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City of
FRESNO

Lee Brand
Councilmember
District 6

RESOLUTION FOR "ASSET MANAGEMENT ACT"

March 6, 2014

To: Fresno City Council Members
From: Councilman Lee Brand

Recommendation

Recommend that the Fresno City Council adopt Resolution No. _____ , better known as the "Asset Management Act," for management of City real estate assets.

Agenda Item

The City of Fresno is the largest real property owner in the City, including over 1,000 parcels that include buildings, parking lots, service facilities and vacant land. According to the 2012 CAFR financial reports, the City's General Fund land and improvements totaled $841 million and the total real property value was approximately $1.3 billion.

The purpose of this Act is to create a comprehensive strategy for City real estate assets and develop an efficient management model of City real property assets on a long-term basis.

The Asset Management Act will establish the organization and parameters for citywide assets (except for most infrastructure assets and certain ministerial functions defined in the Act) managed by a selected real estate brokerage firm based on a competitive process. Bringing in a real estate brokerage firm for strategic planning and asset management provides and independent, objective analysis of our City assets.

Should Council adopt this Act, the City would initiate a RFQ within 60 days. The purpose of the RFQ is to select the most qualified real estate brokerage firm to provide professional services related to the real property assets owned by the City.

The selected real estate brokerage firm will provide real property asset management, brokerage services and real estate consultation services for the City. The firm would work directly with the City Manager's Office to propose real estate solutions and report on the results to the Council.

The overall goal of the Act is to provide comprehensive management of the City's real property assets and improve the City's finances.

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RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ESTABLISHING A POLICY ENTITLED "ASSET MANAGEMENT ACT" FOR MANAGEMENT OF CITY REAL ESTATE ASSETS

WHEREAS, the City of Fresno is the largest real property owner in the City, including hundreds of buildings, parking lots, service facilities, and vacant land; according to the 2012 CAFR financial reports, the City's General Fund land and improvements totaled $841 million; the total real property value was approximately $1.3 billion; with a vast and diverse inventory of real property, the City needs professional, focused attention to best utilize its assets; and

WHEREAS, real estate related costs comprise a large portion of the City's budget, including debt service, leasing costs, maintenance and utility costs, and depreciation; these costs affect General Fund and Enterprise operations; and

WHEREAS, The Asset Management Act ("Act") will establish the organization and parameters for City assets managed by a selected real estate brokerage firm, based on a competitive process; bringing in a real estate brokerage firm for strategic planning and asset management will provide an independent, objective analysis of City assets; and

WHEREAS, due to staff and budget reductions, the City does not have a dedicated real estate asset management department and consequently, the numerous buildings, service facilities and land parcels do not have the concentrated focus to maximize their potential; and

WHEREAS, it is not intended that the Act cover the more traditional government functions involving right-of-way and utility easement acquisition and maintenance or

Date Adopted:
Date Approved:
Effective Date:
City Attorney Approval: VBD

eminent domain transactions; and

WHEREAS, implementing the Act will provide a strategic view and plan for all City real estate assets; it will also adjust operational strategies to respond to market needs; these changes will include better alignment of staffing to facilities, reduced utilities consumption, adjusting for technological needs, and a more comprehensive real estate decision-making model; and

WHEREAS, the end result of transitioning to a comprehensive professional management of City assets will be improved efficiencies and cost savings, increased revenues from optimizing opportunities, and improved delivery of services; there will be both one-time and ongoing savings from carefully scrutinizing City real estate assets; taxpayers will benefit from optimized General Fund services and ratepayers will benefit from more efficient delivery of public utility services; and

WHEREAS, larger cities in the United States have a dedicated real estate asset management department or are using a professional real estate asset management consultant; other cities across the country that have hired professional real estate brokerage firms as consultants for their asset management include Fremont, Roseville, Sacramento, San Diego, Reno, Seattle, Phoenix, Miami, and New York.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

SECTION 1. The Council adopts the attached Exhibit "A" Asset Management Act as a formal Council policy for management of City real estate assets.

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SECTION 2. This resolution shall become effective upon its adoption.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014

Mayor Approval/No Return: _____, 2014

Mayor Veto: _____, 2014

Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY:_____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY:_____
Katherine B. Doerr Date
Supervising Deputy Attorney

KBD:elb [64042elb/kbd] Reso

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CITY OF FRESNO

ASSET MANGEMENT ACT

FEBRUARY 26, 2014

The following policies are enacted to provide comprehensive real property asset management for the City.

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PREFACE

The City of Fresno owns hundreds of real property parcels including buildings, parking lots, service facilities and vacant land. It is the largest real estate property owner in the City. According to the 6-30-2012 CAFR financial reports, the City's General Fund related land and buildings/improvements holdings were valued at $380 million. Enterprise related land and buildings/improvements totaled $841 million. The total real property asset value was approximately $1.3 billion. With a vast and diverse inventory of real property assets the City needs professional, focused attention to best utilize its assets.

Real estate related costs comprise a large portion of our budget including debt service costs, leasing costs, maintenance and utilities costs, and depreciation costs. These costs affect General Fund operations and Enterprise operations. We need to approach real estate decisions with a goal of maximizing allocated dollars.

The Asset Management Act will establish the organization and parameters for citywide assets (except for most infrastructure assets and certain ministerial functions defined in the Act) managed by a selected real estate brokerage firm based on a competitive process. Bringing in a real estate brokerage firm for strategic planning and asset management provides an independent, objective analysis of our City assets.

In the past 5 years, the City has lost nearly 1,000 positions from rank and file to department head positions. The City Manager is still serving at the Parks Director. The City does not have a dedicated real estate asset management department. Consequently, the numerous buildings, service facilities and land parcels do not have the concentrated focus to maximize their potential.

Implementing this Act will setup a strategic view and plan for all City real estate assets. It will also adjust operational strategies to respond to market needs. These changes will include better alignment of staffing to facilities, reduced utilities consumption, adjusting for technological needs, and a more comprehensive real estate decision-making model.

The end result of transitioning to a comprehensive professional management of City assets will be improved efficiencies and cost savings, increased revenues from optimizing opportunities, and improved delivery of services. There will be both one-time savings and ongoing savings from carefully scrutinizing City real estate assets. Taxpayers will benefit from optimized General Fund services and ratepayers will benefit from more efficient delivery of public utility services.

Larger cities in the United States have a dedicated real estate asset management department or are using a professional real estate asset management consultant. Other cities across the country have hired professional real estate brokerage firms in a consultative capacity for their asset management include Fremont, Roseville, Sacramento, San Diego, Reno, Seattle, Phoenix, Miami, and New York.

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ARTICLE I
DEFINITIONS

Active Private Property
City proposed property occupied by a user well matched user and unlikely to change.

Asset Management
Asset Management is defined as a process of decision-making and decision implementation regarding real property acquisition, use and disposition.

Broker Opinion of Value (BOV)
A Broker Opinion of Value is an educated estimate of commercial property's current market value based on an assessment of market and property conditions that affect value. A BOV is distinct from and should not be confused with an appraisal.

CAFR
A Comprehensive Annual Financial Report is an annual financial report of City finances conducted by an independent accounting firm

City
"City" means the City of Fresno, a municipal corporation.

City Ministerial Type Transactions
City ministerial type transactions would be completed by City staff and include operations of utility properties (water and waste water treatment plants),public utilities acquisition of right-a-ways and easements, vacating right-a-ways and easements, threatened or actual use of eminent domain actions, actions requiring a competitive process pursuant to City policies, engineering and survey work, legal review and related tasks.

Corporate Property
Property used to house City's real estate functions that do not directly provide service to the public (i.e. administrative offices).

Council
"Council" shall mean the City of Fresno Council composed of 7 members who are elected by district. The Council serves as the legislative body in the council-mayor form of government.

Enterprise Funds
A fund established to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the government body is that the cost of providing goods or services to the general public on a continuing basis be

financed or recovered primarily through user charges. Public Utilities, Fresno Area Express (FAX) and Airport are Enterprise departments in the City.

General Fund
Revenues of the City that are not otherwise restricted as to their use, including monies from local property and sales tax, and other revenue sources. The General Fund pays for City services such as police; fire; public works; elected offices; City Manager; City Clerk; City Attorney; parks and recreation, and community services.

GIS
Geographic Information Systems or GIS integrates hardware, software, and data for capturing, managing, analyzing, and displaying all forms of geographically referenced information.

Infill Property Development
Infill Development involves building and developing in vacant areas in city centers or urban settings. This improves the urban core of a city and leaves rural and open spaces undeveloped.

Interim Property
Interim properties are properties to be considered for another use or held in reserve for a future use.

Investment Property
Properties that are capable of generating income and best suited for commercial lease or to be held for future use disposition.

Joint Use Property
Joint use properties would be City owned properties that have a municipal use but could also be used for private "value added" purposes. An example would be a private restaurant on park land.

MAI Appraisal
MAI is an acronym for Member of the Appraisal Institute. It is a trade organization, which monitors appraisers and holds them to a higher standard than appraisers who are merely licensed. Technically, there is no such thing as an "MAI appraisal." There are only appraisals performed by an appraiser who has completed the MAI Appraisal Institute and holds the professional designation.

Opportunity Property
Opportunity property sites are underutilized or currently not in the highest and best use, with higher income potential and/or function.

Portfolio
All of the City's real estate assets including owned and leased property, operating and surplus property.

Public Facilities
Public facilities can be any facility, including, but not limited to property, recreation areas, fire stations, police stations, water and sewer treatment plants or City administrative buildings.

Public Service Property
Property used to provide service directly to the public. Examples include parks, police stations, and right of way utilities.

Remnant Parcel
A parcel of land that remains after a partial taking or easement and that is not a zoned buildable property.

Request for Qualifications
A Request for Qualifications (RFQ) is a solicitation initiated by the City to provide a competitive process for selecting development projects, Developers and professional consultants, and establishing the terms and conditions thereof.

Redevelopment Agency /Successor Agency
On December 29, 2011, the California Supreme Court upheld Assembly Bill 26 eliminating redevelopment agencies in California while overturning Assembly Bill 27 which would have allowed redevelopment agencies to continue operations if the agencies made certain payments to the state. All redevelopment agencies in California were dissolved as of February 1, 2012. AB 26 designates the city or county that authorized creation of the redevelopment agency as the Successor Agency. The successor agency is the City of Fresno. Among other obligations, imposed on the successor agencies, successor agencies must 1) continue to make payments due for and perform the obligations required pursuant to any "enforceable obligation," as such term is defined in AB26; 2) remit the unencumbered balance of the redevelopment agency funds to the County Auditor-Controller of the county in which the redevelopment agency operated for distribution to the taxing entities in accordance with AB26; and 3) dispose of the assets and properties held by the redevelopment agency as directed by the oversight board, which disposal "is to be done expeditiously and in a manner aimed a maximizing value."

AB26 creates a 7-member oversight board for each successor agency composed of local officials appointed by different local stakeholders. The oversight board must approve certain actions taken by successor agencies including the establishment of new payment terms for outstanding loans under certain circumstances and any continued acceptance of federal or state grants.

On June 27, 2012, AB 1484 was signed into law. AB1484 clarifies certain ambiguities of AB26 but also creates significant new obligations applicable to both the successor agencies and the oversight boards.

Surplus Property
This includes properties in excess of current City needs that are best suited for immediate disposition by sale.

Tax Exempt Bonds
Tax Exempt Bonds are a municipal security where the interest is excluded from gross income for federal income tax purposes. Such interest may or may or may not be exempt from state and local property taxation in the jurisdiction where issued or other jurisdictions. If interest on the bond is also exempt from state income tax it is described as "double exempt" and if such interest is also exempt from municipal or local government or other special taxes it is described as "triple exempt."

Under Utilized Parcels
Under utilized parcels are parcels owned by the City where the assessed value of the land exceeds the assessed value of the improvements on the land.

ARTICLE II
PURPOSE OF ACT

The purpose of this Act is to create a comprehensive strategy for City real estate assets and develop an efficient management model of City real property assets, on a long-term basis.

Objectives of Act:

1. Determine the best utilization of taxpayer funds for City owned real estate

2. To develop a plan that will drive economic development through a cost-efficient use of City real property assets

3. Develop a real estate decision-making model that is strategic and reinforces long-term success of City operations.

4. To reduce operating costs through efficient asset management

5. To generate revenues through efficient acquisition, disposition, joint use and management of City real property assets

6. To develop the most efficient use of City facilities to improve delivery of City services including joint use and public-private partnerships.

Accomplishing the above stated objectives will provide a more comprehensive management of its real property assets and improve the City's finances.

ARTICLE III
RFQ FOR PROFESSIONAL ASSET MANAGEMENT

The City shall initiate a Request for Qualifications (RFP/Q) within 60 days from the adoption of this resolution. The purpose of the RFQ is to select the most qualified real estate brokerage firm to provide professional services related to the real property assets owned by the City.

The selected real estate brokerage firm will be responsible for the City's real property asset management and brokerage services. The selected firm will work directly with the City Manager's office, General Services, Successor Agency, and other appropriate departments to propose and implement real estate solutions and report on the results.

ARTICLE IV
STRATEGIC REAL ESTATE PLAN FOR CITY

The initial task of the real estate brokerage firm will be to complete a comprehensive Strategic Real Estate Plan. The overall goal of the Strategic Real Estate Plan is for the City to become a responsible steward of all City held real property assets.

This Plan will blend City operational needs with community service goals to create a comprehensive strategy for managing City real property assets. In the long term, the Plan will become the roadmap for driving economic development, reducing operating costs, generating revenue, and achieving maximum efficiency of City facilities.

The Plan will include all of the activities described in Article V below. A report with recommendations will be presented to the Council.

Due to changing market conditions and City objectives it is recommended that the Plan be updated every 3 to 5 years.

ARTICLE V
SCOPE OF SERVICES

The scope of services, including the initial comprehensive evaluation of City assets and ongoing duties, for the real estate brokerage firm will include but not be limited to the following services:

1. Identify best practices related to real estate portfolio management that would be beneficial for the City in the management of its real property assets;

2. Evaluate all City owned buildings and land to determine maximum efficiency through consolidation of space, co-locating where possible, and appropriate disposition. Perform detailed cost analysis and cost containment plan for each major asset;

3. Evaluate all significant City buildings and vacant land parcels to identify revenue generating opportunities including under utilized properties, potential joint use properties, building leasing, ground leasing, and/or sale of the properties;

4. Categorize all properties including operational assessment of each major asset owned or leased by the City. Conduct site visits to each major property and prepare written reports that include pictures, site plans and site location map;

5. Complete a comprehensive evaluation of how the City currently operates its assets and investigate implementation of more cost effective models to use;

6. Use City real property assets to promote economic development initiatives;

7. Identify opportunities for Public-Private partnerships that may leverage City real property assets in the development of surplus properties;

8. Evaluate "highest and best" use of all City held real property assets;

9. Provide recommendations and forecasts for economic and real estate market conditions to maximize City opportunities;

10. Prepare transaction, property and sub-market comparisons and analysis related to strategic real estate planning;

11. Recommend any legislative policy changes (i.e. sign ordinance for City owned properties) that will benefit the City;

12. Development both short term and long term space utilization and re-organization growth plan to promote fiscal savings and improve operating efficiencies;

13. Assist City, as needed, in site review process including evaluation of potential site alternatives for given property assignments for both lease and purchase options. Provide an economic analysis of all alternatives and prepare a report on such analysis;

14. Assist City, as needed, in auditing payments by the City in rent and related expenses on leased properties and related analysis;

15. Real estate brokerage services including but not limited to the following:

a) **Leasing**: Review and evaluate current leases and compare to market conditions; assist City in negotiating competitive leases, terms for leases, and lease renewals; review opportunities and constraints of available lease space; provide expertise in commercial and retail leasing including market and saturation analysis, parking analysis and street appeal; and develop and execute overall leasing strategy consistent with City goals.

b) **Acquisitions:** Assist the City in identifying real estate purchase opportunities to meet space requirements and service requirements; assist the City in negotiating competitive purchase terms for property acquisitions; represent the City in purchase negotiations and closing process; assist City staff in the legal, appraisal, survey, and title work as needed; and review and evaluate potential public-private opportunities through acquisition of properties. City staff will handle City ministerial type transactions.

c) **Dispositions**: Assist the City in creating property disposition strategies for select City properties to ensure the maximum market and optimum financial return; prepare BOV's to estimate market value, assist the City in marketing the sale of select City properties; provide economic analysis of all purchase offers and a report of analysis; make recommendations to the City for the best offer; and assist City staff in the legal, appraisal, survey, and title work as needed including the preparation of property disposition documents. City staff will handle City ministerial type transactions.

d) **General Real Estate Consulting**: Manage all brokerage transactions except for City ministerial type transactions; prepare maps and graphic displays for citywide real estate inventories, segregated by General Fund and Enterprise departments and related reports; and assist in presentations to City Administration and Council for staff report on real estate related matters.

ARTICLE VI
INVENTORY AND CLASSIFICATION OF CITY REAL PROPERTY ASSETS

The City owns hundreds of parcels in its inventory of real property assets associated with a wide range of services provided by the municipal organization. These assets are included in the General Fund, Enterprise departments including the Airport, FAX, and Public Utilities. The selected real estate brokerage firm shall evaluate all City owned properties to determine "highest and best use" and an estimate of value.

The Brokerage firm will work with the City to develop and organize all property data through web enabled database, mapping and GIS tools. This will produce a comprehensive database of all City owned and buildings and leased properties on a GIS layer including title commitments and general information about the properties. This will also improve the City's ability inventory infill properties

City real property assets are classified by purpose and by funding. The specific bond issuance and the current balance on the bond will identify properties that are encumbered by bond or other financing. Cross collaterized properties will also be identified.

Fixed City assets will fall into three primary categories:

Buildings: Can be used for administrative use or service provision;

Infrastructure: Infrastructure assets will include water and sewer distribution systems, roads, bridges, and power transmission; and

Land Holdings: Assets that could be permanent or temporary use such as parking areas.

City assets should also be sorted by funding source:

General Fund: Includes all properties associated with General Fund activities as describe in Article I (Definitions).

Enterprise Funds: Includes all properties associated with Enterprise operations including Public Utilities, Fresno Area Express (FAX), and the Airport. The assets of each Enterprise department are separately accounted for and managed.

Redevelopment Agency/Successor: Includes all properties associated with the former Fresno Redevelopment Agency. Assembly Bill XI 26 defines the duties and disposition of assets governing laws (see in Article I Definitions for more details on AB XI 26). The role of the selected real estate brokerage firm will be limited to a consultative function, as needed, pursuant to AB XI 26 and AB1484 legal requirements.

City Controlled Non-Profits (COFCAP): Includes all properties associated with non-profit entities that are controlled by the City. The Met Museum is an example of a COFAP property.

Every year the City shall update its real property portfolio including current status and value.

ARTICLE VII
MAPPING CITY OWNED PROPERTIES

The City, with the assistance of the selected real estate brokerage firm, shall prepare a map of City owed properties of the entire city that displays all of the vacant land parcels and improved parcels with buildings and improvements. All parcels shall be color coded by funding source. The mapping system would include computer based inventory and database methods for recording and using pre-established methods to assess the value of properties. This policy will assist the City in identifying, filtering and assembling infill properties. The level of detail in the database should include the inventory classification of the following data fields:

APN number
Street address
Geographic coordinates
Applicable zoning status
Legal ownership
Site description
Lot dimensions
Topography of parcel
Soil conditions
Environmental hazards (if any)
Flood conditions
Site improvements
Road & utility access
Construction and use details
Financial valuation
Land value
Building value
Fixed equipment and improvement value
Yearly cost of administration and operating costs
Yearly rents, leases, or other fees received

ARTICLE VIII
APPRAISAL POLICY

An appraisal by an MAI designated appraiser will be required on all City property real estate transactions that 1) exceed $1 million and 2) are sufficiently complex to require additional work such as having to testify in court, as determined by the City Manager. Grant projects through the Federal Highway Administration and Caltrans for public works projects require MAI appraisals irrespective of the transaction amount.

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ARTICLE IX
LEASE POLICY – DOCUMENT MANAGEMENT

In coordination with the selected real estate brokerage firm, the City shall be required to maintain a master database of all leases involving the City as lessor or lessee. Within the master database, the leases shall be segregated by General Fund (department by department) and by Enterprise (department by department). The database will contain essential information including but not limited to lease expirations, annual rent increases, annual CPI adjustments, periodic escalation adjustments, periodic operating cost adjustments (NNN lease types), certification of liability and related insurance requirement for annual proof of insurance and naming City additionally insured, any option provisions (i.e. first right of refusal to purchase property), and any other salient lease data that should be tracked closely.

Provisions of this Act do not preclude certain Enterprise Departments such as Airport to maintain a separate electronic database of their leases as long as information is shared with and consistent with master database.

Key provisions of all leases (i.e. lease termination date) will have sufficient preemptive noticing to allow brokerage firm and/or City officials to adequately review market conditions and update department special requirements to find the most economic deal for the City.

All lease files should be converted to an electronic database supported by links to a GIS based navigation system.

ARTICLE X
IMPLEMENTATION - TIMELINE

It is estimated that the RFQ and selection process will take approximately 90-120 days to complete. The initial task of the selected real estate brokerage firm will be to assemble all City owned properties, leases, maps, and salient property information into a database. The second step is the completion of a Strategic Real Estate Plan. The Plan report will include a recommendation section. The Plan will take approximately 90-120 days to complete. Upon completion and review by the City Manager, the Plan will be presented to the Council in a regularly scheduled public meeting.

The recommendation section of the Plan will include actions that can result in substantial operational savings to the City as well as enhanced revenue opportunities. These results could show up in the FY2014-15 budget depending upon the timeline for implementation of Plan recommendations.

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ARTICLE XI
LAND ENTITLEMENT STATEGIES (pre-emptive rezone)

The City shall implement preemptive rezoning by the City to achieve "by right" development for City owned parcels using upgraded development code standards, application processing protocols, and CEQA streamlining. Identified City properties would have by right uses that are compatible with the surrounding neighborhood.

ARTICLE XII
COMPENSATION FOR FEE SERVICES

This will be a no cost contract with the selected real estate brokerage firm for brokerage services. All compensation for brokerage services performed shall be performance based and derived from sales and leasing brokerage transactions. Compensation for the development of the Strategic Real Estate Plan and BOV's shall be refundable in part or in whole through subsequent commission based transactions. **The City shall approve compensation for any other services performed** including appraisals, third party database development and management and professional services not outlined in Article V. There shall be no monthly fixed or variable management fee for managing the City's real estate portfolio.

ARTICLE XIII
CITY ATTORNEY LEGAL REVIEW

The City Attorney shall review the implementation and management of the selected real estate brokerage firm to ensure compliance with all applicable federal, state and local and laws including compliance with the City Charter provisions. Tax-exempt bonds have financed several City properties. Bond covenants do contain certain restrictions on the use and management of the secured real property assets. These properties must be carefully reviewed for full compliance with bond covenants.

ARTICLE XIV
TERM OF CONTRACT

It is recommended that the initial term of the contract be for a 3-year period, with the option to extend annually at the discretion of the City. The City may terminate the proposed contract without cause on a 30 day written notice and with cause immediately.

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ARTICLE XV
TRANSPARENCY

All documents related to the RFQ excluding personal financial information about Proposer shall, consistent with applicable law, be available for public viewing at the Agency's website and also in the City Clerk's office.

ARTICLE XVI
EFFECTIVE DATE

This resolution shall take effect upon the adoption of this resolution.

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