



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: September 3, 2019

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Second Amendment To The Exclusive Right To Negotiate Agreement With Orton Development Inc. (ERN) For The Purpose Of Negotiating A Lease Disposition And Development Agreement For The Redevelopment And Operation Of 4060 Hollis Street As An Art Center To: (1) Extend The ERN Term To December 16, 2019, (2) Authorize An Additional Sixty Day Extension If Needed, And (3) Authorize The Execution Of Additional Minor Amendments As Necessary To Effectuate The Purpose of The ERN**

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a Second Amendment to the Exclusive Right to Negotiate Agreement with Orton Development Inc. ("ODI") for the development and operation of an Art Center on the City-owned property at 4060 Hollis Street ("Art Center").

BACKGROUND

Subsequent to a Request for Qualifications and Proposals ("RFQ/P") for the design, construction and operation of the Art Center, on November 13, 2018, the City Council authorized the City Manager to execute an Exclusive Right to Negotiate agreement ("ERN") with ODI (Resolution No. 18-160). The resolution provided authorization for the City Manager to extend the term of the ERN for 60 days beyond the original term. The original term expired on July 15, 2019. On July 5, 2019 the City Manager executed the First Amendment to the ERN, extending the term through September 13, 2019.

Staff and ODI have been working consistently during the ERN term to develop business terms responsive to the Project Objectives and Key Elements identified in the RFQ/P for the Art Center.

DISCUSSION

Staff and ODI have negotiated draft business terms for an agreement. Additional time is necessary to complete the drafting of a Lease Disposition and Development Agreement (LDDA) and related documents. Staff has prepared a Second Amendment to the ERN (Exhibit A to the attached resolution) for the Council's consideration. The Second Amendment extends the term of the ERN to December 16, 2019, and the accompanying resolution authorizes the City Manager to execute an additional amendment extending

the term by 60 days, to February 14, 2020, if necessary, to complete negotiations and preparation of the LDDA documents.

All other terms and provisions previously included in the original ERN will continue to be in effect.

FISCAL IMPACT

Extension of the ERN term represents little direct fiscal impact. The City will continue to incur costs related to outside legal counsel and financial consulting services related to review and negotiation of the LDDA; these costs are funded by the current Capital Improvement Program budget for the Art Center project.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has had no communication with the public regarding the ERN amendment.

CONCLUSION

Staff recommends that the City Council adopt the attached resolution authorizing the City Manager to execute a Second Amendment to the ERN with ODI for the Art Center project.

PREPARED BY: Emi Thériault, Community and Economic Development Coordinator II

REVIEWED BY: Chadrick Smalley, Economic Development and Housing Manager

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS

- Resolution Authorizing City Manager to Execute a Second Amendment to the Exclusive Right to Negotiate with ODI for the Art Center Project
- Exhibit A, Second Amendment to Exclusive Right to Negotiate Agreement
- First Amendment to Exclusive Right to Negotiate Agreement
- Exclusive Right to Negotiate Agreement