

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A FOURTH AMENDMENT TO THE EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH CALIFORNIA WASTE SOLUTIONS (CWS), EXTENDING THE ENA FOR A PERIOD OF THREE MONTHS, WITH ONE ADMINISTRATIVE OPTION FOR AN ADDITIONAL THREE-MONTH EXTENSION, SUBJECT TO PAYMENT OF A NON-REFUNDABLE EXTENSION PAYMENT OF \$20,000, TO ALLOW THE PARTIES TO COMPLETE THE NEGOTIATIONS OF A DEVELOPMENT AND DISPOSITION AGREEMENT FOR THE RELOCATION OF CWS' EXISTING WEST OAKLAND RECYCLING USES TO A PORTION OF THE NORTH GATEWAY PARCELS LOCATED AT THE FORMER OAKLAND ARMY BASE**

**WHEREAS**, the City owns approximately 12 acres of land and holds an easement on approximately two (2) acres of land in the City of Oakland commonly known as the North Gateway Area of the former Oakland Army Base (the "Property"); and

**WHEREAS**, the Property is designated for mixed-use commercial and industrial uses, including recycling uses; and

**WHEREAS**, California Waste Solutions ("CWS") has existing recycling uses and facilities located in the West Oakland neighborhood; and

**WHEREAS**, on July 2, 2018, the City Council adopted Resolution No. 87308 C.M.S., which authorized City Administrator to negotiate and execute documents and take all other action necessary with respect to the ENA; and

**WHEREAS**, the City and CWS entered into an Exclusive Negotiating Agreement dated July 24, 2018 ("CWS ENA"), to allow the parties to enter into a period of negotiations over possible disposition of the Property and development of a project on the site; and

**WHEREAS**, the ENA has performance benchmarks for CWS to meet; and

**WHEREAS,** CWS has been diligently working to satisfy the benchmarks but needs additional time; and

**WHEREAS,** the City and CWS need additional time to negotiate the terms of Development and Disposition Agreement; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator, or designee, to extend the CWS ENA for a period of three (3) months from April 24, 2021, with an option to extend said period for an additional one three (3)-month period at the discretion of the City Administrator or designee; and be it

**FURTHER RESOLVED:** That the City shall require a \$20,000 nonrefundable, nonapplicable extension payment from CWS; and be it

**FURTHER RESOLVED:** That the \$20,000 nonrefundable extension fee will be accepted in, and appropriated to the Miscellaneous Capital Projects Fund (5999), Oakland Army Base Redevelopment Organization (85244), OBRA Leasing & Utility Project (1001542), OARB Bay Bridge Gateway Program (SC07) in order to offset internal Project costs; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator, or designee, to extend the performance benchmark dates, but in no event shall the last benchmark date be beyond the extended ENA term; and be it

**FURTHER RESOLVED:** That the City Council finds and determines, after independent review and consideration, that this action results in no binding commitment by the City to authorize or advance the Project; will not result in a direct or indirect physical change in the environment; and does not constitute an “approval” of a “project” pursuant to CEQA Guidelines Sections 15004 and 15352; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or designee to negotiate and execute documents and take all other action necessary with respect to the CWS ENA consistent with this Resolution and its basic purposes, as shall be approved for form and legality by the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

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

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