



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: Sofia Navarro
Interim Director, Economic
and Workforce
Development Department

SUBJECT: 1310 Oak Street/Museum of Jazz &
Art ENA Extension

DATE: April 24, 2023

City Administrator Approval 

Date: May 11, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution (1) Authorizing A Second Amendment To The Exclusive Negotiation Agreement With The Museum Of Jazz & Art For Development Of A Museum And Art Facility On City-Owned Property Located At The Northwest Corner Of Oak Street And 13th Street, To Extend The Term And Related Performance Deadlines By Eighteen Months (Retroactively, If Necessary) With An Additional Six-Month Administrative Extension, Conditioned On Payment Of An Additional \$10,500 Exclusive Negotiation Payment; And (2) Adopting California Environmental Quality Act Findings

EXECUTIVE SUMMARY

On December 30, 2020, the City of Oakland (City) entered into an Exclusive Negotiation Agreement (ENA) with Museum of Jazz & Art, a nonprofit public benefit corporation (MoJA or Developer), to analyze the feasibility of developing a Museum of Jazz & Art (Project) on City-owned property located at 1310 Oak Street, commonly known as the Fire Alarm Building (FAB or building) site (Property), and to negotiate the terms for the lease of the Property and the development of the Project. During the extended 24-month ENA term, the Developer completed several predevelopment tasks, but was unable to secure planning approvals or begin negotiation for the disposition and development of the Property. Staff is seeking authorization to negotiate and execute an Amendment to the ENA to extend the term for 18 months, with an optional six-month administrative extension to complete all remaining tasks pursuant to the ENA and return to the City Council for approval of a lease disposition and development agreement (LDDA) and a ground lease for the Project.

BACKGROUND / LEGISLATIVE HISTORY

Fire Alarm Building Site

The Property is located at 1310 Oak Street which is directly across the street from Lake Merritt (**Attachment A**). The Property is approximately 0.75-acres and contains a single-story

CED Committee
May 23, 2023

unreinforced masonry structure, commonly known as the Fire Alarm Building, which was built in 1911. The building is approximately 4,500 square feet in size. The City obtained fee simple title to the Property in 1910, and the building was constructed in 1911-12 as a Beaux Arts derivative and was substantially remodeled in 1953-54. In 1995, the Oakland Cultural Heritage Survey rated the building a B-, a1+ (B-, major importance, landmark quality; potential A, highest importance), if restored. The building has been determined eligible for the National Register of Historic Places. The Property is also a contributor to Oakland's historic Lake Merritt District.

The Property is currently being used as office space for approximately 20 City employees in the Oakland Public Works Department's Facilities Services Division, and as storage space for the Oakland Public Library and the Information Technology Department.

The Fire Alarm Building is also a key junction point for fiber-optic communication cables for City and County of Alameda's communication networks, which are routed through this building and would have to be kept in place or relocated at an undetermined cost if the building is reused for another purpose. The Property includes a surface parking lot with 45 spaces, of which ten spaces are leased pursuant to a long-term parking license to the Lake Chalet Restaurant for overflow parking during evenings and on weekends. In addition, 20 parking spaces are reserved for the Oakland Public Library, 14 spaces are reserved for Oakland Public Works, and one space is set aside for the Alameda County District Attorney.

In July 1999, staff issued a Request for Proposals (RFP) to develop the Property for residential use. In November 1999, pursuant to Resolution No. 75355 C.M.S., the City Council authorized the City Manager to execute an Exclusive Negotiation Agreement (ENA) with joint venture between Lalanne/Volckman and E.M. Johnson Alliance (LV) for the development of a high-rise residential tower on the Property, which would have necessitated the demolition of the Fire Alarm Building. LV never executed the ENA because of considerable public opposition to the proposed development by a broad coalition of historic preservationists, open space advocates and neighborhood groups, known as the Coalition of Advocates for Lake Merritt. Additionally, on January 25, 2000, the Alameda County Board of Supervisors approved a resolution opposing the development of the project. It is likely that there will be opposition to any effort to redevelop the Property if it includes major modifications or demolition of the historic structure.

In February 2018, the City received an unsolicited development proposal from MoJA requesting to purchase or lease the Property to develop a jazz and art museum. On January 21, 2020, the City Council passed [Resolution No. 87999 C.M.S.](#), which authorized staff to issue noticing consistent with the State Surplus Land Act (SLA) and commence negotiations with MoJA if no proposals were received from the SLA notice. In accordance with the California Government Code, Sections 54220 et seq, the City is restricted from discretionary disposition of surplus land prior to the completion of SLA requirements. On January 24, 2020, staff issued a notice of surplus land availability to eligible entities, formally establishing a statutory SLA 60-day noticing period. The SLA noticing period concluded on March 24, 2020 and the City did not receive any proposals during that timeframe.

On July 28, 2020, the City Council adopted [Resolution No. 88260 C.M.S.](#), which authorized the City Administrator to enter into an ENA with MoJA. Subsequently, on December 31, 2020, the City and MoJA entered into an ENA to negotiate the terms for a potential ground lease of the Property.

On February 23, 2022, the City and MoJA entered into a first amendment to the ENA (the First Amendment), which extended the outside date and related outstanding Performance Milestone deadlines.

ANALYSIS AND POLICY ALTERNATIVES

A. 18-Month Extension of the ENA's Outside Date

Staff is recommending that the City Council adopt a resolution that authorizes a second amendment to the ENA with MoJA to retroactively extend the outside date from December 31, 2022 to June 30, 2024, and authorize an additional six-month administrative extension option. Staff is recommending additional time in order to complete the following pre-development activities:

- **Additional time for the Developer to comply with the City's regulatory development standards for the building and historic district and complete its required planning approvals**

On July 1, 2021, the Developer submitted a pre-application to the Planning and Building Department to solicit input on its project in preparation of submitting a formal development application. On February 25, 2022, the City provided MoJA with a response letter to its pre-application that noted three main compliance issues with the City's development standards: the proposed height of the Project building, effective demolition of a majority of the existing exterior façade, and noncompliance with the Historic Resource Regulations of the Fire Alarm Building.

In order to resolve these issues and navigate the complex regulatory environment related to the site, MoJA requires additional time to revise its Project design and programming. MoJA has informed staff that it will submit a complete Basic Application for Development Review to the Planning and Building Department that will address all issues raised in City's pre-application response letter. The Developer also needs more time to complete all required environmental review.

In addition, the site sits within the Downtown Oakland Specific Plan (DOSP) boundary. It is anticipated that the DOSP will include recommendations for changes to the zoning of the Property, however the DOSP will not be before City Council for consideration until later this year. This extension also allows time for the Developer to ensure its project is consistent with any new development standards contained in the final DOSP.

- **Additional time to complete assessment of the Project's potential impact on the City's existing fiber optic cable network located in the building**

The Property is also one of several hubs within the City's existing fiber optic network. Staff determined that it is in the best interest of the City to ensure that the proposed Project will not negatively impact the network nor hamper the City's access to the fiber optic lines for maintenance and operational purposes. In April 2022, staff engaged the City's Information Technology Department (ITD) to ascertain the Project's potential

impacts on the fiber optic network; however, it was determined that an outside engineering contractor would be needed to fully analyze these impacts.

Consequently, Economic and Workforce Development (EWD) staff, in coordination with the Public Works Department (PWD), initiated an informal request for proposals (RFP) to delineate all fiber optic lines within the property limits and to generate a report associated with the necessary costs for potential relocation or creation of new public easements for fiber optic lines within the proposed Project footprint to ensure City access. The RFP was issued on August 12, 2022 and ended on September 16, 2022 with no proposals received.

In November 2022, following the conclusion of the RFP period, staff entered into a sole source procurement with Wood Rodgers Inc. to perform the scope of work described above. In April 2023, Wood Rodgers provided the City with drawings that delineate all fiber optic lines within the property limits; however, as of April 2023, a report detailing the costs for potential relocation or new public easements is still forthcoming.

Following the completion of Wood Rodgers scope of work, the drawings and associated report will be provided to MoJA to assist in determining potential cost and programmatic impacts of public easements on the Project.

- **Additional time for the Developer to complete the negotiation of all terms for a an LDDA and ground lease with the City.**

Once the Developer has revised its project design and has more information about project costs and financing, the City and Developer will be able to negotiate and finalize financial and other terms for an LDDA and ground lease.

Once the Developer has successfully completed all planning approvals including environmental review, and the City and Developer have completed the negotiation of terms for an LDDA, staff would return to City Council with a recommendation that the City Council authorize an LDDA and ground lease with MoJA.

B. The Developer

MoJA is a California nonprofit public benefit corporation and the Developer of the proposed Project. MoJA was established in 2013 for the purpose of developing a museum dedicated to jazz music and its history in Oakland. Its CEO, David Allen David, is the principal of Allen Architectural Engineering, a licensed Professional Architectural Engineering & Project/Construction Management Firm. He has more than 33 years of construction and design experience and was born and raised in East Oakland.

C. The Project

Project Overview

The Project includes a newly constructed 87,600 square-foot museum that will include exhibit space, an art gallery, educational space, a film/theater/performance venue, administrative

offices and on-site retail. The Project also includes adaptive reuse and integration of the existing historic Building into the new structure.

MoJA proposes to rehabilitate and adaptively reuse the Property as a new museum dedicated to the history of jazz. Preliminary designs show a total floor area of approximately 87,600 square feet distributed across three levels and a mezzanine and expected to provide for the following:

- 26,000 square feet dedicated to exhibit galleries
- 6,100 square feet dedicated to a rooftop restaurant and café space overlooking Lake Merritt
- 2,000 square feet dedicated to retail (gift shop)
- 9,000 square feet dedicated to a 400-seat theater performance space
- 4,900 square feet dedicated to a learning center called the History, Hope, and Heritage Center, for teaching science, technology, engineering and math (STEM Center) curriculum by incorporating music and art

MoJA is proposing to include programs such as:

- Music, art, and films about jazz and American and world cultural history
- Interactive visitor experiences
- Grants and low interest loans to musicians to create music.
- Jazz programs for Oakland youth
- Development of a national jazz hall of fame for jazz musicians and contributors

MoJA projects a total project cost of roughly \$72.4 million and between 200,000 to 350,000 annual visitors to the museum.

Community Benefits and Revenue Generation

In addition to the larger community benefit of a new cultural institution dedicated to the history of jazz in Oakland's Lake Merritt District, the Project will have a number of financial and job-related benefits. In 2018, MoJA hired Economic and Planning Solutions, Inc. (EPS) to conduct a fiscal and economic analysis that estimated the project's economic impact and number of newly created employment opportunities.

Key findings from the report include:

- An estimated range of \$164,000 to \$248,000 in annual fiscal benefit to the City's General Fund, depending on average museum attendance.
- One-time construction activities are estimated to support a total of 540 jobs and generate \$91.8 million in economic output to Alameda County.
- An estimated support for 88 to 101 jobs, with an associated \$4.2 to \$4.6 million in annual labor income during museum operations.
- An estimated \$10 to \$11 million in total annual economic output during museum operations.

D. ENA Extension Terms

Staff has negotiated the following terms in exchange for second amendment to the ENA:

- The ENA term to be extended 18 months;
- An option for one, six-month administrative extension;
- Payment of nonrefundable \$10,500 exclusive negotiation payment by MoJA to the City; and
- Certain extensions of time and performance milestones as provided in the Schedule of Performance Milestones attached hereto as **Attachment B**.

The Schedule of Performance includes the following performance milestones for MoJA:

- Submit an updated project development schedule that also includes an updated construction timeline
- Conduct at least two public meetings in the community regarding the development plans for the Project. Public meetings shall include major stakeholders from the community, including Oakland Heritage Alliance.
- Submit revised schematic design plans for the Project to the City for review in its proprietary capacity. Designs shall address all issues raised in the City of Oakland Planning & Building Department's pre-application letter dated February 25, 2022.
- Submit to the City for review and approval letters of intent from lenders and equity partners expressing willingness to provide Project financing.
- Identify all relevant zoning, design review, environmental review and code requirements for the Project that should be submitted to the City for approval in its regulatory capacity and submit all necessary and applicable zoning permit and other land use and environmental review applications for the Project.

Approval of this item would advance the Citywide priority of **economic, and cultural security** by providing a new cultural civic institution, with related economic benefits to the City.

Upon successful completion of all ENA requirements, staff will return to City Council with a recommendation that the City Council authorize the City to enter into an LDDA and ground lease with MoJA and/or its affiliate on terms presented to City Council.

FISCAL IMPACT

The only direct fiscal impact of the requested action is that MoJA will be required to make a nonrefundable \$10,500 Exclusive Negotiation Payment to the City in exchange for a retroactive extension of the outside date by 18 months, and a six-month administrative extension. The Extension Fee Payment will be accepted and appropriated to Miscellaneous Capital Project Fund (5999), Central District Redevelopment Organization (85245), Fire Alarm Building PEP Project (1005773).

Pursuant to Resolution No. 88717 C.M.S., the City Council previously authorized an allocation of \$30,000 to the Developer for a Property Condition Survey & Seismic Mitigation: Feasibility

Study for the Property. If the City Council authorizes a second amendment to the ENA, there is a possibility that any remaining funds could be used to perform additional pre-development work related to the approved scope-of-work delineated in the Grant Agreement between the City and MoJA.

Aside from costs related to the fiber optic cable assessment and potential disbursement of the remaining grant funds, MoJA will bear sole responsibility for all costs associated with developing the Project for approval during the ENA period, including consultant fees, permitting fees, legal fees, and financing expenses.

PUBLIC OUTREACH / INTEREST

MoJA has already conducted outreach and community meetings regarding its proposal during the prior ENA period. If the City Council authorizes this second amendment to the ENA, MoJA will be required to conduct two additional community meetings with community stakeholders, including the Oakland Heritage Alliance, in order to solicit feedback and input regarding the proposed development. In addition, during the course of the ENA period, the project will be vetted at public meetings of the Planning Commission and other public bodies as part of the entitlement process.

COORDINATION

The Economic and Workforce Development Department has coordinated with the City Administrator's Office, the Planning and Building Department, the Information Technology Department, the Public Works Department, the Office of the City Attorney, and the Budget Bureau on the project.

SUSTAINABLE OPPORTUNITIES

Economic: According to the 2018 EPS fiscal and economic analysis report provided by MoJA, the Project is estimated to add \$164,000 to \$248,000 annually to the City's General Fund, dependent on average museum attendance. In addition, the Project is expected to generate a total of 540 one-time construction-related jobs, and 88 to 101 ongoing jobs during regular museum operations. MoJA will also be required to comply with the City's local employment programs.

Environmental: The proposed development would be integrated into an existing historic structure, which could have significant environmental benefits due to savings on the building materials and resources required compared to new construction projects. Moreover, adaptive reuse projects are expected to be lower in carbon emissions and demolition wastes compared to new construction projects.

There are no direct environmental impacts connected to the request for an ENA with MoJA for the proposal described in this report. MoJA will use its good faith efforts to design, develop and construct a Leadership in Energy and Environmental Design (LEED)-accredited building and/or

an environmentally sustainable project with minimum conformance with the Oakland's "Build It Green" commercial checklist.

Race & Equity: There are no direct equity impacts connected to this request for a second amendment to the ENA with the Developer for the Project as described in this report. The Project is dedicated to a traditional Black art form and will be an asset to a neighborhood where a growing hub of cultural institutions representing Oakland's diverse cultural history, such as the Oakland Museum of California and the future Calvin Simmons Performing Arts Theater exist. In addition, as part of its expected programs, MoJA will be providing grants and low interest loans to assist musicians as well as establishing a STEM Center that will be open to the public and provide tutoring access to children.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Nothing in this action to authorize the City Administrator to enter into an ENA should be interpreted as an approval or a pre-commitment to approve, now or in the future, the disposition of the City's interest in the Property, to any particular party, on any particular terms, or for any particular purpose. Any proposed disposition of the Property and any development project on the Property, will require further discretionary actions of the City Planning Commission and City Council, and the City retains full discretion, following conclusion of the negotiation period set forth in the ENA to proceed with disposition of its interest in the Property in compliance with CEQA. As such, this action will not result in a direct, or indirect, physical change in the environment and does not in-and-of-itself constitute a "project" pursuant to CEQA Guidelines Section 15378.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution (1) Authorizing A Second Amendment To The Exclusive Negotiation Agreement With The Museum Of Jazz & Art For Development Of A Museum And Art Facility On City-Owned Property Located At The Northwest Corner Of Oak Street And 13th Street, To Extend The Term And Related Performance Deadlines By Eighteen Months (Retroactively, If Necessary) With An Additional Six-Month Administrative Extension, Conditioned On Payment Of An Additional \$10,500 Exclusive Negotiation Payment; And (2) Adopting California Environmental Quality Act Findings.

For questions regarding this report, please contact Jens Hillmer, Interim Real Estate Development Manager, at 510-238-3317.

Respectfully submitted,



SOFIA NAVARRO
Interim Director, Economic & Workforce
Development Department

Reviewed by:

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Prepared by:

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Attachments (#): 2

Attachment A: Assessor's Parcel Site Map

Attachment B: Revised Schedule of Performance Milestones

Attachment A: Assessor's Parcel Site Map

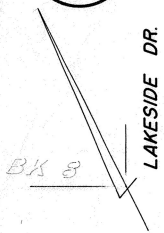
ASSESSOR'S MAP 2

Code Area Nos. 17-031

91

Scale: 1" = 50'

OAKLAND (KELLERSBERGER'S) (Bk. 7 Pg. 3)

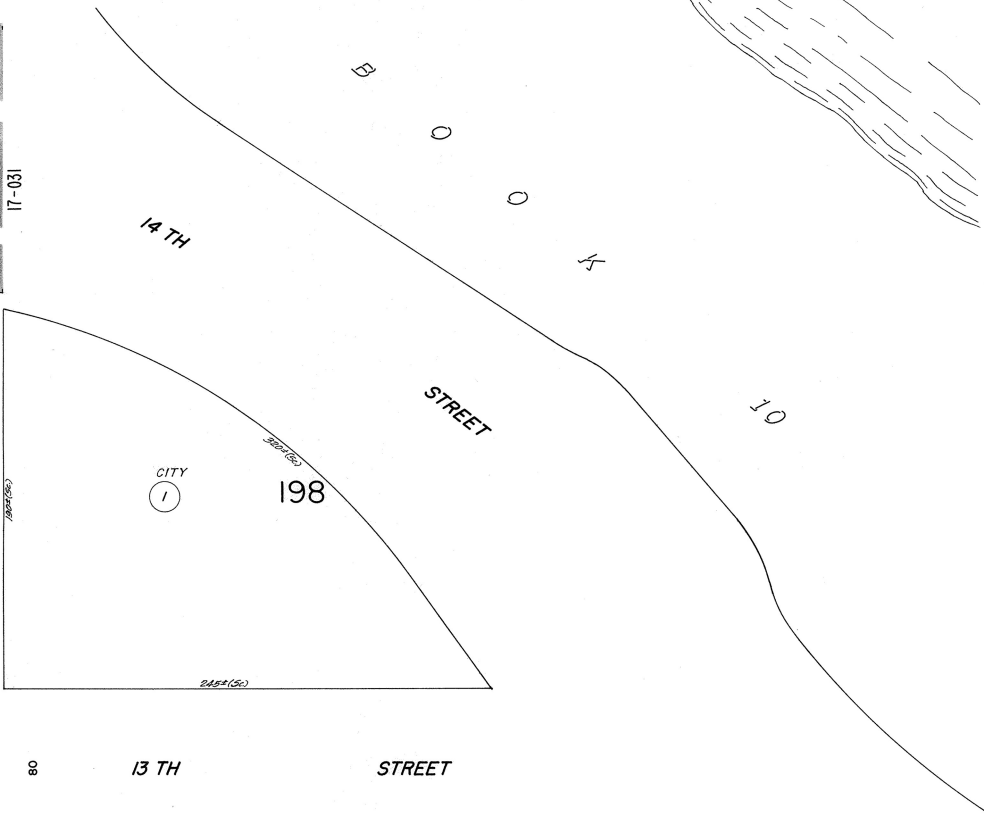


11-09-10 LL

Drawn: 10-67 SY. Revised: 4-4-73 H.N.
 10-9-85 P.B.
 5-26-87 B.V.
 11-23-93 P.B.
 4-08-96 C.S.L.
 8-29-00 P.B.

89

STREET



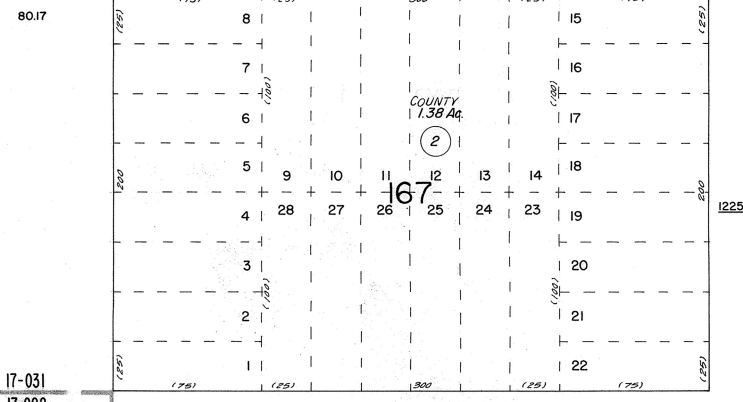
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REF. R.S. 2361 36/61-62

A.C.M.

Revised: 11-27-02

EXHIBIT E
Performance Milestones

All terms not defined herein shall have the meaning ascribed to them in Agreement to which this Exhibit E is attached and a part thereof.

Performance Milestone	Description of Performance Milestone	Performance Due Date (assuming execution of the ENA Amendment on May 31, 2023)
Updated Predevelopment Funding, Project Financing Plan and Project Schedule	<p>Developer plans no changes in its previously submitted program which reflects any significant material changes. However, if there are changes to submitted program and budget, Developer shall provide updated pro-forma, including sources and uses, equity, and financing sources.</p> <p>Developer shall provide Financial Plan, including net worth of developer entity, which shall be kept confidential to the extent legally permissible.</p> <p>Developer shall submit an updated project development schedule.</p>	June 7, 2023
Begin Environmental Review (CEQA)	<p><i>CEQA Scope of Work & Project Description.</i></p> <p>Developer's CEQA consultant shall prepare and submit an updated project description, a draft CEQA scope of work and schedule based upon the City's "Guidelines for environmental Consultant Contracts Concerning Private Development Projects" (dated 1/5/2012, as amended), for review and approval by the Planning and Building Department, which identifies the specific environmental topics and CEQA documents that are required to complete CEQA clearance.</p> <p><i>Environmental Review Application</i></p> <p>Concurrent with, and as part of the preparation of the scope-of-work and project description required above, Developer or Developer's consultant shall prepare and submit a Request for Environmental Review to the City's Planning & Building Department to determine appropriate level of CEQA analysis.</p>	May 15, 2023
Planning Application Review	<p><i>Basic Application for Development Review</i></p> <p>Developer shall prepare and submit a complete Basic Application for Development Review and address all issues raised in the City of Oakland Planning & Building Department's pre-application letter dated February 25, 2022. (Including Attachments, A-E).</p> <p>The Basic Application for Development Review shall include all required contents and supplemental submittal requirements as described on the application form, including the Conditional Use Permit (CUP) variance findings, developer incentives and community benefits.</p>	July 21, 2023
Complete Environmental Review (CEQA)	Developer shall complete the environmental assessment and identification of the nature and extent of required environmental site mitigations, if any, and shall have submitted all required planning documents.	September 21, 2023
Obtain Zoning and Land Use Approvals	Developer to complete any required zoning and land use approvals.	Within 1 year of Developer's submission of any applicable zoning and land use permit applications to Planning
Community Outreach Plan	Developer shall conduct at least two (2) community meetings to present the project and solicit feedback from stakeholders, including the Oakland Heritage Alliance.	September 29, 2023
Final Project Financing	Developer shall submit to the City letters of intent from the lenders and equity partners expressing willingness to provide Project financing, including loans, grants, equity contributions and donations.	February 29, 2024
Lease Disposition and Development Agreement (LDDA); Ground Lease	City and Developer shall endeavor to complete the negotiations of terms for an LDDA and Ground Lease for the Project, for presentation to the City Council for consideration.	March 15, 2024