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City Attorney's Office

## OAKLAND CITY COUNCIL

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

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN EXCLUSIVE NEGOTIATION AGREEMENT WITH THE MUSEUM OF JAZZ & ART AND/OR AFFILIATED ENTITY FOR EIGHTEEN MONTHS, WITH ONE ADDITIONAL SIX-MONTH ADMINISTRATIVE EXTENSION, FOR THE FUTURE DISPOSITION OF THE FIRE ALARM BUILDING SITE AT 1310 OAK STREET (APN 002-0091-001)**

**WHEREAS**, the City owns a 0.75-acre parcel of land (the "Property") located on the northwest corner of Oak Street and 13<sup>th</sup> Street with APN 002-0091-001; and

**WHEREAS**, the Museum of Jazz and Art (the "Developer"), has submitted an unsolicited letter of interest to the City to develop a museum of jazz and art facility (the "Project") on the Property; and

**WHEREAS**, the City Council authorized the City Administrator to commence actions to comply with the California Surplus Land Act ("SLA") for the development of the property, and, if no proposals are received, commence negotiations with the Developer (Oakland City Council Resolution No. 87903 C.M.S); and

**WHEREAS**, effective January 1, 2020, Assembly Bill 1486 amended the SLA to require local agencies to formally declare agency-owned properties as surplus land prior to taking actions to dispose of such properties and to issue Notices of Availability once disposition actions are commenced; and

**WHEREAS**, pursuant to Government Code Section 54221(B)(1), the City Council adopted Resolution No. 87999 C.M.S., thereby formally declaring the Property as surplus land and authorizing the City Administrator to issue a Notice of Availability for the Property; and

**WHEREAS**, the City offered the Property for sale to entities as statutorily required pursuant to the amended SLA, and no such entities notified the City of an intent to purchase the Property within the time prescribed for such notification; and

**WHEREAS**, the City and the Developer wish to enter into a period of preliminary study and exclusive negotiations over the proposed disposition of the Property for the Project, with the understanding that this does not constitute a binding commitment on the part of the City to any project or developer for the Property; and

**WHEREAS,** the City shall require the Developer to pay a nonrefundable Project Expense Payment of \$25,000 to reimburse the City for third-party expenses; now, therefore, be it

**RESOLVED:** That the City hereby authorizes the City Administrator to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") with Museum of Jazz and Art, or related affiliates approved by the City Administrator, for the purposes of developing a project proposal for City Council review and approval, undertaking the necessary environmental review process, and negotiating the terms and conditions of a Lease or Disposition and Development Agreement; and be it

**FURTHER RESOLVED:** That the initial exclusive negotiating period will be for eighteen (18) months from the date of this Resolution, with the option for the City Administrator to extend said period by an additional six months in his sole discretion; and be it

**FURTHER RESOLVED:** That the City shall require a \$25,000 nonrefundable Project Negotiating Fee from the Developer to reimburse City staff costs and third-party expenses; and be it

**FURTHER RESOLVED:** That the City authorizes the City Administrator or his designee to accept, appropriate, authorize and administer the nonrefundable Project Negotiating Fee of \$25,000 in Miscellaneous Capital Projects Fund 5999, and Project to be determined later; and be it

**FURTHER RESOLVED:** That the City Council finds and determines any proposed disposition of the Property, whether made pursuant to the ENA or otherwise, will require further discretionary actions of the City Council, and the City retains full discretion, following conclusion of the response and negotiation periods set forth in ENA to proceed with disposition of its interest in the Property in compliance with CEQA; and be it

**FURTHER RESOLVED:** That the City Council, after independent review and consideration, finds 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; and be it

*[REMAINDER INTENTIONALLY BLANK]*

**FURTHER RESOLVED:** That the City Administrator is further authorized to negotiate and enter into agreements and take whatever action is necessary with respect to the ENA and the Property consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,  
THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

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

ASHA REED  
Acting City Clerk and Clerk of the  
Council of the City of Oakland,  
California

Date of Attestation: \_\_\_\_\_