



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH THE BLACK CULTURAL ZONE COMMUNITY DEVELOPMENT CORPORATION (BCZ) IN PARTNERSHIP WITH COMMUNITY ARTS STABILIZATION TRUST, CURTIS DEVELOPMENT, AND/OR THEIR AFFILIATED ENTITIES FOR EIGHTEEN (18) MONTHS, WITH ONE ADDITIONAL SIX (6) MONTH ADMINISTRATIVE EXTENSION, FOR THE FUTURE DISPOSITION OF THE CITY-OWNED 73RD AVENUE AND FOOTHILL BOULEVARD PROPERTY (APN 039-3291-020), SUBJECT TO THE COMPLETION OF A CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION

WHEREAS, the City owns a 1.22-acre parcel of land (APN 039-3291-020) located on the northwest corner of 73rd Avenue and Foothill Boulevard with no current street address, (Property); and

WHEREAS, on July 21, 2020, the City Council adopted Resolution No. 88233 C.M.S. declaring 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 for the development of the Property; and

WHEREAS, on October 26, 2020, the City sent a Notice of Availability (NOA) to all entities that the SLA requires to be notified, including Oakland Unified School District, Alameda County, and housing sponsors on the list generated by the California Housing and Community Development Department (State HCD); and

WHEREAS, the City received a total of four responses within the 60-day noticing period to solicit development proposals for the Property from interested parties, and City staff negotiated with each qualified entity for a minimum of 90 days; and

WHEREAS, The Black Cultural Zone Community Development Corporation in partnership with Community Arts Stabilization Trust, Curtis Development (collectively, Developer) submitted a proposal within the City's 60-day noticing period to develop an affordable housing and commercial mixed-use development on the Property;

WHEREAS, staff concluded after the 90-day SLA negotiating period that the proposal submitted by the Developer ranked the highest using the State's SLA requirements by providing the highest total number of individuals housed in the 100 percent affordable development, is offering the City fair market value for the Property, is the most viable of the four responses received, and best addresses the neighborhood's current needs; and

WHEREAS, State HCD formally reviewed and evaluated the City's documentation for compliance with the SLA process and officially determined the City has fully complied with the SLA requirements for eventual disposition of the Property; and

WHEREAS, the City and the Developer wish to enter into a period of preliminary study and exclusive negotiations over the proposed disposition of the Property and to evaluate the Developer's proposal, with the understanding that this does not constitute a binding commitment on part of the City to any project or developer for the Property; and

WHEREAS, the City and Developer desire to negotiate an Exclusive Negotiating Agreement (ENA), and the City shall require the Developer to pay a nonrefundable Exclusive Negotiation Payment (ENP) upon execution of the ENA in the amount of Twenty-Five Thousand Dollars (\$25,000) to negotiate ENA and/or reimburse the City for third-party expenses; now, therefore, be it

RESOLVED: That the City hereby authorizes the City Administrator to negotiate and enter into an ENA with the Developer and/or their affiliated entities approved by the City Administrator, for the purposes of developing a project proposal for City Council review and approval, undertaking the necessary environmental review process, and negotiating the terms and conditions of a Lease, Disposition and Development Agreement; and be it

FURTHER RESOLVED: That in the event that an ENA is executed and the ENP is paid, the initial ENA period will be for eighteen (18) months from the date of this Resolution, with the option for the City Administrator to extend said period by an additional six months in his/her sole discretion; and be it

FURTHER RESOLVED: That the City shall require a \$25,000 nonrefundable ENP from the Developer to reimburse City staff costs and third-party expenses related to negotiating the ENA to be paid within one week of execution of ENA; and be it

FURTHER RESOLVED: That the City authorizes the City Administrator to accept, deposit, and appropriate the nonrefundable ENP of \$25,000 into Entity (1), Central City East Projects Fund (5640), CIP Central City East Organization (94899), Other Income/Other Revenue Account (48727), 73rd and Foothill Development Project (1003727), and Central City East Program (SC18), for the administration and management of the ENA; and be it

FURTHER RESOLVED: That the City Council finds and determines any proposed disposition of the Property, whether made pursuant to the ENA or otherwise, will require further discretionary actions of the City Council, and the City retains full discretion, following conclusion of the response and negotiation periods set forth in ENA to proceed with disposition of its interest in the Property in compliance with the California Environmental Quality Act (CEQA); and be it

FURTHER RESOLVED: That the City Council, after independent review and consideration, finds this action will not result in a 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 Property 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 of the Council and City of
Oakland, California