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APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89392 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE, FINALIZE AND EXECUTE A NO-FEE LICENSE AGREEMENT WITH RESOURCES FOR COMMUNITY DEVELOPMENT OR THEIR AFFILIATED ENTITY OR ENTITIES TO MANAGE AND MAINTAIN CITY-OWNED PARCELS LOCATED AT 3823 – 3829 MARTIN LUTHER KING JR. WAY FOR A PERIOD OF ONE YEAR, AND ADOPTING FINDINGS SUPPORTING A BELOW-MARKET LICENSE FOR USE AND MAINTENANCE OF THE SITE

WHEREAS, the City of Oakland (the “City”) owns two contiguous parcels located at 3823-3829 Martin Luther King Jr. Way (the “City Parcels”), and Resources for Community Development, a 501c3 non-profit public benefit corporation (“RCD”), owns two contiguous neighboring parcels located at 3801-3807 Martin Luther King Jr. Way (the “RCD Parcels” and together with the City Parcels, the “Property”); and

WHEREAS, in response to a May 11, 2018, City issued Request for Proposals (“RFP”), RCD proposed to combine the RCD Parcels with the City Parcels to build a sixty-eight (68) unit affordable housing project at the Property to be commonly known as Longfellow Corner (the “Project”), which was subsequently increased to seventy-seven (77) units; and

WHEREAS, City Council Resolution No. 87468 C.M.S, authorized the City to enter an Exclusive Negotiation Agreement with RCD or its affiliate to initiate a period of environmental review and exclusive negotiations with respect to a Lease Disposition and Development Agreement (“LDDA”) for a maximum of eighteen-months, with the option to extend for a period of six-months; and

WHEREAS, on July 30, 2019, the City entered into an eighteen-month Exclusive Negotiation Agreement (the “ENA”) with Longfellow Corner, L.P., an affiliate of RCD (“Developer”), and on June 10, 2020, the City authorized a six-month administrative extension of the ENA; and

WHEREAS, pursuant to City Council Resolution No. 88435 C.M.S., adopted on December 15, 2020, the ENA was further extended to December 12, 2022, to provide additional time for the Developer to continue the environmental investigations and negotiations with the City of the terms of the potential disposition; and

WHEREAS, RCD successfully applied for Site Acquisition funding totaling \$3,175,00 for acquiring vacant and underutilized land to developers who propose to serve extremely-low to low-income households pursuant to City Council Resolution No. 86814 C.M.S. adopted on June 29, 2017, authorizing the issuance of the first tranche of Measure KK housing bond funds in an amount not to exceed \$55 million, and purchased adjacent parcels located at 3801 – 3807 Martin Luther King Jr. Way in 2018 to complete assembly of parcels available for the Project’s Development; and

WHEREAS, in applications to the City Notices of Funding Availability (NOFA) for Affordable Housing in 2019 and 2022, the project has been awarded total development loan funding of \$11,264,000 per City Council Resolution No. 87994 C.M.S., approved on January 21, 2020 and Resolution No. 89241 C.M.S., approved on June 7, 2022;

WHEREAS, the development loan funding was available from the Local Housing Trust Fund, from the Low and Moderate Income Housing Asset Fund (2830), the Affordable Housing Trust Fund (1870), (including Affordable Housing Impact Fees, Jobs/Housing Impact Fees, and Boomerang Funds); and

WHEREAS, RCD has successfully secured other sources of state funding for the Project and negotiated a Remedial Action Workplan with the City and the State Department of Toxic Substances Control (“DTSC”), and is working with the City to negotiate a Disposition and Development Agreement for which authorization will be sought later in the fall of 2022; and

WHEREAS, the City Parcels have been subject to substantial trespassing, illegal and dangerous activities, and hazardous materials contamination, and the City is concurrently pursuing authority to enter into a license agreement with RCD or affiliated entity to maintain the City Parcels until construction can commence; and

WHEREAS, Section 2.42.180 of the Oakland Municipal Code authorizes the City to dispose of property at its fair reuse value as assessed based on the property’s proposed development and use, prevailing market conditions, development climate at the time of disposition, and other economic and noneconomic factors, and requires findings to justify any below-market disposition; and

WHEREAS, the assessment set forth in the staff report accompanying this Resolution concludes that, based on a financial feasibility analysis of the proposed project, the fair reuse value of City Parcels is nominal; and

WHEREAS, there is a clear and present danger both to current neighbors of the City Parcels and the viability of development of affordable housing units without a consistent property management presence; and

WHEREAS, upon review of the City of Oakland Planning Bureau and as of September 11, 2019, the Longfellow Corner Project received a categorical exemption under CEQA as an infill development {Sec. 15332} and a project consistent with a community plan, general plan or zoning {Sec. 15183(f)}; and

WHEREAS, the proposed transactions, would not result in any significant effect that has not already been analyzed in the Project's categorical exemption from CEQA, and there will be no significant environmental effects caused by the transactions that have not already been analyzed in the exemption; and

WHEREAS, there are economies of scale for RCD to maintain both the RCD Parcels and the City Parcels, and RCD is willing to maintain the City Parcels under the conditions described in the accompanying staff report; and

WHEREAS, the 2015 – 2020 Consolidated Plan for the Housing and Community Development Department identifies that 70% of low- and moderate-income households in the City of Oakland (55,970 households), are facing cost burdens, paying over 30% of their income towards housing costs; and

WHEREAS, 43% of low- and moderate-income renters are severely cost burdened, paying more than 50% of their income towards housing costs; and

WHEREAS, the Project's 77 affordable housing units will help ameliorate this housing crisis; and

WHEREAS, it is mutually beneficial to have RCD manage and secure the City Parcels until construction on the affordable housing units can commence; and

WHEREAS, the City Council finds that urgent and expeditious efforts are necessary to develop additional affordable housing solutions; and

WHEREAS, Oakland Municipal Code ("OMC") 2.42.110 provides that City-owned real property must be leased for a rent equal to or exceeding the property's fair market rental value unless the City Council has made a finding and determination that the lease of the property for less than its fair market rental value is in the best interest of the City; and

WHEREAS, in making the required finding and determination, the City Council may consider the value of in-kind services to the City or the community at-large provided by the lessee such as but not limited to property security and maintenance, social and cultural benefits to the community or other services; now, therefore be it

RESOLVED: That based on the benefits of having an active use on the City Parcels during the period before construction starts, including, without limitation, having RCD provide security and maintenance of the City Parcels all the while having RCD's continued presence serve as a deterrent to illegal dumping and vandalism until construction can commence on the City Parcels, the City Council hereby finds and determines that licensing the City Parcels to RCD or affiliates for less than the property's fair market value is in the best interest of the City and that the security

and maintenance of the City Parcels by RCD in lieu of a cash payment for the license is in the best interest of the City; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator to negotiate and execute license agreement(s) between the City and RCD, or affiliated entity or entities approved by the City Administrator, for the temporary license of the City Parcels for the undertaking of predevelopment activities and securing and maintaining the City Parcels until construction of the Project is able to commence, consistent with the terms of this Resolution and other agreements with respect to the Property for a period of one (1) year, with one administrative option to extend the term an additional six months; and be it

FURTHER RESOLVED: That all agreements associated with the license agreement shall be reviewed and approved as to form and legality by the Office of the City Attorney prior to execution by the City, and shall be placed on file with the City Clerk; and be it

FURTHER RESOLVED: The City Council finds and determines that the license agreement actions authorized by this Resolution are exempt from CEQA pursuant to CEQA Guidelines Section 15301, which exempts the operation of existing private or public facilities involving negligible or no expansion of use.

IN COUNCIL, OAKLAND, CALIFORNIA, **SEP 20 2022**

PASSED BY THE FOLLOWING VOTE:

AYES - ~~XXXX~~ GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS - 7

1 NOES - FIVE

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

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