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OAKLAND

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APPROVED AS TO FORM AND LEGALITY


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 85271 C.M.S.

RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH THE SPANISH SPEAKING UNITY COUNCIL FOR DEVELOPMENT OF PHASE II OF THE FRUITVALE TRANSIT VILLAGE PROJECT AT THE BAY AREA RAPID TRANSIT ("BART") FRUITVALE STATION PARKING LOT; AUTHORIZING A PREDEVELOPMENT LOAN FOR THE PROJECT IN AN AMOUNT NOT TO EXCEED \$350,000; AND AUTHORIZING AN EXCLUSIVE NEGOTIATING PERIOD OF ONE YEAR AND ONE OPTIONAL SIX MONTH ADMINISTRATIVE EXTENSION

WHEREAS, the City of Oakland (the "City") owns approximately 3.41acre of property located at the Fruitvale BART Station parking lot (the "Property"); and

WHEREAS, the City and the Spanish Speaking Unity Council ("Unity Council") desire to commence the development of Phase II of the Fruitvale Transit Village as a proposed mixed-use transit oriented development with 275 residential units, 289 surface parking spaces and 277 garage parking spaces;

WHEREAS, L&M Development Partners, Inc., a real estate development firm headquartered in New York and with offices in San Francisco and Unity Council have entered into a Memorandum of Understanding ("MOU") concerning the development of the Fruitvale Transit Village project (the "Project"); and

WHEREAS, the City and Unity Council desire to dedicate time for the preliminary study and exclusive negotiations of the proposed project, with the understanding that such study and negotiations do not constitute a binding commitment on the part of the City to the proposed Project, Unity Council or any developer; and

WHEREAS, the Unity Council is seeking a predevelopment loan in the amount of \$350,000 to cover associated costs with predevelopment activities related to the project, and said funds are currently available in the Coliseum TA Bonds Series 2006B-T (Taxable) Fund (5656), Coliseum Redevelopment Organization (94859), Coliseum Project (C366931) and will be reallocated to a project to be determined; now therefore be it

RESOLVED: That the Interim City Administrator (the "City Administrator") or his/her designee is authorized to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") 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, including, but not limited to, 275 residential units, 289 surface parking spaces and 277 garage parking spaces, and conducting California Environmental Quality Act ("CEQA") review and approval; and be it

FURTHER RESOLVED: That the exclusive negotiating period shall be for twelve (12) months from the date of the execution of the ENA,, with the option to extend said period an additional six months at the discretion of the City Administrator or his/her designee; and be it

FURTHER RESOLVED: That the City Council hereby authorizes a \$350,000 zero-interest predevelopment loan from the Coliseum TA Bonds Series 2006B-T (Taxable) Fund (5656), Coliseum Redevelopment Organization (94859), Project TBD to the Unity Council to fund predevelopment costs associated with the Phase II Fruitvale BART Transit Village project; and be it

FURTHER RESOLVED: That the term of the predevelopment loan shall be for 55 years, with repayment of the loan deferred until the developer has completed the redevelopment of the project and is generating revenues from the development, and with the loan balance due at the end of the term; and be it

FURTHER RESOLVED: That the work product funded by the loan, as well as other development rights for the project, shall be security for the loan and shall be assigned to the City upon default by Unity Council in the performance of its loan obligations, including obligations to pursue development of the project; and be it

FURTHER RESOLVED: That the City finds and determines, after independent review and consideration, that the authorization to enter into the ENA with Unity Council is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it

FURTHER RESOLVED: That the City Administrator or his/her designee shall cause to be filed with the County of Alameda a Notice of Exemption from CEQA requirements; and be it

FURTHER RESOLVED: That all documents shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution; and be it

FURTHER RESOLVED: That the City hereby authorizes the City Administrator or his/her designee, to negotiate and enter into other agreements and take all other actions necessary with respect to the ENA, the predevelopment loan, and the Project consistent with this Resolution and its basic purpose.

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IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

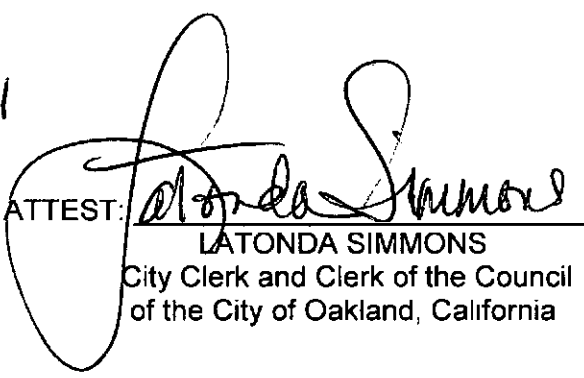
AYES- BROOKS, GALLO, ~~GIBSON McELHANEY~~, KALB, KAPLAN, REID, SCHAAF and
PRESIDENT KERNIGHAN - 7

NOES- 0

ABSENT- Gibson McElhaney - 1

ABSTENTION- 0

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California