

# OAKLAND CITY COUNCIL

RESOLUTION No. 88204 C.M.S.

**ADOPT A (A) NON-BINDING TERM SHEET PURSUANT TO THE TERMS OF AN EXISTING EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH CALIFORNIA WASTE SOLUTIONS (CWS) REFLECTING POTENTIAL DISPOSITION TERMS OF A PORTION OF THE CITY-OWNED GATEWAY INDUSTRIAL DISTRICT LOCATED AT THE FORMER OAKLAND ARMY BASE FOR THE PROPOSED RELOCATION OF CWS'S EXISTING WEST OAKLAND RECYCLING USES; AND (B) A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO THE ENA THAT (I) REQUIRES CWS TO PAY A \$30,000 ENA EXTENSION FEE FOR THE PREVIOUSLY APPROVED ENA EXTENSION AUTHORITY GRANTED TO THE CITY ADMINISTRATOR AND (II) INCORPORATE A NON-BINDING TERM SHEET INTO THE EXISTING ENA**

**WHEREAS**, the City owns approximately 12 acres of land and holds an easement on approximately 2 acres of land in the City of Oakland commonly known as the North Gateway Area of the former Oakland Army Base (collectively, 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 the City Administrator to execute an Exclusive Negotiating Agreement ("ENA") with CWS to negotiate the potential terms of a lease/development and disposition agreement ("L/DDA") and of the Property, which ENA was executed on July 24, 2018; and

**WHEREAS**, on January 21, 2020, the City Council adopted Resolution No. 88001 C.M.S., which authorized the City Administrator to extend the ENA for a period of six months through a First Amendment to the ENA; and

**WHEREAS**, the parties had included a \$30,000 nonrefundable, nonapplicable fee from CWS in support of the ENA extension; however, the Resolution inadvertently omitted requisite language granting authority to the City Administrator to accept and appropriate that ENA extension fee;

and

**WHEREAS**, the City and CWS executed the First Amendment to the ENA on January 24, 2020, to allow the parties to complete negotiations for the proposed terms of the L/DDAA; and

**WHEREAS** the City and CWS, pursuant to the amended ENA, have negotiated a term sheet for the disposition of the Property and development of a project on the site ("Term Sheet"), attached hereto as **Attachment A**; now, therefore, be it

**RESOLVED:** That the City Council hereby approves the non-binding Term Sheet negotiated with CWS, and authorizes the City Administrator, or his or her designee, to further amend the ENA to incorporate the Term Sheet into the ENA;

**FURTHER RESOLVED:** That the City shall require a \$30,000 nonrefundable, nonapplicable extension fee from CWS, to be applied retroactive to the date of the First Amendment to the ENA; and be it

**FURTHER RESOLVED:** That the \$30,000 nonrefundable extension fee will be appropriated to the Miscellaneous Capital Projects Fund (Fund 5999), Organization: Oakland Army Base Redevelopment (Org. 85244), in a new Project to be established in order to offset internal Project cost; 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 his or her designee, to negotiate and execute documents and take all other action necessary with respect to the Term Sheet or ENA consistent with this Resolution and its basic purposes, as shall be approved for form and legality by the City Attorney.

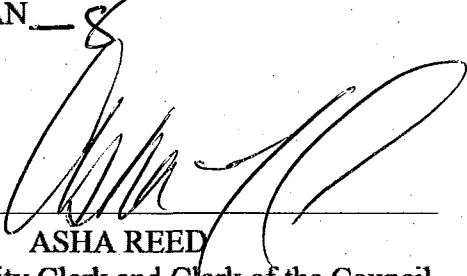
IN COUNCIL, OAKLAND, CALIFORNIA, JUN 3 0 2020,

PASSED BY THE FOLLOWING VOTE:

AYES- FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID,  
TAYLOR, THAO and PRESIDENT KAPLAN 8

NOES- 0  
ABSENT- 0

ABSTENTION- 0

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