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**INTRODUCED BY COUNCILMEMBER LOREN TAYLOR**

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE THE REMOVAL, AMENDMENT, OR WAIVER OF RESTRICTIONS IMPOSED ON THE CITY-OWNED 7101 FOOTHILL BOULEVARD PARCEL (APN 039-3291-020) THAT RESTRICTS OCCUPANCY BY RESTAURANTS THAT COMPETE WITH MCDONALDS AND TACO BELL IN ORDER TO SIGNIFICANTLY FURTHER ECONOMIC DEVELOPMENT AND AFFORDABLE HOUSING IN EAST OAKLAND**

**WHEREAS**, in October 2008 the former Oakland Redevelopment Agency (Agency) executed an agreement of purchase and sale with East Oak Land Associates, LLC, for an approximately 1.22 acre parcel of land located on the northwest corner of 73rd Avenue & Foothill Boulevard, Oakland; California (APN 039-3291-020) (Property) within the Eastmont neighborhood in Council District 6 for \$2,214,755 pursuant to Agency Resolution No. 2008-0063; and

**WHEREAS**, the Property abuts the Eastmont Town Center and is adjacent to AC Transit's Eastmont Transit Center and was originally part of an old Chevrolet auto assembly plant from 1916 to 1963, and in 2010, the City demolished the Firestone tire center that was on the site; and

**WHEREAS**, over the next decade, the City explored several mixed use and commercial development proposals for the Property, including an education center shared with a new public library branch, and a Peralta Community College District satellite campus for Merritt College, and a retail center anchored by a Starbucks community store with dedicated classrooms for local nonprofits to conduct job skills training classes for youth; and

benefits Doolan Foster Enterprises, Inc., dba Taco Bell (Taco Bell) and its franchise located at 6900 Bancroft Avenue in the Eastmont Town Center pursuant to a ground lease between Eastmont Building Associates and Taco Bell, and the covenant prohibits the Property be used for a food outlet selling more than Ten Percent (10%) Mexican style food; and

**WHEREAS**, the Taco Bell restriction does not apply to a lease with El Pollo Loco nor any lease for retail restaurant use within the food court of the Eastmont Town Center mall; and

**WHEREAS**, on April 18, 2017, the City Council authorized a prior Exclusive Negotiating Agreement (ENA) with Portfolio Development Properties LLC, or related affiliates, for one year, with one optional six-month administrative extension, for the potential disposition and development of a retail project on the City-owned Property pursuant to Resolution No. 86688 C.M.S.; and

**WHEREAS**, due to the McDonald's and Taco Bell restrictions that restrict occupancy on the Property by restaurants that compete, the proposed economic development of the site for use by Starbucks Coffee as a retail store and youth training center where local nonprofits would be able to conduct job-skills training classes for youth pursuant to the 2017 ENA was not realized; and

**WHEREAS**, in April 2020, the City activated the Property through a license agreement with the Black Cultural Zone Collaborative, a partnership of more than 20 local nonprofits that together established and manage what is currently known as Liberation Park and brings a variety of services to the Eastmont neighborhood, including the Akoma Outdoor Market, free meals distributed by the World Central Kitchen, COVID-19 testing by Umoja in Health; and

**WHEREAS**, on July 21, 2020, the City Council declared the Property to be surplus land under the California Surplus Land Act (Government Code sections 54220 et seq.) (SLA) and authorized the City Administrator to commence actions to comply with the SLA; and

is in the public interest; and

**WHEREAS**, on August 26, 2021, McDonald's denied the City's request to waive or otherwise the permit the sale of any food item prohibited by the covenant or restriction (Attachment 3); and

**WHEREAS**, due to the McDonald's and Taco Bell continued restrictions that restrict occupancy on the Property by restaurants that compete, the proposed development of the site as a food serving and food preparing Market Hall site pursuant to the 2021 ENA is impacted; now, therefore, be it

**RESOLVED:** That City Administrator is authorized to negotiate the removal, amendment, or waiver of restrictions imposed on the City-owned 7101 Foothill Boulevard parcel (APN 039-3291-020) that restricts occupancy by restaurants that compete with McDonald's and Taco Bell in order to significantly further economic development and affordable housing in East Oakland; and be it

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

DEC 6 2022

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND - 17  
~~PRESIDENT FOR [unclear]~~

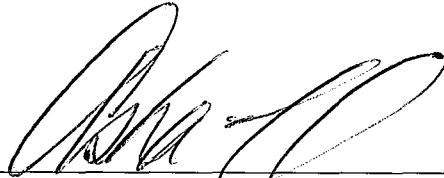
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - 1 - Bag

ATTEST:



ASHA REED

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