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**REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND  
AGENDA REPORT**

TO: Office of the Agency Administrator  
ATTN: P. Lamont Ewell, Interim Agency Administrator  
FROM: Community and Economic Development Agency  
DATE: July 12, 2011

RE: An Agency Resolution Authorizing An Exclusive Negotiating Agreement with the Spanish Speaking Unity Council for Phase II of the Fruitvale Transit Village Project at the Fruitvale BART Parking Lot

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**SUMMARY**

Agency staff is recommending that the Agency Board authorize entering into a twelve month Exclusive Negotiating Agreement (ENA) with an option to extend with the Spanish Speaking Unity Council (Unity Council), for the 3.41 acres of the Fruitvale BART parking lot located in the Coliseum redevelopment project area.

The property located on East 12<sup>th</sup> Street between 35<sup>th</sup> Avenue and 37<sup>th</sup> Avenue is part of the Phase II development of the Fruitvale Transit Village. The Phase II development project is located north of the existing BART Fruitvale Station and east of the Phase I of the Transit Village, which consists of a mix use development including retail, office, and 47 residential dwelling units.

The proposed Fruitvale Transit Village Phase II project envisions improvements to include 275 residential units of housing, 289 surface parking stalls, and 277 parking garage stalls. The Agency purchased the property from BART in 2010 for site control for the future development of the Phase II development of the Fruitvale Transit Village. Since the property has been purchased, staff now contemplates entering into a twelve month exclusive negotiating agreement. In addition, the proposed ENA will include a six month option for the Agency Administrator to extend the ENA to allow for the completion of all the required submittals. Ultimately, the goal will be to enter into a subsequent developer disposition agreement with the Unity Council for development of the property.

**FISCAL IMPACT**

Authorization to enter into an exclusive negotiating agreement with the Unity Council will have minimal fiscal impact since it will require normal staff costs associated with the standard negotiation and development of the agreement.

## BACKGROUND

The proposed project site is located within the Fruitvale District of Oakland. The area immediately surrounding the project site is developed with a mix of residential and commercial uses. Along E. 12<sup>th</sup> Street and between 35<sup>th</sup> Avenue and 37<sup>th</sup> Avenue, are rear yards of both businesses and residential properties that front on International Boulevard, 35<sup>th</sup>, 36<sup>th</sup> and 37<sup>th</sup> Avenues. Las Bouganvillas, a senior residential facility, is located on the corner of E. 12<sup>th</sup> Street. To the south of the project site is Ascend School, a kindergarten through 8<sup>th</sup> grade small, independent school in the Oakland Unified School District that fronts E. 12<sup>th</sup> Street. Located to the west is a fenced and gated parking lot for Fruitvale Village. The elevated BART tracks run above that parking lot. Located to the north is Phase I of the Fruitvale Village, a three-story mixed used transit oriented development at the Fruitvale BART Station.

The project site is located within the Coliseum redevelopment project area. The general objective for the exclusive negotiating agreement is for future development of the site. The existing BART parking lot will be improved with a proposed mixed-use transit oriented development including 275 residential units, 289 surface parking stalls and a 277 stall parking garage. The project, which has been fully entitled by CEDA Planning and Zoning Division, includes full design review, CEQA, Final EIR and associated entitlements. The project as currently envisioned contains residential units designed entirely around a central integrated parking garage.

The Agency currently has a lease agreement with the Unity Council for the 3.41 acre parking lot in which they have full operational responsibilities including day to day operations, insurance liabilities, site management and maintenance. In addition, since the proposed Phase II project will be constructed in several phases, sections of the lot will continue to remain fully operational while other portions are developed.

## KEY ISSUES AND IMPACTS

The Exclusive Negotiating Agreement between the Agency and Unity Council is for the purpose of determining the capacity to deliver a Phase II project and for studying and evaluating the feasibility of the development of a transit village at the Fruitvale BART station. The agreement will be for a period of twelve months terminating in July 2012. The ENA will include a six month extension option, subject to the Agency Administrator's discretion or his/her designee which may be exercised until all agreement terms and conditions have been met.

The proposed ENA will memorialize both the roles and responsibilities of the Agency and the Unity Council during the proposed negotiating period. Upon receiving authorization from Council to enter into the ENA, the following issues will be addressed:

1. Further negotiations in order to define the ultimate relationship between the Agency and the Unity Council.

2. Secure evidence that requisite funding has been obtained to ensure that a project can be built.
3. In partnership with the Unity Council, the Agency will conduct due diligence efforts to ensure that a proposed project represents the highest and best use of subject property and would fulfill the Agency's development objectives to the maximum extent feasible.
4. Conduct further discussions with BART to continue their support and partnership for the proposed transit oriented development.
5. Agency can terminate ENA prior to expected length of term for cause.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The proposed transit oriented development will complement and maximize the housing benefits for the Fruitvale District. This project will improve neighborhood conditions and make the neighborhood area more attractive to current and prospective residents, tenants and businesses that can provide employment within Oakland.

***Environmental:*** The proposed transit oriented development is expected to contribute to smart growth by stimulating neighborhood use of the existing Fruitvale District and the expansion of the Fruitvale Transit Village.

***Social Equity:*** The neighborhood has suffered from economic blight and an absence of new construction for an extended period. The proposed transit oriented development provides a positive stimulus to the neighborhood where the development of vacant land is both welcomed and important to continued neighborhood growth and stability.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

Authorization of the ENA will have no negative impact on disability and senior citizen access. Any future development on the site will be required to comply with state and federal accessibility requirements, including Federal ADA Accessibility Guidelines, the Fair Housing Act and the State of California's Title 24 Accessibility Regulations.

### **RECOMMENDATION AND RATIONALE**

Staff recommends that the Agency Board approve the attached resolution to:

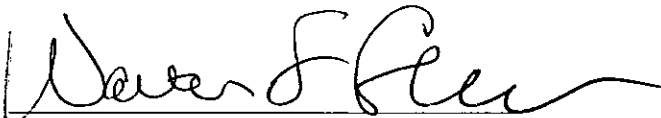
1. Authorize the Agency Administrator to negotiate and execute an Exclusive Negotiating Agreement with the Unity Council.
2. Pursue the Phase II Transit Village development at the Fruitvale BART station.

3. Allow an ENA with Unity Council for a period of twelve months and provide for the evaluation of project feasibility.
4. Recommend that the proposed ENA include an option for the Agency Administrator or his/her designee to administratively extend the ENA up to an additional six months for completion of all required submittals.
5. Agency can terminate ENA prior to expected length of term for cause.

#### **ACTION REQUESTED OF THE CITY COUNCIL/AGENCY BOARD**

Staff recommends approval of the attached resolution authorizing the Agency Administrator to negotiate and execute an exclusive negotiating agreement with the Unity Council to pursue the Phase II development at the Fruitvale Transit Village. The proposed exclusive negotiating agreement with the Unity Council is for a period of twelve months and will provide evaluation of project feasibility. Furthermore, the proposed ENA will include an option for the Agency Administrator or his/her designee to extend the agreement administratively for an additional six months to allow the completion of all the required submittals.

Respectfully submitted,



Waiter S. Cohen, Director  
Community and Economic Development Agency

*GH*  
Reviewed by: Gregory D. Hunter, Deputy Director  
Economic Development and Redevelopment

Prepared by: Larry Gallegos  
Project Area Manager  
Redevelopment Division

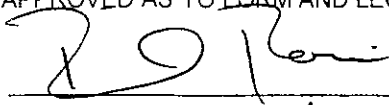
APPROVED FOR FORWARDING TO  
THE COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE:



Office of the Agency Administrator

APPROVED AS TO FORM AND LEGALITY:  
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Agency Counsel

# REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION NO. \_\_\_\_\_ C.M.S.

## A RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH THE SPANISH SPEAKING UNITY COUNCIL FOR PHASE II OF THE FRUITVALE TRANSIT VILLAGE AT THE FRUITVALE BART STATION PARKING LOT

**WHEREAS**, the Redevelopment Agency has acquired the Fruitvale BART Station parking lot property and is working to redevelop the property into Phase II of the Fruitvale Transit Village; and

**WHEREAS**, the Spanish Speaking Unity Council of Alameda County (the "Unity Council") has submitted a proposal to develop the property into a transit oriented development with 275 units of housing; and

**WHEREAS**, the Agency and the Unity Council wish to enter into a period of preliminary study and negotiations over the project proposal, and agree that this does not constitute a binding commitment on the part of the Agency to any developer or to participate in any project;

**WHEREAS**, an Environmental Impact Report ("EIR") was previously prepared for the project; and

**WHEREAS**, said EIR was independently reviewed and considered by the City Planning Commission. In evaluating the project in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State EIR Guidelines"), and the City's Environmental Review Regulations; and

**WHEREAS**, the Planning Commission certified the EIR on May 19, 2010 as being prepared in compliance with CEQA and made all the required CEQA findings, including without limitation: (1) determining that the EIR examined a reasonable range of alternatives, and that each alternative was rejected as infeasible for various reasons; (2) determining there were four significant and unavoidable impacts that could not be mitigated to less than significant levels; and (3) finding and determining that the benefits of the project outweigh any unavoidable adverse impact of the project; and

**WHEREAS**, the City Planning Commission approved the project on May 19, 2010 and a Notice of Determination was subsequently filed with Alameda County; now therefore be it

**RESOLVED:** That the Agency Administrator is hereby authorized to negotiate and enter into an Exclusive Negotiating Agreement with the Unity Council for purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for the potential development of Phase II of the Fruitvale Transit Village at the Fruitvale BART Station parking lot; and be it

**FURTHER RESOLVED:** That the exclusive negotiating period will be for 12 months from the date of this Resolution, with the option to extend said period for an additional period not to exceed six months with the approval of the Agency Administrator; and be it

**FURTHER RESOLVED:** That the Redevelopment Agency hereby finds and determines that it has been presented and has Independently reviewed and considered the information contained in the previously certified EIR, and the EIR complies with CEQA and the CEQA Guidelines' requirements for analysis of the project's environmental effects and mitigation measures, and that none of the changes to the project, or circumstances under which it will be undertaken, or new information of substantial importance require preparation of a subsequent or supplemental EIR; and be it

**FURTHER RESOLVED:** That the Exclusive Negotiating Agreement shall be reviewed and approved as to form and legality by Agency Counsel prior to execution; and be it

**FURTHER RESOLVED:** That the Agency hereby authorizes the Agency Administrator or his designee, to take all other actions necessary with respect to the Exclusive Negotiating Agreement and the project consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,  
SCHAAF, AND CHAIRPERSON REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
Secretary of the Redevelopment Agency  
of the City of Oakland, California