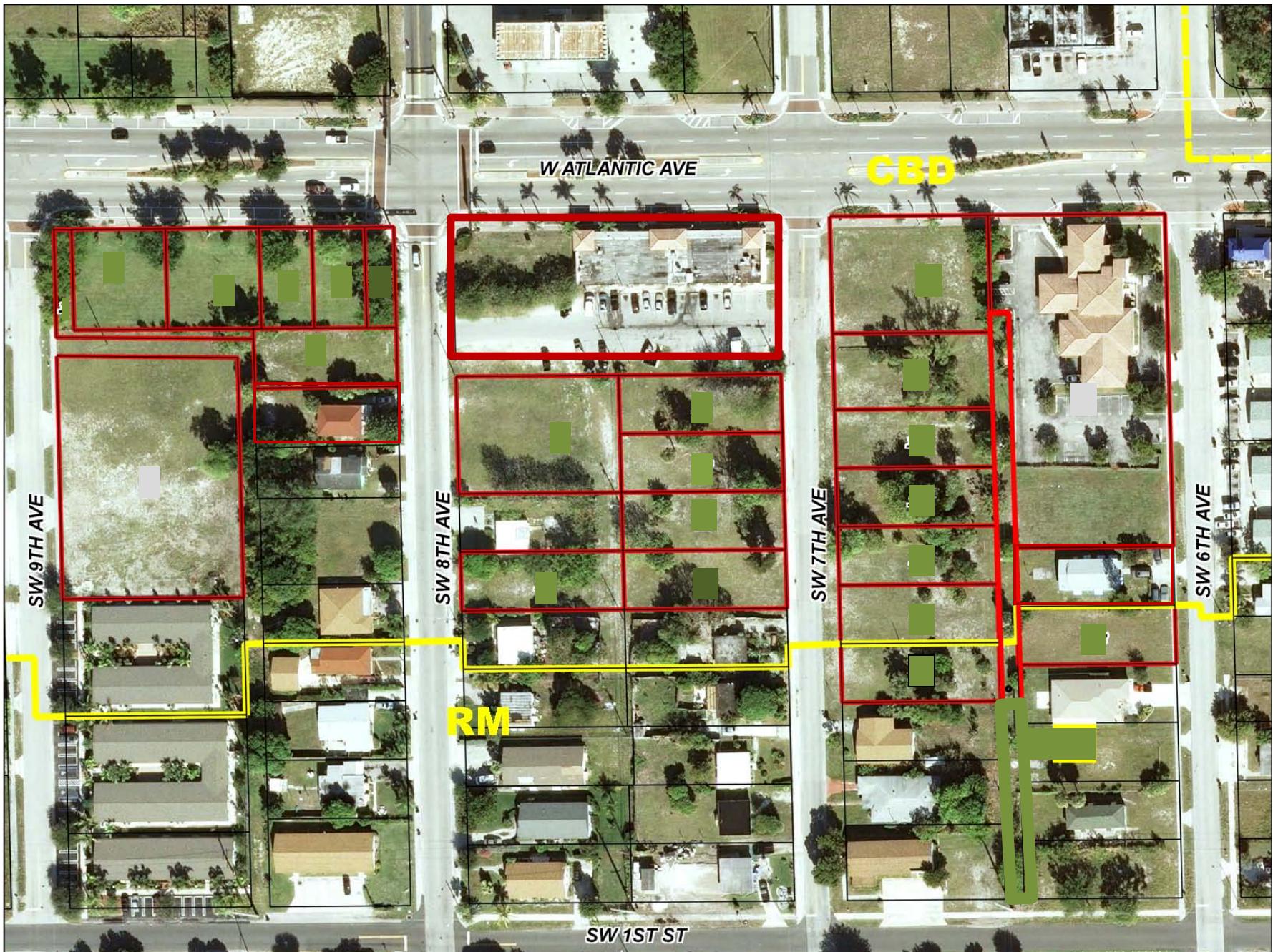
N/A

Funding Source/Financial Impact:

N/A

Timing of Request:

N/A



LEGEND

ZONING DISTRICT LINE

UPTOWN ATLANTIC (EQUITY)



↑
(N)



**EQUITY DELRAY LLC
5100 PGA BOULEVARD, SUITE 301
PALM BEACH GARDENS
FLORIDA 33418**

TELEPHONE: (561) 389 1428

9th April 2018

The Chairperson and Committee
Delray Beach CRA
313 NE 3rd St, Delray Beach, FL 33444
Delray Beach
Florida

Dear Chairperson and Committee,

Re: 600 to 800 Blocks West Atlantic Avenue

We refer to our earlier Proposal in relation to the above and confirm our continuing interest in the property.

We confirm that we are ready and willing to close the sale and construct the project pursuant to our original contract with the CRA subject to certain revised conditions such as:

1. Production of a Bond after contract closing and prior to commencement of construction
2. Vacant possession of the land and existing buildings, free of tenancies.
3. We were responsible for the Agreement with Publix to locate on the property and had notified both the previous Mayor and representatives of the CRA of the Agreement. Subsequent to that we were dismissed and the CRA commenced negotiations with Publix separately. We would request an exclusive due diligence and negotiating period of 90 days after contract signing and prior to closing the sale to allow us to recommence negotiations with the various tenants with whom we had reached agreement earlier or to find suitable replacements.
4. Please know that we would agree to the inclusion of a reverter clause if significant construction progress is not undertaken within twelve months of closing.
5. The reversion clause is null and void once Clause 4 above is satisfied.

Our lawyers in this matter are:
Gunster,
777 South Flagler Drive
Suite 500 East

West Palm Beach, FL 33401-6194
Attention of: Lew Crippen.

We look forward to hearing from you at your convenience.
Yours Sincerely,



John Flynn
Chairperson (Equity Delray LLC)

Cc: Jeff Costello, CRA