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TO: The Honorable Detroit City Council
FROM: David Whitaker, Director 
Legislative Policy Division
DATE: July 15, 2024
RE: REPORT CONCERNING LETTERS OF INTENT

Council Member Angela Whitfield-Calloway requested that the Legislative Policy Division (LPD) provide a report that answers the various questions regarding letters of intent that were sent to property owners in the proposed sites for the Neighborhoods Solar Initiative. LPD has provided answers to these questions to the best of our ability, however further information may be needed from particular City departments that have direct involvement in the solar initiative.

- Does Signature Associates have a contract with the City of Detroit and does Signature Associates have authorization from the City of Detroit to send letters of intent to property owners in the Penrose neighborhood?

According to Chief Procurement Officer Stahl, Signature Associates is a subcontractor working on behalf of the Detroit Building Authority.

- Has City Council approved the proposed solar farm project in the Penrose neighborhood?

No, City Council has not approved the solar farm project in the Penrose neighborhood as of the date of this report.

- Has City Council approved the purchase of real property in the Penrose neighborhood for the proposed solar farm project?

No, City Council has not approved the purchase of real property in the Penrose neighborhood as of the date of this report.

- Has City Council approved the use of eminent domain to obtain real property in the Penrose neighborhood?

No, City Council has not approved the use of eminent domain to obtain real property in the Penrose neighborhood as of the date of this report.

- What is the role of the Detroit Building Authority in the hiring of Signature Associates and the letters of intent?

The Detroit Building Authority hired Signature Associates as a subcontractor to distribute letters of intent to property owners within the planned solar development.

- What is the role of the Department of Neighborhood in the proposed solar farm project in the Penrose neighborhood?

According to Director Solomon, the Department of Neighborhoods' role in the solar project has primarily involved communication with the public. The Department was the first point of contact for neighborhoods who submitted interest forms to be a part of the solar initiative. The Department has organized coordinated community update meetings and continues to hold those meetings with the 8 finalist sites.

- What is the role of the Detroit Land Bank Authority in the proposed solar farm project in the Penrose neighborhood?

The Detroit Land Bank Authority (DLBA) currently owns many of the parcels needed to complete the proposed solar initiative. The City plans to purchase the necessary parcels from the DLBA. LPD is not aware of any other role that the DLBA has in the proposed solar project.

- What is the role of the City Planning Commission and the Board of Zoning Appeals in the proposed solar farm project in the Penrose neighborhood?

Initially, the administration's position was that the City was exempt from compliance with its Zoning Ordinance and therefore there was little-to-no engagement with the City Planning Commission (CPC). Starting in early July of 2024, the administration, at the advice of Corporation Counsel, is now seeking to work with CPC to develop an amendment to the Zoning Ordinance which exempts solar facilities from zoning requirements as an "essential service." Additionally, the stated intention is to create a zoning overlay map that would allow for the solar facilities to be located in the proposed locations prior to the implementation of phase II of the initiative. These efforts are an attempt to ensure that the City will be further insulated from any potential legal challenges regarding the City's compliance with the Zoning Ordinance. Upon the direction of Council Member Benson, CPC and LPD are in discussions with the administration to begin the ordinance amendment process, which will include required public hearings by both CPC and the City Council.

Thus far, it does not appear that the Board of Zoning Appeals (BZA) has a role with regard to the solar initiative. The BZA would only be potentially involved if an individual were to appeal an administrative decision of the Buildings, Safety, Engineering, and Environmental Department or

the Planning and Development Department regarding a land use that does not conform with the Zoning Ordinance.

- What is the role of the outside legal counsel authorized by City Council in the proposed solar farm project in the Penrose neighborhood? Did outside legal counsel authorize the letters of intent?

As of the date of this report, Zausmer P.C. has provided legal opinions with regard to the City's ability to exercise eminent domain and whether the City must comply with its Zoning Ordinance. The firm also currently has a contract with the City to provide "real estate services and relocation assistance" in relation to the solar initiative, and there is a contract amendment currently before Council to increase the amount of the contract from \$2,600,000 to \$3,000,000.

- Is the letter of intent binding on the City of Detroit?

Under its own terms, the letter of intent is not binding and the purchases cannot occur without approval from City Council. The purchase of the properties in question would only occur if the following conditions are met:

The City has approved a plan for solar array construction that include the property within the development boundary; and

The City Council has approved the purchase of the property; and

A formal purchase agreement is fully executed between you and the City which contains customary terms and conditions of residential purchase agreements with the City; and

The title to your property can be conveyed in a manner satisfactory to the City, in its sole discretion.

- Is the letter of intent binding on the property owner?

See previous answer.

- What is the immediate impact of the letters of intent on the property values in the Penrose neighborhood?

LPD is unable to predict the impact of the letters of intent on the property values in the Penrose neighborhood. There are many variables that contribute to property values, however the Assessor's Office may be able to provide additional insight.

- Will the letters of intent be used against the City of Detroit in a possible inverse condemnation action?

LPD is unable to predict whether the letters of intent will become evidence in a future legal action alleging inverse condemnation. Since the administration has indicated that it plans to purchase occupied structures above fair market value and purchase unoccupied land or structures at fair market value, there does not appear to be any taking of property without just compensation. To the extent that a property owner would bring an action alleging inverse condemnation because the

proximity of the solar farm deprives them of some use of their property, it is unclear whether the letters of intent would be relevant.