

**RESOLUTION NO. 21-\_\_\_\_**

**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 EAH, Inc. ("ERN") For The Purpose Of Negotiating A Lease Disposition And Development Agreement For The Redevelopment And Operation Of 4300 San Pablo Avenue As Intergenerational Housing To: (1) Extend The ERN Term To January 22, 2022, (2) Authorize An Additional 180 Day Extension If Needed, And (3) Authorize the Execution of Additional Minor Amendments As Necessary To Effectuate The Purpose Of The ERN**

**WHEREAS**, the 2015-2023 Housing Element of the Emeryville General Plan (the "Housing Element") identifies the property at 4300 San Pablo Avenue (the "Site") as a possible site for affordable housing; and

**WHEREAS**, staff issued a request for qualifications/proposals on September 24, 2019 for the development of the Site as a 100% affordable senior or intergenerational housing project; and

**WHEREAS**, on July 21, 2020, the City Council adopted Resolution No. 20-85 selecting EAH, Inc. ("EAH") as the developer to develop the Site as an intergenerational housing project and authorizing the City Manager to execute an exclusive right to negotiate agreement ("ERN"); and

**WHEREAS**, the City and EAH entered into an ERN on October 29, 2020, which was originally set to expire on April 27, 2021, and

**WHEREAS**, during the original term of the ERN certain legal limitations relating to intergenerational housing were found to pose obstacles to development of the Site as envisioned, and Senate Bill 591 ("SB 591") was introduced in the California State Legislature and would resolve these obstacles; and

**WHEREAS**, the City and EAH entered into a First Amendment to the ERN to extend the term of the ERN from April 27, 2021, to October 22, 2022, to allow time for SB 591 to become law; and

**WHEREAS**, the parties anticipate that the Governor will sign SB 591, and the City and EAH desire to extend the term of the ERN to allow for negotiations to continue in light of the new law; now, therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute a second amendment to the ERN, extending the term of the ERN to January 20, 2022, in a form attached hereto as Exhibit A; and, be it, further

**RESOLVED**, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute an additional amendment to extend the term of the ERN as provided for in Section 2.2, provided the cumulative amendments do not exceed 180 days; and be it, further

Resolution No. 21-\_\_\_\_  
Amendment to ERN for 4300 San Pablo Avenue  
City Council Meeting | October 19, 2021  
Page 2 of 2

**RESOLVED**, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute minor amendments to the ERN as may be necessary to effectuate its purpose.

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 19, 2021, by the following vote:

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK

DocuSigned by:  
*Andra Visveshwara*  
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\_\_\_\_\_  
INTERIM CITY ATTORNEY