

CITY OF OAKLAND

# AGENDA REPORT

**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Sofia Navarro  
Interim Director, Economic  
& Workforce Development  
Department

**SUBJECT:** Second Amendment to Exclusive  
Negotiation Agreement with BCZ,  
CAST, and Eden Housing for the  
Development of the 73<sup>rd</sup> and Foothill  
Property

**DATE:** September 28, 2023

City Administrator Approval

Date: Sep 27, 2023

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Second Amendment To The Exclusive Negotiation Agreement With The Black Cultural Zone Community Development Corporation In Partnership With Community Art Stabilization Trust, Eden Housing, Inc. And/Or Their Affiliated Entities, For Development Of A Mixed-Use Project On City-Owned Property Located On The Northwest Corner of 73<sup>rd</sup> Avenue And Foothill Boulevard (Assessor Parcel Number 039-3291-020), To Extend The Term And Related Performance Deadlines By Six Months, With An Additional Six-Month Administrative Extension**

## EXECUTIVE SUMMARY

On February 10, 2022, the City of Oakland (City) entered into an Exclusive Negotiation Agreement (ENA) with a development team, including the Black Cultural Zone Development Corporation (BCZ), the Community Art Stabilization Trust (CAST), and Charmaine Curtis (Curtis), to analyze the feasibility of developing a mixed-use affordable housing and commercial project (Project) on City-owned property located on the northwest corner of 73<sup>rd</sup> Avenue and Foothill Boulevard (Property), and to negotiate the terms for the lease of the Property and the development of the Project. Subsequently, Curtis was replaced with Eden Housing, Inc. (Eden Housing) in the First Amendment to the ENA executed on July 11, 2023. BCZ, CAST and Eden are collectively referred to as “Developer.”

During the extended 24-month ENA term, the Developer completed most predevelopment tasks, but the City and the Developer were unable to finalize negotiations of two lease disposition and development agreements (LDDA(s)) and related ground leases (Lease(s)). Therefore, staff seeks authorization for a second amendment to the ENA (Second Amendment) to extend the performance deadlines by six months, with an additional six-month administrative

CED Committee  
October 10, 2023

extension option, to give the Developer and the City more time to conclude negotiations of the LDDAs and Leases for the residential and commercial components of the Project.

## **BACKGROUND / LEGISLATIVE HISTORY**

### **73<sup>rd</sup>/Foothill Property Overview and History**

The Property is located within the Eastmont neighborhood on the northwest corner of 73<sup>rd</sup> Avenue and Foothill Boulevard (**Attachment A**) with assessor parcel number (APN) 039-3291-020. The triangular lot is approximately 1.22 acres and sits at the intersection of three major arterials: MacArthur Boulevard, Foothill Boulevard, and 73rd Avenue. The Property abuts the Eastmont Town Center and is adjacent to AC Transit's Eastmont Transit Center.

The Project was competitively selected under the Surplus Land Act (SLA) process in 2021 and deemed compliant with the SLA by the California Department of Housing & Community Development in August 2021.

On October 19, 2021, pursuant to [Resolution No. 88873 C.M.S.](#), the City Council authorized the City Administrator to enter into an 18-month ENA with one six-month administrative extension with BCZ, CAST and Curtis for the Project. The parties entered into the ENA on February 10, 2022, and the negotiation period commenced on October 19, 2021, the date of City Council approval of the agreement. The City Administrator administratively approved a First Amendment to the ENA on July 11, 2023 to extend the term by six months, remove Curtis from the development team and add Eden Housing pursuant to Section 11 of the ENA. The team restructuring was requested by BCZ, CAST, and Curtis to enable the Project to become more competitive for State of California affordable housing funding. The ENA will expire on October 19, 2023.

## **ANALYSIS AND POLICY ALTERNATIVES**

### **Overview of Developer Proposal**

The Project consists of two components: an affordable housing development and an adjacent building to be used as a mixed-use commercial market hall and cultural center. The City's Planning Bureau approved the Project pursuant to Government Code Section 665913.4 (also known as SB 35) on January 27, 2023 (PLN 22196) and approved a Tentative Parcel Map application to subdivide the Property into two separate parcels on May 24, 2023. The parcel subdivision will facilitate the Developer's ability to secure separate financing for the residential and commercial components. Certain State and local financing mechanisms for affordable housing are easier to obtain when a project contains a single land-use as opposed to mixed-uses.

The larger parcel created by the subdivision, comprising approximately 0.73 acres (32,003 square feet), is anticipated to be ground leased by BCZ and Eden Housing (Residential Developer) for the residential building, and the other parcel, comprising approximately 0.49

acres (21,158 square feet) is anticipated to be ground leased by BCZ and CAST (Commercial Developer) for the market hall and cultural center.

The six-story residential building will house 119 units, of which 118 units will be 100% affordable and one unit will be an unrestricted managerial unit. The residential building will comprise of ten studios, 44 one-bedroom units, 33 two-bedroom units, and 32 three-bedroom units. The affordable units will be priced between 30% and 60% of area median income (AMI) for Alameda County. Seven of the units, including four one-bedroom units and three two-bedroom units, are designed as home occupation units targeted at lower income artists. One additional three-bedroom unit is designed to accommodate a licensed family childcare operator. The Project may also include up to 36 residential parking spaces.

The Commercial Developer is proposing to build a free-standing Market Hall & Cultural Center with an adjacent courtyard and out-door skating rink. Approximately 31,800 square-foot in size, the commercial building will have three stories and house a market hall, cultural performance space, classrooms, career technical education, maker space, flexible space to accommodate pop-up vendor stalls, and co-working and office spaces for cultural entrepreneurs. The commercial component is also slated to include an outdoor rooftop terrace and gallery space, courtyard, community room space, services offices, and bike parking.

The Developer would like to maintain exclusive negotiating rights with the City for an additional six months in order to complete negotiations for the LDDA and Lease terms. A lapse in the Developer's ENA status could harm their ongoing efforts to apply for, and secure State funding.

To date, the Developer has successfully completed all other performance milestones under the ENA and staff is confident that the remainder of negotiations can be completed in a timely manner. Staff anticipates a return to the City Council to recommend approval of the LDDA and Lease for the residential component and a separate LDDA and Lease for the commercial component in early 2024.

### **Description of Development Team and Qualifications**

BCZ is an East Oakland-based, California nonprofit corporation founded in 2019 by the East Oakland Black Cultural Zone Collaborative. Its mission is to center Black arts, culture, economics in its work, and resource, transform, and build collective power for local communities. BCZ is led by Carolyn Johnson, an Oakland resident from the Eastmont neighborhood with deep experience activating public and private properties that have been vacant, underutilized, and blighted. Under her leadership, the CDC successfully created Liberation Park and all the neighborhood-serving programming in the park. Carolyn was previously the Director of Commercial Real Estate at the East Bay Asian Local Development Corporation (EBALDC).

CAST is a non-profit arts and real estate organization that creates permanently affordable spaces for culturally rooted businesses and small and mid-sized arts organizations. CAST was founded in 2013 based on the recognition that the arts play an essential role in creating strong, vibrant, and diverse communities.

Eden Housing has more than 55 years of experience in affordable housing development. Since its inception, the organization has developed more than 10,000 affordable homes and is a leader in making its residential communities environmentally sustainable and efficient through integrating energy conservation. Eden Housing is also known as a champion of housing policy advocacy at the local, state, and national level, supporting practices that both create and preserve affordable housing for diverse communities. Adding an experienced developer like Eden Housing to the development team enables the Project to become more competitive for State funding. The BCZ-led team is also supported by many community organizations including the East Oakland Neighborhood Initiative (EONI), which is an equity-based coalition of community organizations focused on six neighborhoods in East Oakland. The coalition successfully secured a \$28.2 million grant from the California Strategic Growth Council's Transformative Climate Communities Program to support five transformative projects in East Oakland. BCZ's proposal is largely inspired by the community knowledge and grassroots guidance that has emerged from EONI.

### **Major Terms of the Second Exclusive Negotiation Agreement**

The proposed Second Amendment would include the following key terms:

- an extended term of six months and one six-month administrative extension option (at the City Administrator's discretion)

The ENA's current schedule of performance will not be modified as the Developer has satisfied all milestones except for completion of the LDDA and Lease negotiations with the City.

Approval of the recommended action would advance the Citywide priority of **housing, economic, and cultural security** by providing up to 119 units of affordable housing that could house an estimated 340 residents in East Oakland and create approximately 45 permanent jobs.

### **FISCAL IMPACT**

Aside from the standard administrative costs, there are no fiscal impacts to the City for entering into a Second Amendment to the ENA with the Developer as described in this report.

### **PUBLIC OUTREACH / INTEREST**

Under the current ENA, the Developer has held several community meetings with community organizations, residents, and stakeholders to solicit input regarding the proposed development. In addition, the Developer has participated in public hearings as part of the Project entitlement process through the Bureau of Planning.

## **COORDINATION**

Staff of the Economic and Workforce Development Department has coordinated on this agenda item with the City Administrator's Office, the Office of the City Attorney, and the Budget Bureau.

## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** There are no direct economic impacts connected to the authorization of a second amendment to the ENA with the Developer for the proposal described in this report. However, should the proposed development project be built, the commercial component is estimated to generate approximately 45 permanent jobs and would also result in the creation of dozens of construction jobs. In addition, the Project would result in increased property taxes and increased sales tax revenue via the various food-serving establishments created in the proposed market hall.

***Environmental:*** There are no direct environmental impacts connected to the request for an ENA with the Developer for the proposal described in this report. The Developer will use its good faith efforts to design, develop and construct an environmentally sustainable project with minimum conformance with the Oakland's "Build It Green" commercial checklist. In addition, the Property will be accessible via public transportation, as it is located adjacent to an AC Transit bus stop.

***Race & Equity:*** The proposed development team is Black-led, a demographic often underrepresented in real estate development. The Project will provide up to 119 units of affordable housing for low to moderate income residents, who are disproportionately people of color nationally and in the Bay Area. The Project is in the Eastmont neighborhood, an area of Oakland that is racially diverse but does not traditionally have a high percentage of affordable housing. The development of the Project will help alleviate the affordable housing shortage in the neighborhood and may act as a catalyst for other similar development projects in Oakland.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City's Planning Bureau approved the Project's planning application and entitlements under the State's Streamlined Ministerial SB 35 process (Government Code 65913.4). The negotiation and approval of leases for the development of the Project are not subject to CEQA review pursuant to Government Code section 65913.4(j)(1).

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Second Amendment To The Exclusive Negotiation Agreement With The Black Cultural Zone Community Development Corporation In Partnership With Community Art Stabilization Trust, Eden Housing, Inc. And/Or Their Affiliated Entities , For Development Of A Mixed-Use Project On City-Owned Property Located On The Northwest Corner of 73<sup>rd</sup> Avenue And Foothill Boulevard (Assessor Parcel Number 039-3291-020), To Extend The Term And Related Performance Deadlines By Six Months, With An Additional Six-Month Administrative Extension

For questions regarding this report, please contact Rupa Parikh, Urban Economic Analyst III, at 510-238-2970.

Respectfully submitted,



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SOFIA NAVARRO  
Interim Director, Economic & Workforce  
Department

Reviewed by:  
Kelley Kahn, Assistant Director, Real Estate &  
Strategic Partnerships  
Economic & Workforce Development  
Department

Jens Hillmer, Development Area Manager  
Public/Private Development  
Economic & Workforce Development  
Department

Prepared by:  
Rupa Parikh, Urban Economic Analyst III PPT  
Public/Private Development  
Economic & Workforce Development  
Department

Attachment  
Attachment A: Parcel Map

# ATTACHMENT A

1 of Assessment Use City

## ASSESSOR'S MAP 39

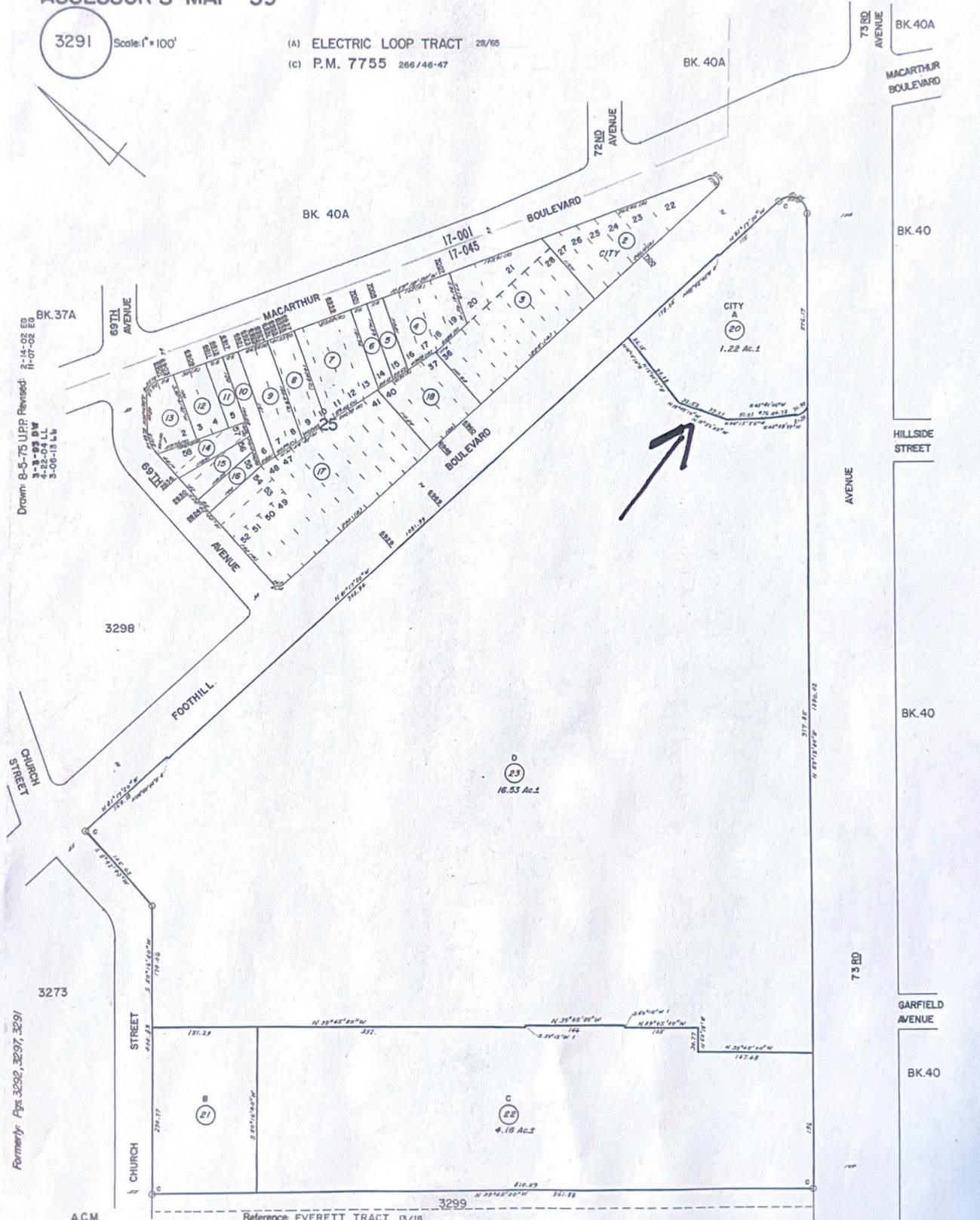
Code Area Nos. 17-045

3291

Scale: 1" = 100'

(A) ELECTRIC LOOP TRACT 28/65

(C) P.M. 7755 266/46-47



Drawn: 8-5-75 U.P.P. Revised: 2-14-65 EG  
11-07-62 EG  
2-22-64 LL  
3-06-63 LL

Formerly: Figs. 3292, 3297, 3291

A.C.M.

Reference: EVERETT TRACT 13/16