

**RESOLUTION NO. \_\_\_**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA FINDING AND DETERMINING THAT THE APPROVAL OF THE MASTER DEVELOPMENT AGREEMENT ("MDA") FOR DEVELOPMENT OF THE COUNTY CIVIC CENTER PROPERTY, WHICH HAS BEEN REVIEWED AND APPROVED BY COUNTY COUNSEL AS TO FORM AND LEGALITY, IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") AND THE DEVELOPMENT OF THE COUNTY CIVIC CENTER PROPERTY UNDER THE TERMS OF THE MDA MEETS THE REQUIREMENTS OF SECTION 25515 ET SEQ OF THE CALIFORNIA GOVERNMENT CODE; AND, DELEGATING AUTHORITY TO THE COUNTY EXECUTIVE, OR DESIGNEE, TO IMPLEMENT AND CARRY OUT THE TERMS OF THE MDA, INCLUDING NEGOTIATING, ENTERING INTO AND SIGNING ALL DOCUMENTS NECESSARY OR REQUIRED TO CARRY OUT THE TERMS OF THE MDA, UPON APPROVAL AS TO FORM AND LEGALITY BY COUNTY COUNSEL.**

**RECITALS**

**WHEREAS**, pursuant to Section 25515 of Article 7.5 of Chapter 5, Part 2, Division 2, Title 3 of the California Government Code, the State Legislature has found that the use of county public properties under this Article 7.5 for residential, commercial, industrial and cultural development constitutes a valid public purpose; and,

**WHEREAS**, the County of Santa Clara (the "County") owns approximately 55 acres (or portions thereof) of certain real property, more or less located at or around the Santa Clara County Civic Center in San Jose, California, with Santa Clara Valley Transit Authority's Guadalupe Maintenance Division to the north, State Route – 87 to the west, North First Street to the east, and Mission Street to the south (the "Property" or "Civic Center Property"); and,

**WHEREAS**, the Board of Supervisors of the County of Santa Clara (the "Board") adopted Ordinance No. NS-300.854 on December 4, 2012, adding Section A21-4 to Chapter I of Division A21 of the Santa Clara County Ordinance Code; and,

**WHEREAS**, Section A21-4 authorized the possible leasing, sale, development or other disposition of the Property through the surplusing of County-owned property, where applicable, and the issuance of requests for proposals or competitive bidding in a manner prescribed by the Board for purposes of public, residential, commercial, industrial and/or cultural use or development, pursuant to California Government Code §25515.2; and,

**WHEREAS**, on April 29, 2013, the County issued a Request for Qualifications/Request for Proposals (the "RFQ/RFP") seeking interested parties to collaborate with the County on the possible development of the Property; and,

**WHEREAS**, the County received a joint proposal from Lowe Enterprises Real Estate Group, a California corporation, with its principal offices located at 11777 San Vicente Boulevard, Suite 900, Los Angeles, California 90049, in association with M. Arthur Gensler Jr. & Associates, Inc. , a California corporation, with its principal offices located at 2 Harrison Street, Suite 400, San Francisco, California 94105 (collectively, "Lowe/Gensler" or "Developer"), who met the minimum qualifications under the RFQ/RFP; and,

**WHEREAS**, on September 24, 2013, the Board made a determination that County should move forward with negotiations with Developer regarding a potential development of the Property; and,

**WHEREAS**, the Office of County Executive and the law firm of Sheppard, Mullin, Richter & Hampton LLP drafted and negotiated the terms of a Master Development Agreement ("MDA") with Developer, attached hereto and incorporated herein by this reference as Exhibit "A"; and,

**WHEREAS**, pursuant to these negotiations, the MDA is within the scope of the RFQ/RFP as authorized by Ordinance No. NS-300.854; and,

**WHEREAS**, the competitive process used by the County for the selection and award of this MDA was completed in a manner that was and is acceptable to the Board; and,

**WHEREAS**, the Property is intended to and will be used for residential, commercial, industrial or cultural development or a combination of any of these uses with other public purposes or public buildings; and,

**WHEREAS**, the Office of County Executive and the Facilities and Fleet Department of the County have evaluated and, based on that evaluation, herein inform the Board that the construction and development of the Property pursuant to the terms of the MDA will not interfere with the use or development of the remaining portions of the Property or any other adjacent public properties of the County; and,

**WHEREAS**, the Office of County Executive and the Facilities and Fleet Department of the County have evaluated and, based on that evaluation, herein inform the Board that the development and construction of the Property pursuant to the terms of the MDA offers economic benefits to the County, including anticipated future revenue generating opportunities; offers the greatest economic return to the County; and, meets the residential, commercial, industrial, or cultural development needs of the County; and,

**WHEREAS**, based on the administrative record as a whole, the Board's approval of the MDA is not subject to the California Environmental Quality Act ("CEQA") (California Public Resources Code §§21000 et seq.) and the State CEQA Guidelines (California Code of Regulations §§15000-15387) because Board action in approving the MDA is not a "project" as defined in CEQA Guidelines Section 15378 and therefore will not result in a physical change in the environment pursuant to CEQA Guidelines Section 15060(c)(2); and,

**WHEREAS**, the terms of the MDA expressly state that County and Developer, acknowledge that (1) compliance with CEQA is a condition precedent to any action by County to cause development or construction on the Property under the MDA; and (2) Developer shall not have any right to develop or construct anything at the Property until County has concluded that it has fully complied with CEQA with respect to such development and construction; and,

**WHEREAS**, the Property will only be developed pursuant to the terms of the MDA after first having complied with the applicable provisions of Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, of the California Government Code; and,

**WHEREAS**, pursuant to Section 25515.2 of the California Government Code, the MDA must be authorized by an ordinance adopted by the Board following a public hearing, notice of the time and place of which must be published in one or more newspapers of general circulation within the County and must be mailed to any person requesting special notice, any present tenant of the Property, and to all owners of land adjoining the Property; and,

**WHEREAS**, pursuant to Section 25515.2(a) of the California Government Code, notice of the time and place of a public hearing concerning the adoption of Ordinance No. NS-300.894 authorizing and approving the MDA between the County and Developer concerning the development of a portion of the Property was published in a newspaper of general circulation in Santa Clara County on April 11, 2016 and on April 18, 2016; and,

**WHEREAS**, pursuant to Section 25515.2(a) of the California Government Code, notice of the time and place of the public hearing concerning the adoption of Ordinance No. NS-300.894 authorizing and approving the MDA was also mailed to all person(s) requesting special notice, to all present tenant(s) of the Property, and to all owners of land adjoining the Property; and,

**WHEREAS**, pursuant to Section 25515.2(b) of the California Government Code, the Board held the noticed public hearing regarding Ordinance No. NS-300.894 on April 26, 2016, in the Board of Supervisors Chambers, at 70 West Hedding Street, First Floor, San Jose, California, starting no earlier than 9:30am. .

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Santa Clara hereby finds and determines:

1. The foregoing recitals are true and correct.
2. The competitive process used by the County for the selection and award of the Master Development Agreement attached herein as Exhibit A was completed in a manner that is acceptable to the Board.
3. The Property is intended to be used for residential, commercial, industrial or cultural development or a combination of any of these uses with other public purposes or public

buildings in accordance with the provisions of Section 25515 et seq. of the California Government Code.

4. The development, construction and use of the Property in accordance with the terms of the Master Development Agreement will not interfere with the use or development of the remaining portions of the Property or any other adjacent public properties of the County.
5. The development, construction and use of the Property in accordance with the terms of the Master Development Agreement:
  - (a) Results in economic benefits to the County, including anticipated future revenue generating opportunities;
  - (b) Offers the greatest economic return to the County; and,
  - (c) Meets the residential, commercial, industrial, or cultural development needs of the County.
6. The Property will only be developed pursuant to the terms of the Master Development Agreement after first having complied with the applicable provisions, if any, of Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, of the California Government Code.
7. The Board's approval of the Master Development Agreement is not subject to the California Environmental Quality Act ("CEQA") (California Public Resources Code §§21000 et seq.) and the State CEQA Guidelines (California Code of Regulations §§15000-15387) because Board action in approving the Master Development Agreement is not a "project" as defined in CEQA Guidelines Section 15378 and therefore will not result in a physical change in the environment pursuant to CEQA Guidelines Section 15060(c)(2).
8. The Property will only be developed and construction initiated pursuant to the terms of the Master Development Agreement after first having complied with the California Environmental Quality Act ("CEQA") (California Public Resources Code §§21000 et seq.) and the State CEQA Guidelines (California Code of Regulations §§15000-15387), as applicable.
9. Upon approval of the Ordinance No. NS-300.894 by a four-fifths vote of the Board, the President of the Board of Supervisors is authorized to execute the Master Development Agreement attached herein as Exhibit A;

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10. The County Executive, or designee, is hereby delegated the authority to take all actions necessary to implement and carry out the terms of the Master Development Agreement including, but not limited to, negotiating, entering into and executing change orders, supplements or amendments to the Master Development Agreement or other agreements or documents, subject to approval as to form and legality by County Counsel. This delegation of authority expires on December 30, 2026.

**PASSED AND ADOPTED** by the Santa Clara County Board of Supervisors on \_\_\_\_\_ by the following vote:

AYES: Supervisors  
NOES: Supervisors  
ABSENT: Supervisors  
ABSTAIN: Supervisors

\_\_\_\_\_  
Dave Cortese, President,  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
Megan Doyle, Clerk of the Board of Supervisors

Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Shirley R. Edwards, Deputy County Counsel

ATTACHMENT TO THIS RESOLUTION:

Exhibit A – Master Development Agreement