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OFFICE OF THE CITY CLERK
OAKLAND

2013 JUN 12 PM 3:14

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: ENA with UrbanCore-integral
for 12th St Remainder Parcel

DATE: May 30, 2013

City Administrator
Approval

Date

6/10/13

COUNCIL DISTRICT: 2

RECOMMENDATION

Staff recommends that the City Council approve:

A Resolution Authorizing an Exclusive Negotiating Agreement with UrbanCore-Integral, LLC for Development of the 12th Street Remainder Parcel located at 12th Street and 2nd Avenue.

OUTCOME

This authorization will allow the City Administrator to negotiate and enter into a one-year Exclusive Negotiating Agreement ("ENA") with UrbanCore-Integral, LLC ("UCI"). During the ENA period, UCI will refine a project proposal to be vetted in community design meetings and for City review and permitting approvals, and complete CEQA review. The schedule of ENA activities will be coordinated with the adoption of the Lake Merritt Station Area Specific Plan and its associated EIR, especially the environmental review tasks for the Project. The City will appraise the Property and negotiate with UCI the terms and conditions of a Disposition and Development Agreement ("DDA").

Entering into this ENA does not constitute a binding commitment on the part of the City to any project or developer for the 12th Street Remainder Parcel.

BACKGROUND/LEGISLATIVE HISTORY

The 12th Street Remainder Parcel ("Property") was previously public right-of-way for that portion of E. 12th Street situated between 1st and 2nd Avenue. The Property was created as a

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result of the reconfiguration of 12th Street between Oak Street and 2nd Avenue into what is now known as Lake Merritt Blvd. The reconfiguration was part of the City of Oakland's Lake Merritt Park Improvement / 12th Street Reconstruction Project which was funded by Measure DD. The size of the Remainder Parcel is approximately 0.925 acres or 40,300 square feet and is bounded by E. 12th Street on the east, by 2nd Avenue and property owned by the Oakland Unified School District on the south, by newly created open space to the west with frontage along the Estuary Channel which serves as the inlet and outlet to Lake Merritt, and by Lake Merritt Blvd to the north (see map included as **Attachment A**). The Property is also located approximately eight blocks from the Lake Merritt BART Station, within a quarter mile from Laney College, a quarter mile to the Oakland Museum, just over a half of a mile to local convenience shopping, and a mile from Oakland's Downtown City Center.

On June 16, 2011, the Redevelopment Agency acquired the Property from the City for \$2,500,000 plus \$5,958 in closing costs for the purpose of controlling development of the site. The Agency intended to sell the Property with a development agreement. In February of 2012, with the dissolution of Redevelopment, the Property was transferred to the Oakland Redevelopment Successor Agency by operation of law.

In December 2012, staff issued a Request for Proposals to those developers who had shown interest in the Property. Staff received two proposals and established a selection committee to review the proposals and interview the two respondents to the RFP. Staff recommends entering into a 12-month ENA with UCI based on the development team's collective experience and their proposal to purchase the Property and develop a residential mixed-use project.

As of May 2013, the State Controller's Office has preliminarily determined the Property is a part of the Redevelopment claw back order which means this property transaction must be reversed and the Property is to be returned to the City. Under the City's control, the Property is no longer a part of the Successor Agency's Long Range Property Management Plan and so staff no longer needs to wait for approval of that Plan (by the Oakland Redevelopment Successor Agency Board, Oakland Oversight Board, and State Department of Finance) before seeking Council authorization for an ENA with UCI for the development of the 12th Street Remainder Parcel.

UCI is a strategic partnership between Urban Core Development, a Bay Area-based real estate developer and Integral Development, an Atlanta-based developer who is the equity partner. The development team also includes Oakland-based architect Pyatok Architects, San Diego-based architect AVRP studios, and contractors Suffolk and Davis Reed JV. In response to the City's RFP, UCI proposed to purchase the Property for \$4,569,500 and develop an iconic 24-story high-rise (240 feet) tower with approximately 247 residential units, 201 parking spaces and 5,000+ square feet of ground floor retail and/or community space.

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ANALYSIS

UCI's proposed project is consistent with the Administrative Draft Lake Merritt Station Area Specific Plan, issued in July 2012 ("Specific Plan"). The Property is considered an ideal development site for high density housing over ground floor retail and has been identified as a Primary Gateway Opportunity Site in the Specific Plan. The Specific Plan will provide design guidelines and inform updates to both the General Plan and Zoning. The proposed rezoning will accommodate higher densities and transit oriented development.

The Redevelopment Agency's acquisition price was based on a Fair Market Value Appraisal considering the highest and best use of the property based on the existing zoning and estimated parcel size. The value will likely change pending completion of the final Parcel Map and the proposed zoning recommended pursuant to the Specific Plan and changing market conditions. The completion of the Parcel Map and the Specific Plan are in process during the proposed 1-year ENA period and once the Parcel Map is completed and the Specific Plan adopted, the City will commission a new MAI Fair Market Value appraisal. UCI's proposal offered as much as \$4,569,500 for land purchase pending appraisal, completion of the approved entitlements and close of the financing.

The Schedule of Performance expected of UCI during the ENA period is shown in *Attachment B*. In short, during the ENA period, UCI will:

- Complete a market feasibility study and marketing strategy
- Hold at least three community design meetings to discuss the potential development plans for the Project
- Complete design plans, including plan for public art and open space
- Complete Project environmental review process pursuant to the California Environmental Quality Act ("CEQA")
- Prepare the EIR (or other CEQA document as appropriate) for the Project, from issuing the Notice of Preparation ("NOP") and finally certifying the CEQA document
- Obtain all necessary planning approvals. The approval process will include public hearings with the Planning Commission, Design Review Committee, and the Parks and Recreation Advisory Committee
- Obtain financing from lenders and equity partners
- Negotiate the terms and conditions of a DDA with the City, based on City's appraisal of Property

Once UCI completes ENA activities and assuming parties can agree on terms of a DDA, staff will then return to the City Council with a recommendation to execute a DDA between the City and UCI.

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PUBLIC OUTREACH/INTEREST

UCI will coordinate its public outreach with the outreach efforts of the Specific Plan that will be simultaneously underway. Also, UCI will work through citizen-led groups such as Coalition of Advocates for Lake Merritt (CALM) to host at least three community design meetings during the ENA period. UCI will provide the workshops with 3-D modeling kits, along with a model of the site and its surroundings, and facilitate discussion of the options in order to move toward consensus solution that achieves broad public appeal.

Staff received public comments to the Draft EIR for the Emerald Views project (a 42-story, 370 unit residential high-rise) proposed on the privately-owned Schilling Gardens site located next to Snow Park. Some comments expressed the desire for the EIR to study as an alternative a land swap with the 12th Street Remainder Parcel, so that the historic garden site could be retained. At the time of the Draft EIR, such a land swap was deemed as not a feasible alternative to be analyzed because the parcel did not yet exist and the Measure DD construction was not scheduled to be completed for several years. Even as the Measure DD improvements continued toward completion, the developer of Emerald Views has not expressed interest in the Remainder site. Further, the idea of preserving the Schillings Gardens site through City acquisition – either through a land swap or some other means – still presents the challenge to the City to identify the funds required for necessary on-site improvements and maintenance. Staff estimates the costs of the land swap to be at least \$750,000 for on-site capital improvements, \$100,000 a year for maintenance, and the loss of about \$4.5 million that could be gained from the sale of the 12th Street Remainder Parcel.

COORDINATION

The Office of Neighborhood Investment coordinated this report with the City Attorney's Office, the Budget Office, the Department of Planning & Building, and UCI. Also, Measure DD project staff who are working on the landscaping plans for the newly created open space adjacent to the Property are aware of UCI's development proposal.

During the ENA period, it is vital that the environmental review tasks for the Property be well coordinated with the City's preparation of the EIR for the Lake Merritt Station Area Specific Plan. Planning staff have been assigned to this Project to ensure this coordination. Further, UCI will also need to coordinate its project proposal with the development plans of neighbors of the Property to the south (Oakland Unified School District) and to the west (City's new open space created by Measure DD improvements).

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COST SUMMARY/IMPLICATIONS

The proposed legislation does not commit the City to expenditure of any funds. UCI will bear sole responsibility for all costs associated with developing the project for approval, including consultant fees (e.g. for market study and designs and CEQA consultant), permitting fees, legal fees, financing expenses, etc.. The ENA shall require payment of a \$25,000 Project Expense Payment by UCI for purposes of reimbursing City for its staff costs and third party expenses such as appraisal costs.

The sale of the Property under an eventual DDA could generate as much as \$4.5 million for the General Fund.

POLICY ALIGNMENT

The Administrative Draft of the Lake Merritt Station Area Specific Plan has identified the Property as a development opportunity site and proposes rezoning the site for high density residential. UCI's proposed use of the property is consistent with the intent of the General Plan, Redevelopment Plan and Specific Plan, all of which have included extensive community engagement processes.

SUSTAINABLE OPPORTUNITIES

Economic: The sale to UCI would generate land sale proceeds of up to \$4.5 million and facilitate development of housing and a modest amount of neighborhood-serving retail. The development would put vacant underutilized land into productive use. The construction of the project could provide significant employment at the site. Staff assessment of project employment benefits includes approximately 252 construction jobs, five FTE retail/commercial jobs and nine FTE permanent jobs in the residential portion. The Project is anticipated to generate significant tax benefits to the City, including \$899,286 in annual property taxes, \$135,000 in annual sales tax, and \$83,712 in annual business license tax.

Environmental: The Project proposes to incorporate green building and energy efficient components both during construction and occupancy, such as a vegetative roof, a solar thermal system and a waste management system to facilitate recycling. As an infill project that develops in already built-up areas, this Project reduces the pressure to construct on agricultural and other undeveloped land, and thereby contributes to the prevention of urban sprawl. The location of the Project in proximity to major public transportation nodes will likely encourage project residents and retail customers to use BART and AC Transit.

Social Equity: Developer proposes a community participation process that engages a variety of stakeholders so that the Project can be informed by a wide-range of voices. During the proposed ENA period, UCI will host at least three community design meetings to discuss the potential development plans so that the best design possible can be created for the location. Elements of the development proposal – such as possible improvements & maintenance of adjacent park space and an art gallery in lobby– would benefit the community at large and not solely project residents. Also, the residents brought in by a high density project will contribute to Oakland's diversity and the demand that is needed to support the growing economy.

For questions regarding this report, please contact Hui-Chang Li, Urban Economic Analyst II, at 510-238-6239.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator

Reviewed by: 
Gregory Hunter
Office of Neighborhood Investment

Patrick Lane, Redevelopment Manager

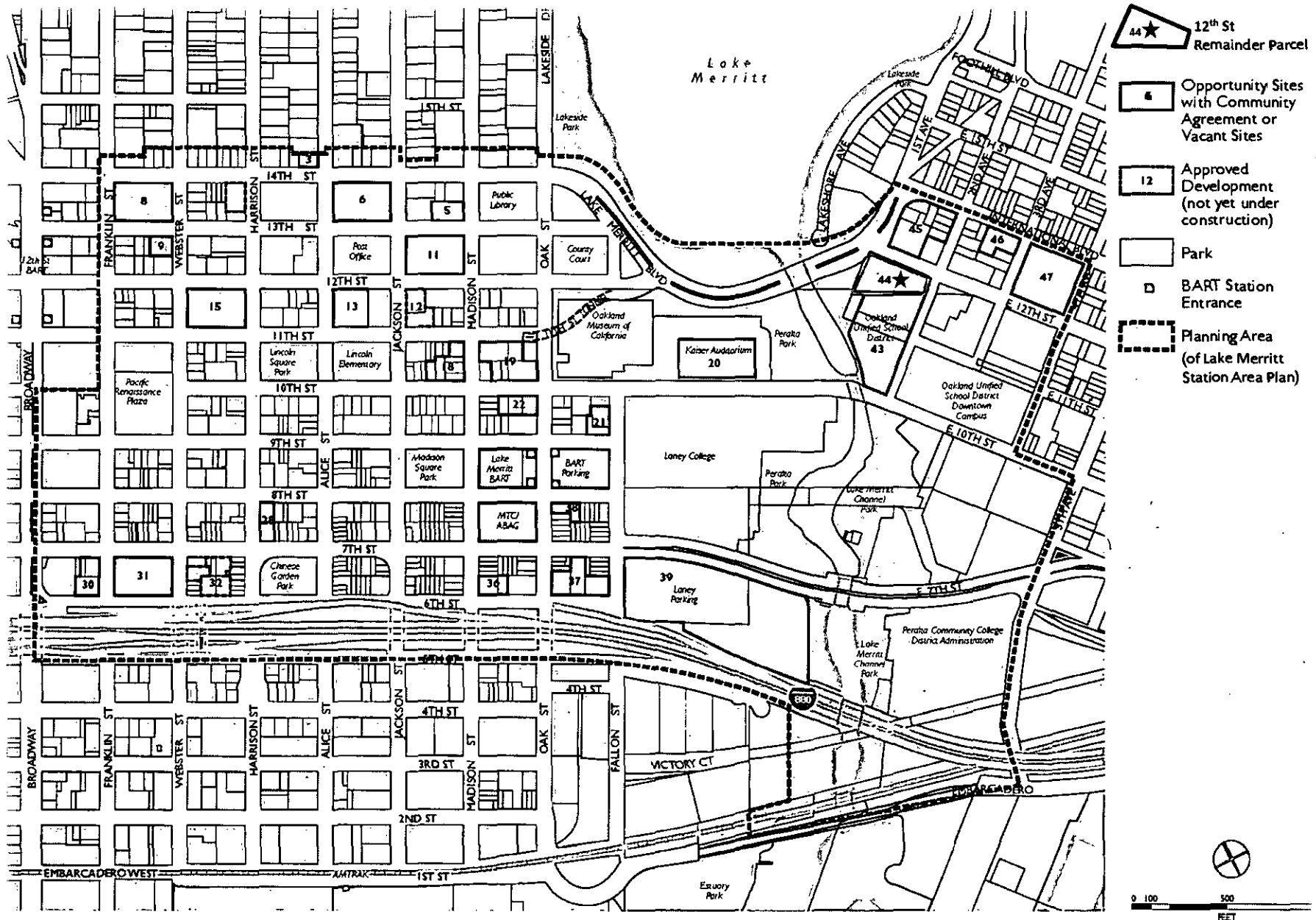
Prepared by:
Hui-Chang Li, Urban Economic Analyst II

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Attachment A: 12th Street Remainder Parcel Map, before Measure DD improvements



Attachment A: 12th Street Remainder Parcel, & Other Opportunity Sites of Lake Merritt Station Area Plan



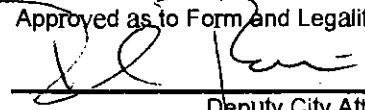
ATTACHMENT B: EXCLUSIVE NEGOTIATING AGREEMENT - SCHEDULE OF PERFORMANCE

Property: 12th Street Remainder Parcel
Developer: UrbanCore-Integral (UCI)
Approximate CED approval: June 25, 2013
Approximate City Council Approval: July 2, 2013
Negotiation Period: 12 months w 180 day extension option
Approximate Execution of ENA: July 2, 2013
Project Expense Payment: \$25,000

		Within Number of Calendar days of the Commencement of the Negotiation Period	Approx due date assuming July 2 execution
	ENA SCHEDULE OF PERFORMANCE		
CEQA & PERMITS	City provides all existing environmental, geological, engineering and other reports about Property's condition	30	01-Aug-13
DESIGN	Developer retains design team to prepare concept plans	30	01-Aug-13
MARKET STUDY	Complete market feasibility study	60	31-Aug-13
DESIGN	First public meeting on proposed development plan	60	31-Aug-13
PROJECT TEAM	Description of financial and legal structure of the Development Team, including partnership agreements, joint venture agreements, etc.	90	30-Sep-13
PROJECT TEAM	Balance sheets and income/loss statements for last 2 years(2011, 2012) for Development Team; including Developer's expanded team	90	30-Sep-13
PROJECT TEAM	Developer's LLC status	90	30-Sep-13
PROJECT TEAM	Development team's experience including: architect, structural engineers, general contractors, marketing & real estate firm	90	30-Sep-13
PROJECT TEAM	Development team's litigation status	90	30-Sep-13
CEQA & PERMITS	Developer retains environmental consultants to prepare documents for CEQA review of Project. Developer's CEQA consultant shall compare proposed development project with the development program assumed for the Lake Merritt Station Area Plan.	90	30-Sep-13
DESIGN	Second public meeting on proposed development plan	120	30-Oct-13
CEQA & PERMITS	Submit Project Description for environmental review purposes to City	120	30-Oct-13
FINANCING	Proformas: budget, sources & uses of funds, 10-yr cash flow, operating budget	150	29-Nov-13
FINANCING	Project development schedule	150	29-Nov-13
FINANCING	List of lenders and investors approached	150	29-Nov-13
CEQA & PERMITS	Submit applicable zoning and land use permit pre-applications and a schedule of approvals.	150	29-Nov-13
CEQA & PERMITS	Developer's CEQA consultant shall review the Lake Merritt Station Area Plan Environmental Impact Report (DEIR) to determine if it is adequate for CEQA clearance of the proposed development project, any additional work that may be required, and if there is anything unique about the project and/or its location. Developer shall meet with the City to discuss the proposed CEQA approach.	150	29-Nov-13
DESIGN	Third public meeting on proposed development plan	150	29-Nov-13
CEQA & PERMITS	Based on the specific CEQA approach for the project, Developer's CEQA consultant shall prepare a draft scope of work, based upon the City's "Guidelines for Environmental Consultant Contracts Concerning Private Development Projects" (dated 1/5/12), for City review and approval, that analyzes the specific environmental topics and type of CEQA document that is required to complete CEQA clearance – Initial Study, Addendum and/or Supplemental EIR.	180	29-Dec-13
DESIGN	Schematic Design Plans, plan for public art, and list of public improvements, including adjacent park	240	27-Feb-14
CEQA & PERMITS	Submit applicable zoning and land use permit applications and a schedule of approvals.	240	27-Feb-14
CEQA & PERMITS	If supplemental/subsequent EIR is required, Developer's CEQA consultant shall cause the issuance of a NOP subject to City review and approval	240	27-Feb-14
FINANCING	UPDATED & REFINED: Project development schedule	240	27-Feb-14
CEQA & PERMITS	If Addendum and/or other non-EIR CEQA document is required, submit an administrative draft of the CEQA document	270	29-Mar-14
MARKET STUDY	Complete marketing strategy	270	29-Mar-14
FINANCING	UPDATED & REFINED: Proformas: budget, sources & uses of funds, 10-yr cash flow, operating budget	270	29-Mar-14
FINANCING	LOI from lenders and equity partners to finance project	300	28-Apr-14
DDA	City submits final appraisal report	300	28-Apr-14
DDA	Complete DDA Negotiations	330	28-May-14
CEQA & PERMITS	Complete CEQA review. Developer: Complete environmental assessment, ID site mitigations. City: complete enviro review, file Notice of Determination.	330	25-May-14
CEQA & PERMITS	Obtain all necessary planning approvals. The approval process will include public hearings with the Planning Commission, Design Review Committee, and the Parks and Recreation Advisory Committee (PRAC).	360	27-Jun-14

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Approved as to Form and Legality:


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH URBANCORE-INTEGRAL, LLC FOR DEVELOPMENT OF THE 12TH STREET REMAINDER PARCEL LOCATED AT 12TH STREET AND 2ND AVENUE

WHEREAS, the City owns or will own approximately 0.925 acres of property 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"), commonly known as the 12th Street Remainder Parcel; 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 December 21, 2012, the City issued a Request for Proposals to develop the Property; and

WHEREAS, UrbanCore-integral, LLC ("UCI") submitted a proposal to purchase the Property and develop a 24- story high-rise with approximately 247 residential units, approximately 5,000 square feet of ground floor retail and/or community space, and approximately 201 parking spaces (the "Project") on the site; and

WHEREAS, the City and UCI wish to enter into a period of preliminary study and exclusive negotiations over the proposed Project, understanding that this does not constitute a binding commitment on the part of the City to any project or developer for the Property; now, therefore, be it

RESOLVED: That the City hereby authorizes the City Administrator to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") with UCI for the purposes of developing a project proposal for City review and approval, conducting California Environmental Quality Act ("CEQA") review and approval, and negotiating the terms and conditions of a Disposition and Development Agreement ("DDA"); and be it

FURTHER RESOLVED: That the initial exclusive negotiating period will be for 12 months from the date of this Resolution, with the option by the City to extend said period by an additional 180

days with the approval of the City Administrator in her sole discretion; and be it

FURTHER RESOLVED: That the City shall require payment of a \$25,000 Project Expense Payment by UCI for purposes of reimbursing City for its staff costs and third party expenses; 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 finds and determines, after independent review and consideration, that this action complies with CEQA because it is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it

FURTHER RESOLVED: That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; 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 Project, consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF, and
PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California