



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/27/04

AGENDA ITEM 3

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Authorization for the City Manager to Execute an Exclusive Negotiating Agreement with Browman Development Company, Inc. for the Ground Lease of Airport Property

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution authorizing the City Manager to execute the Exclusive Negotiating Agreement with Browman Development Company, Inc.

BACKGROUND:

Browman Development Company, Inc (BDC) is the developer of the Albertson's shopping center complex across from City Hall, as well as other retail projects in Hayward.

BDC has expressed interest in developing the 2.07 acre City-owned property at Sueirro Street and Hesperian Boulevard, across from Home Depot (See Exhibit A). This parcel is on Hayward Executive Airport land. BDC proposes to build a multi-tenant retail shopping center complex with one (1) anchor retail tenant in excess of 14,000 sq.ft. Because this site is on Airport property, it would be subject to a long-term ground lease with the City.

Terms of Agreement to Negotiate Exclusively:

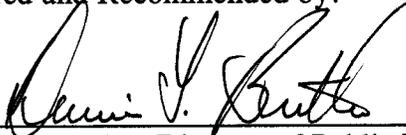
Based on the discussions to date, it is recommended that an Exclusive Negotiating Agreement be executed between the City and BDC. For the next one hundred fifty (150) days, following execution of the Agreement, BDC will negotiate diligently and in good faith to develop a ground lease with the City. If the City has not executed a ground lease by the 150th day, or any extension thereof, then the lease shall automatically terminate.

As a condition of the Agreement, BDC will submit a good faith deposit to the City in the amount of fifteen thousand dollars (\$15,000). The deposit is refundable during the first 90 days. Five thousand dollars (\$5,000) of the deposit becomes non-refundable after 90 days and the remaining ten thousand dollars (\$10,000) becomes non-refundable after 120 days.

However, in the event that BDC and City enter into a ground lease for the designated site, seven thousand five hundred dollars (\$7,500) will be applied to the annual rent.

A copy of the Exclusive Negotiating Agreement is available for review in the Office of the City Clerk.

Prepared and Recommended by:



Dennis L. Butler, Director of Public Works

Approved by:



Jesús Armas, City Manager

Attachment: Exhibit A - Map of the Site

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 04-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN EXCLUSIVE NEGOTIATION
AGREEMENT BETWEEN THE CITY OF HAYWARD
AND BROWMAN DEVELOPMENT COMPANY, INC. .
FOR THE GROUND LEASE OF AIRPORT PROPERTY

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute on behalf of the City of Hayward an Exclusive Negotiating Agreement with Browman Development Company, Inc., for the ground lease of Airport Property for a term of 150 days.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward