

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**RESOLUTION (1) DECLARING A PORTION OF THE 12TH STREET REMAINDER PARCEL, LOCATED AT EAST 12TH STREET AND 2ND AVENUE (PROPERTY) AS EXEMPT SURPLUS LAND UNDER THE STATE SURPLUS LAND ACT MEETING THE CRITERIA UNDER GOVERNMENT CODE SECTION 54221(F)(1)(A); (2) WAIVING THE COMPETITIVE PROCESS FOR DISPOSITION OF PROPERTY FOR DEVELOPMENT; AND (3) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO AN EXCLUSIVE NEGOTIATION AGREEMENT WITH EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION, AND/OR AN AFFILIATED ENTITY FOR TWELVE MONTHS WITH ONE ADDITIONAL SIX-MONTH ADMINISTRATIVE EXTENSION, FOR THE POTENTIAL LEASE DISPOSITION AND DEVELOPMENT OF A PORTION OF THE PROPERTY AND DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT, SUBJECT TO THE COMPLETION OF A CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION**

**WHEREAS**, the City of Oakland (“City”) owns approximately 0.925 acres of vacant property (Assessor Parcel Number 19-27-14), commonly known as the 12th Street Remainder Parcel, bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, newly created open space to the west, and Lake Merritt Boulevard to the north (the “Property”); and

**WHEREAS**, the Property was previously public right-of-way for that portion of E. 12th Street situated between 1st and 2nd Avenue; and

**WHEREAS**, on July 14, 2015, the City issued a Notice of Offer and Intent to Convey the Property to potential developers, and a team including East Bay Asian Local Development Corporation (“Developer”) and a market-rate developer was selected to develop a mixed-income project including 91 units of housing affordable to lower-income households; and

**WHEREAS**, the prior mixed-income project did not move forward; and

**WHEREAS**, Developer proposes to acquire by long-term lease, a portion of the Property (“Parcel 1”) from the City for development of a project with 91 units of housing affordable to lower-income households (“Parcel 1 Project”); and

**WHEREAS**, the Parcel 1 Project meets the conditions for exemption under Government Code Section 54221(f)(1)(A) of the Surplus Land Act and Government Code Section 37364; and

**WHEREAS**, the Developer was selected through a previous competitive solicitation process and has secured financing and preliminary planning approvals for the Parcel I Project, which will significantly facilitate development of much needed affordable housing on Parcel I, and

**WHEREAS**, therefore the City Administrator determined that it is in the best interests of the City to lease Parcel 1 by negotiation, instead of undertaking a competitive process to dispose of the site for development; and

**WHEREAS**, the City and the Developer are interested in entering into a period of preliminary study and exclusive negotiations over the proposed disposition of Parcel 1 for the Parcel 1 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 Exclusive Negotiation Payment of \$25,000 for such exclusive negotiations; now, therefore, be it

**RESOLVED**: That the City declares Parcel 1 to be leased to Developer exempt from the Surplus Land Act for the purposes of the developing the Parcel 1 Project; and be it

**FURTHER RESOLVED**: That the City Council finds and determines that it is in the best interests of the City to waive the competitive process for disposition of property for development and negotiate with a selected developer, and hereby waives the competitive process for disposition of Parcel 1 for development and authorizes the City Administrator to negotiate and enter into an Exclusive Negotiation Agreement (“ENA”) with Developer, and/or an affiliate entity approved by the City Administrator, for the purposes of developing a project proposal for City Council review and approval, undertake the necessary environmental review process, and negotiate the terms and conditions of a Lease Disposition and Development Agreement and Ground Lease; and be it

**FURTHER RESOLVED**: That the initial exclusive negotiating period will be for twelve (12) months from the date of this Resolution, with the option by the City Administrator, in his sole and absolute discretion, to extend such period by an additional six (6) months; and be it

**FURTHER RESOLVED**: That the City shall require a nonrefundable \$25,000 payment (“Exclusive Negotiation Payment”) from Developer for such exclusive negotiations to be paid within five (5) business days after execution of the ENA; and be it

**FURTHER RESOLVED**: That the City Council authorizes the City Administrator to accept, deposit, and appropriate the \$25,000 nonrefundable Exclusive Negotiation Payment into the Miscellaneous Capital Project Fund (5999), Central District Redevelopment Organization (85245), in a new project to be established; and be it

**FURTHER RESOLVED:** That the ENA 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 Council finds and determines any proposed disposition of Parcel 1 will require further discretionary actions of the City Council, and the City retains full discretion, following conclusion of the negotiation period set forth in ENA to proceed with disposition of its interest in Parcel 1 in compliance with the California Environmental Quality Act (“CEQA”); and be it

**FURTHER RESOLVED:** That the City Council finds and determines, after independent review and consideration, that this action will not result in 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

**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 Parcel I Project, consistent with this Resolution and its basic purposes.

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