


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AMENDING RESOLUTION NO. 87795 C.M.S. TO AUTHORIZE A SECOND AMENDMENT TO THE EXCLUSIVE NEGOTIATION AGREEMENT (ENA) WITH MIDPEN HOUSING CORPORATION AND HABITAT FOR HUMANITY EAST BAY/SILICON VALLEY, INC., FOR THE DEVELOPMENT OF AFFORDABLE HOUSING AT THE CITY-OWNED REAL PROPERTY LOCATED AT 1707 WOOD STREET, TO EXTEND THE TERM BY EIGHTEEN MONTHS, WITH ONE ADMINISTRATIVE OPTION TO EXTEND THE TERM AN ADDITIONAL SIX MONTHS

WHEREAS, the City of Oakland (“City”) owns approximately 3.12 acres of property located at 1707 Wood street between 18th and 20th Streets (the “Property”); and

WHEREAS, on May 15, 2018, the City issued a Request for Proposals (“RFP”) seeking development proposals for affordable housing development for the Property, with RFP responses due on July 23, 2018; and

WHEREAS, MidPen Housing Corporation (“MidPen”) and Habitat for Humanity East Bay/Silicon Valley, Inc. (“Habitat”) submitted a joint proposal for a one hundred seventy (170) unit affordable housing development (“Project”) on the Property, to include eighty-five (85) affordable homeownership units and eighty-five (85) affordable rental homes, including one unrestricted manager’s unit, serving a range of households with incomes from at or below 20% to at or below 120% of Area Median Income; and

WHEREAS, an evaluation panel of City staff and community residents reviewed the two RFP responses, and determined that MidPen and Habitat’s joint proposal was the most responsive to the RFP guidelines, and most programmatically feasible; and

WHEREAS, MidPen and Habitat are both California non-profit public benefit corporations formed to undertake this and other similar developments in the future; and

WHEREAS, on July 9, 2019, the City Council adopted Resolution No. 87795 C.M.S. authorizing the City Administrator to negotiate and enter into an Exclusive Negotiation Agreement (ENA) with MidPen and Habitat for purposes of studying and evaluating the feasibility of the Project, negotiating terms and conditions for the potential development of the Project, including negotiating one or more Lease Disposition and Development Agreements

(LDDAs) and/or Disposition Development Agreements (DDAs), Ground Leases and related documents, and conducting California Environmental Quality Act (CEQA) review and approval; and

WHEREAS, the ENA was executed on January 10, 2020, with an initial term of eighteen (18) months and two (2) three (3) month options to extend further for an aggregate of six (6) months; and

WHEREAS, the City was unable to secure the site from illegal trespassing activities originating approximately in 2018, including illegal dumping and unsheltered populations camped on site, thereby preventing MidPen and Habitat from coordinating the necessary on-site housing development due diligence; and

WHEREAS, the City Administrator authorized the first three-month extension on June 16, 2021, and the second three-month extension on September 14, 2021; and

WHEREAS, on December 21, 2021, responding to the City's delay to secure the site, the City Council adopted Resolution No. 89968 C.M.S. authorizing an amendment to the ENA providing one eighteen (18) month extension, with the option to grant one additional six (6) month extension administratively, plus an extension commensurate with the length City delay, but not to exceed eighteen (18) months; and

WHEREAS, on May 26, 2023, the City closed, fenced, and secured the site against unauthorized activities, including trespassing and illegal dumping; and

WHEREAS, on May 20, 2024, the City agreed to terms with the Oakland Ballers Baseball Club, LLC ("Ballers") for a one-year license agreement to allow the Ballers to use the premises for special event parking during the 2024 Ballers baseball season; and

WHEREAS, in exchange, and pursuant to City Council Resolution No. 90194 C.M.S., adopted April 16, 2024, a Professional Services Agreement ("PSA") on behalf of the City was executed to allow the Ballers to remove the above ground contaminated soil stockpiles from the premises to allow the premises to be used for special event parking; and

WHEREAS, the City is preparing a long-term ten (10) year license agreement for the Ballers use of nearby Raimondi Park concurrently with an additional one (1) year license agreement for parking at 1707 Wood Street with two (2) one-year options to extend, including twenty-four hour, seven days per week security and maintenance at 1707 Wood St; and

WHEREAS, the proposed license agreements are subject to City Council approval, to be brought to Council for consideration by City Economic Workforce and Development Department ("EWDD") staff; and

WHEREAS, consequently, the City has provided a safe and secure right of entry to MidPen and Habitat for purposes of carrying out basic due diligence activities such as environmental testing and analysis; and

WHEREAS, on October 18, 2024, the MidPen and Habitat Phase II environmental investigation workplan was approved by the California Water Board, to include an analysis of ground water and soil for establishing remedial action and/or vapor intrusion mitigation; and

WHEREAS, MidPen and Habitat anticipate closing out the environmental inspection period, including the necessary approvals from the Water Board by the Spring of 2026, to determine the feasibility of developing the site into permanent affordable housing; and

WHEREAS, housing due diligence is now underway and extending the ENA will allow more time for the City, MidPen, and Habitat to proceed with negotiations in good faith and negotiate one or more DDAs/LDDAs; and

WHEREAS, staff will return to City Council to seek authorization to execute a DDA and/or LDDA, Ground Lease and related documents; and

RESOLVED: That Resolution No. 87795 C.M.S. is hereby amended a second time to authorize the City Administrator to negotiate and execute a second amendment to the ENA providing one eighteen (18) month extension, with the option on the part of the City Administrator to grant one additional six (6) month extension administratively without returning to Council; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator to execute the second amendment due to delays on the City's part in securing and providing a safe right of entry to the Property; and be it

FURTHER RESOLVED: That the amendment shall be reviewed and approved by the Office of the City Attorney for form and legality; and be it

FURTHER RESOLVED: That the City Administrator is authorized to enter into agreements and take other action with respect to the second amendment of the ENA consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND
PRESIDENT PRO TEMPORE GALLO

NOES –

ABSENT – COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section 303)

ABSTENTION –

ATTEST: _____

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