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OAKLAND  
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# AGENDA REPORT

**TO:** John A. Flores  
INTERIM CITY ADMINISTRATOR

**FROM:** Claudia Cappio

**SUBJECT:** Developer Selection And ENA For  
The Henry J. Kaiser Convention Center

**DATE:** May 4, 2015

**COUNCIL DISTRICT:** 2

## RECOMMENDATION

Based on the analysis contained in this report, staff recommends that the City Council approve:

**A Resolution Authorizing an Exclusive Negotiating Agreement with Orton Development, Inc. for the Rehabilitation, Adaptive Reuse, and Operation of the Henry J. Kaiser Convention Center, also known as the Oakland Municipal Auditorium.**

## OUTCOME

With this action, the City Council will be selecting one of two developers that responded to a Request for Proposals ("RFP") for the rehabilitation and adaptive reuse of the Henry J. Kaiser Convention Center.

The authorization will allow the City Administrator to negotiate and enter into a one year Exclusive Negotiating Agreement ("ENA") with the Orton Development, Inc. for the rehabilitation, adaptive reuse, and operation of the Henry J. Kaiser Convention Center, under a long-term ground lease for the site. During the ENA period, the developer will refine a project proposal, undertake a robust public outreach process to solicit input on the project, complete the project entitlement process, and negotiate terms with the City for a Lease Disposition and Development Agreement ("LDDA") and form lease for the property. The decision to select a developer for exclusive negotiations for this project is at the sole and absolute discretion of the City Council.

Entering into this ENA does not constitute a binding commitment on the part of the City to any project or developer for the Henry J. Kaiser Convention Center.

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## **EXECUTIVE SUMMARY**

On September 22, 2014, the City issued a RFP to rehabilitate, adaptively reuse, and operate the Henry J. Kaiser Convention Center under a long-term ground lease from the City. The RFP offered a rare and exciting opportunity to return a monumental civic building to life and further the revitalization of Oakland's Lake Merritt area.

Responses to the RFP were due on November 12, 2014. Two development teams submitted proposals that were deemed complete and responsive and moved forward in the evaluation process:

- (1) Orton Development, Inc., based in Emeryville
- (2) Creative Development Partners, based in Oakland, in a joint venture with Harbinger Development based in Boston, MA and Equinox-SynergyEB5, based in San Francisco

Both proposals were reviewed by an evaluation panel comprised of City staff, local stakeholders, and an outside expert in real estate. The proposals were reviewed based on criteria contained in the RFP related to developer experience, financial capacity, the rehabilitation concept, project feasibility, and the amount of public benefits derived from the project.

As described in the Analysis section later in this report, the evaluation panel unanimously identified Orton as the preferred developer for the project. The largest differences in the scoring between the two proposals in favor of Orton relate to the assessed financial and regulatory feasibility of the proposed project, the financial capacity of the developer, and experience and qualifications of the development team.

Staff recommends that the City Council authorize the City Administrator to execute an ENA with Orton Development Inc., incorporating the key terms further described in this report, in order to negotiate an LDDA for the rehabilitation, adaptive reuse, and operation of the Henry J. Kaiser Convention Center.

## **BACKGROUND**

### ***Building Overview and Historic Status***

The Henry J. Kaiser Convention Center opened in 1914 as a multi-purpose arena and theater. The building is located between Lake Merritt Boulevard and 10th Street, just west of the Lake Merritt Channel and immediately east of the Oakland Museum of California. The building address is 10 10th Street. A map and aerial showing the building and its context are attached as **Attachment A and Attachment B**.

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The building contains approximately 215,000 square feet of floor area including a full basement. It includes an approximately 45,000 square-foot arena that historically could seat up to 6,000 people. The arena abuts the Calvin Simmons Theater, a formal performing arts theater with approximately 1,900 seats. The building also includes ancillary office space, lobby areas, and three ballrooms. The existing electrical and mechanical building systems are outdated and need to be replaced or refurbished.

The Oakland Municipal Auditorium was renamed in honor of Henry J. Kaiser in 1982. The theater was named for Oakland Symphony conductor Calvin Simmons who died that same year.

The building is a strong example of Beaux-Arts architecture, with classical simple massing punctuated by sculptural decoration. The building is an Oakland-designated historic landmark and has been rated "A" (Highest Importance) by the Oakland Cultural Survey. Modifications to the exterior and significant interiors of the building must be in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

### ***Recent History***

In 2005, the City Council voted to close the building when the City's operating costs became too expensive. The Henry J. Kaiser was running at an operating loss that ranged from approximately \$400,000 to more than \$600,000 per year between 2000 and 2005. The building has been largely unused since 2005, and is in deteriorating shape due to vandalism and passage of time. After several break-ins last year, the City fenced the building and added regular security patrols to protect against additional theft of building materials and damage to the building. The cost to the City for the security patrols is currently \$15,000 per month.

Since 2005, the City has made several attempts to reuse or sell the building. A bond measure was placed on the Oakland ballot in 2006 to fund the adaptive reuse of the Henry J. Kaiser Convention Center for the City's new Main Library. The bond measure was defeated. In 2010, Peralta Community College District considered purchasing the Property, but in 2011 declined to move forward. In 2012, the City released a Request for Qualifications to hire a marketing consultant to market the building to potential developers or tenants, but did not move forward with a contract.

Rough estimates of the cost to repair just the basic building systems are more than \$10 million. This figure does not include necessary upgrades to the Calvin Simmons Theater. The costs are likely much higher to do a complete adaptive reuse of the building. These costs are beyond the financial capacity of the City.

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### ***The Request for Proposals***

On September 22, 2014, the City issued a Request for Proposals (“RFP”) from real estate development teams to rehabilitate, adaptively reuse and operate the Henry J. Kaiser Convention Center under a long-term ground lease with the City.

The RFP process was open to all interested and qualified developers. As described in more detail in the Outreach section later in this report, the RFP notice was emailed to more than 500 developers, brokers, and architects throughout the country and was made available for download on the City’s website. The City issued a press release announcing the RFP’s availability to garner media coverage and increase awareness of the opportunity. A pre-bid meeting and building tour was held on October 10, 2014. More than 100 developers, architects, and members of the public attended.

The RFP requested creative adaptive reuse proposals for the building and outlined a number of key goals and requirements for the project. Most broadly, the RFP calls for the developer to raise the funds necessary to bring the building back to life and to be responsible for the tenanting and ongoing operations of the building.

### ***Project Objectives and the Lake Merritt Station Area Plan***

The release of the RFP helps implement the vision for the building articulated in the Lake Merritt Station Area Plan (“Station Area Plan”), approved by the City Council late last year. The Station Area Plan was the result of more than six years of community outreach and input.

The Station Area Plan called for the reuse of the building, and set forth a number of objectives for the building and the site:

- Preserve and reactivate the building;
- Activate the southern end of Lake Merritt;
- Help complete an entertainment, education, and cultural hub in the area; and
- Establish the building as an additional destination in the Station Area Plan area.

The unique setting and location of the building called for several other important objectives for the project:

- Create opportunities to better connect the building – physically and visually - to the surrounding neighborhood, including to Laney College, the Oakland Museum of California, and Lake Merritt.
- Ensure the building and its grounds retain a sense of being publicly accessible, while allowing a mix of public and private uses.

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Finally, there is an increasing urgency to bringing the Henry J. Kaiser building back to active use. The longer the building sits vacant, the more risk there is for damage and deterioration.

### *Encouraged Land Uses and Activities*

The Lake Merritt Station Area Plan revised the zoning of the Henry J. Kaiser Convention Center to allow a broader range of uses in the building. The RFP anticipated that some combination of public and private uses will be necessary to address the City's goal of maintaining regular public access to the building while also ensuring a financially feasible project for the developer.

The RFP outlined the following possible uses for the building, which were not intended as an exhaustive list:

- Cultural uses such as performance space for music, theater, dance; film screenings; museum; and exhibition spaces or other arts-related uses that invite the public into the building and create synergies with the nearby Oakland Museum of California and Laney College;
- Entertainment uses such as sports facilities or live music concerts;
- Conference and event space;
- Light industrial uses such as a brewery, maker spaces, artist studios, or other production uses that offers public access on a regular basis;
- Restaurants or retail uses that activate the building and grounds; and/or
- Office, research and development, technology, design and other private commercial uses.

### *Key Requirements*

The City put forth a number of assumptions and requirements for the project in the RFP, including:

- Long Term Lease. The RFP requires a long-term ground lease – not a sale. The RFP assumes market rent terms that are appropriate for, and reflect, the proposed uses, developer's capital investment, and market conditions.
- Calvin Simmons Theater. The Calvin Simmons Theater must be restored and operated as a performing arts venue, with subsidized rent for local non-profit performing arts groups.
- Public Accessibility. Whatever the mix of public and private uses in the building, the building and site must maintain a sense of public accessibility and have uses that invite the public in at some times.
- Landscape Architect. Development teams must include a landscape architect to improve how the site connects to Lake Merritt, the Channel, and other uses in the area including the Museum, Laney College, and the Oakland Unified School District properties to the south.

- Community-based Financing Tools. Teams must make a good faith effort to employ community-based financing tools to allow local residents to invest in the project and therefore participate in any profits generated. To the degree possible, developers should consider using community-based financing tools such as community development initial public offerings (“IPOs”), real estate crowdfunding platforms or other innovative community financing tools and platforms.
- Interim Uses. The developer must be responsible for periodically activating the grounds or the building with interim uses such as food trucks, art and maker fairs, demonstration projects, performances, sporting events, roller skating, or other creative uses that invite the public to experience the site before the project is complete.
- On-Site Presence. The selected development team shall commit to locating its planning and construction team on site as soon as possible to create a physical presence at the building and improve the security of the building.
- Private Investment. Developers are required to bring together the financial resources needed to execute the project. The developer will be expected, among other things, to remedy structural deficiencies, replace or repair mechanical, electrical, and plumbing systems and construct any other improvement needed to meet Building Code requirements and appropriate green building standards to accommodate the proposed use program.
- Other Community Benefits. While the RFP assumed a mix of private and public uses in the building, it encouraged other community benefits such as local and small business participation, commitment to prevailing and living wage, commitment to labor peace, creation of new job, mentoring and training opportunities, and the creation of high quality new public open spaces and facilities.

## ANALYSIS

### *Proposals Received*

Responses to the RFP were due on November 12, 2014 to the City’s Office of Contracts and Compliance. The City received three proposals. Staff reviewed the proposals for completeness and to ensure they met the minimum qualifications outlined in the RFP. One response was deemed incomplete and nonresponsive. Two proposals were deemed complete and responsive and moved forward in the evaluation process:

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**1. Orton Development, Inc. (“Orton”), Emeryville**

Architect: Heller Manus, San Francisco

Landscape Architect: Walter Hood, Oakland

Historic Architect: Muller Caulfied, Oakland

Other Team Members: Tom Lockard, Fundrise; Angela Tsay, Oaklandish; Meyer Sound, Berkeley

Proposed Uses: “Maker” space, “flex” light manufacturing space, office space, restaurant and other food and retail uses, and restoration of the Calvin Simmons Theater.

Lease Payment: Annual or one-time lease payments to start after project is stabilized, exact amount to be negotiated.

**2. Creative Development Partners, Oakland in a Joint Venture with Harbinger Development, Boston, MA and Equinox-SynergyEB5, San Francisco (“CDP”)**

Architect: Lowney Architecture, Oakland

Landscape Architect: PGAdesign, Oakland

Historic Architect: WJE Associates, Emeryville

Other team members: Jenny Kassan, Cutting Edge Capital; Meyer Sound, Berkeley; and other consultants related to sustainability, venue management, project management, etc.

Proposed Uses: Sporting events, meeting space, media production space, and restoration of the Calvin Simmons Theater. Proposal also calls for the construction of a new 15-story hotel in between the Henry J. Kaiser and the Oakland Museum of California. The hotel would house workforce training programs in the hospitality and other industries, in partnership with Peralta Community College District, Oakland Unified School District and others.

Lease Payment: Nominal \$1/year

A summary of the Orton and CDP proposals is included in **Attachment C**. The complete proposals, as well as the RFP, can be viewed online at [www.oaklandnet.com/realestate.com](http://www.oaklandnet.com/realestate.com).

### ***Proposal Evaluation Process***

Both complete and responsive proposals were reviewed by an evaluation panel comprised of City staff, local stakeholders, and an outside expert in real estate.

The local stakeholders on the panel included Naomi Schiff of the Oakland Heritage Alliance and Roy Chen, a program director at the Oakland Asian Cultural Center in Chinatown. The outside real estate expert was Andrico Penick, a City Attorney from the City of Alameda, previously with the City of San Francisco where he negotiated that city's lease for the Bill Graham Civic Auditorium. City staff included Kelley Kahn, the Henry J. Kaiser Project Manager, Ed Manasse, Strategic Planning Manager and manager of the Lake Merritt Station Area Plan, and Patrick Lane, Redevelopment Manager.

The proposals were reviewed and scored based on criteria contained in the RFP related to developer experience, financial capacity, the rehabilitation concept, project feasibility, and the amount of public benefits derived from the project. The financial capacity criterion was evaluated based on a set of confidential financial capacity materials submitted by each development team, including financial statements and evidence of lender relationships. Due to the confidential nature of these materials, they were reviewed and assessed only by the City of Oakland Controller, Osborn Solitei.

A detailed description of the evaluation criteria contained in the RFP are included as **Attachment D**.

### ***Evaluation Results and Distinctions Between Proposals***

#### ***Orton***

The evaluation panel was unanimous in its finding that Orton is the preferred developer for the project. Orton demonstrated the development experience, track record, and financial wherewithal to deliver the project in a timely fashion. Orton has worked on a number of complicated and comparable projects, most notably the Ford Point in Richmond, a historic industrial plant that has been adaptively reused into a mixed-use project containing a restaurant, private office space, a public museum, improved open space and a performance venue, the Craneway Pavilion. Orton managed all aspects of the project including entitlements, construction, and tenanting. Orton continues to operate the project, including managing and booking the Craneway performance venue. Orton also completed the historic rehabilitation of 1440 Broadway in downtown Oakland, a historic office building that is now home to Oaklandish and Bittersweet Café.

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Orton's architecture team has experience with large historic renovations of public buildings, including San Francisco City Hall and San Francisco's Masonic Auditorium. The team's landscape architect Walter Hood, completed the landscape design for the De Young Museum in San Francisco, an important civic space.

Orton also demonstrated strong financial capacity and access to the capital necessary to deliver the Henry J. Kaiser project in a timely manner. Orton is proposing a combination of developer equity, historic tax credits, and project debt to fund the project. Orton's estimated project cost is \$51.7 million. Orton is proposing an annual lease payment or one time up-front lease payment once the project is stabilized, to be negotiated as part of the LDDA.

Finally, Orton's proposed project is consistent with the policies and objectives of the Lake Merritt Station Area Plan and therefore may be able to take advantage of the streamlined environmental review process afforded by the Plan and its certified Environmental Impact Report. The project's consistency with the adopted Station Area Plan reduces entitlement risk beyond what would typically be expected with the adaptive reuse of local historic landmark.

#### CDP

The evaluation panel found CDP's proposal for integrating hospitality job training for young people into a hotel project compelling, and appreciated the large number of jobs and job training opportunities it would create. It also appreciated the number of support letters that accompanied the submittal. However, the panel found that the CDP proposal brings with it financial and entitlement risk and that the team's qualifications were not as strong as Orton's for this particular project.

CDP is a new development entity. Many of its qualifications are in market-rate and affordable housing projects. Individual members of its team have worked on several historic preservation projects, including the successful California Hotel affordable housing project on San Pablo Street in Oakland. One of their project qualifications, the Old Mint in San Francisco (managed by a CDP team member when he was at another company) was not completed. CDP's project architect is best known for successful retail projects, such as the new Safeway on College Avenue in Rockridge, but has less experience with comparable hotel and historic rehabilitation projects of this scale.

CDP did not demonstrate the same significant access to capital as Orton. They are proposing a more complicated financing framework that assumes private equity from a variety of private investors, project debt, Historic Tax Credits, New Market Tax Credits, a tax exempt bond issuance funded by a rebate of some local tax revenue generated by the project (that otherwise would go to the City), and support from philanthropic foundations. CDP's estimated project cost, including the new hotel and the rehabilitation of the Henry J. Kaiser, is \$142.7 million, nearly three times Orton's proposed cost, adding to the financial risk of the project. CDP is

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proposing a nominal lease payment \$1 per year, and requiring a portion of local sales, TOT and other taxes generated by the project be returned to support the project.

Finally, the proposed 15-story hotel in between the Oakland Museum of California and the Henry J. Kaiser Convention Center, two historic landmarks, will add complexity and uncertainty to the entitlement process because of possible impacts to these historic properties. While the reuse of the Henry J. Kaiser was anticipated by the recently approved Lake Merritt Station Area Plan and its EIR, a new hotel at this location was not.

The evaluation panel felt that CDP's proposed hotel idea, with robust workforce training programs, was a strong concept, but that it was not appropriate at this location. The panel felt that linking construction of a new, 15-story hotel to the adaptive reuse of the Henry J. Kaiser Convention Center may unnecessarily burden and add undue risk to this important project.

***Panel Scores***

Table 1 below summarizes the scores of the evaluation panel. The largest differences in the scoring between the two proposals are the assessed feasibility of achieving the project, the financial capacity of the developer, and the overall experience and qualifications of the development team. A description of the evaluation criteria contained in the RFP is included as ***Attachment D***.

**Table 1: Evaluation Panel Scores  
Henry J. Kaiser Convention Center Developer Proposals**

<b>Criteria</b>	<b>Max</b>	<b>Creative Development Partners</b>	<b>Orton Development</b>
Experience/Qualifications	30	19.2	26.8
Rehabilitation Concept	30	20.2	25.5
Feasibility	20	8	17
Public Benefits	15	12.3	10.2
Financial Capacity <sup>1</sup>	20	5	15
<b>Total</b>	<b>115</b>	<b>64.7</b>	<b>94.4</b>

<sup>1</sup>Evaluated by City of Oakland Controller based on review of confidential financial materials

***Exclusive Negotiation Agreement (ENA)***

The City Council has the sole discretion to award the development opportunity for the Henry J. Kaiser Convention Center and authorize an ENA for the project. Upon City Council action, staff and the selected developer will negotiate terms of an ENA to further refine the development project, negotiate required transaction documents and secure approvals.

Staff recommends that the ENA contain the following terms and provisions, among others:

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- A term of 12 months [with authority for the City Administrator to extend for up to six additional months].
- Time and performance benchmarks.
- The City's right to terminate negotiations and begin exclusive negotiations with another qualified developer if a satisfactory ENA cannot be negotiated with the selected developer.

In addition, staff recommends that the ENA contain the following milestones, to be included in a schedule of performance attached to the ENA:

- Because assessing the feasibility of rehabilitating the Henry J. Kaiser will require more extensive investigations than the developer could undertake in a response to an RFP, the developer will refine the concept contained in its RFP submittal into a more specific project proposal. The refined project will further define the rehabilitation program, development costs, land uses, and level of private investment, etc.
- The developer will begin a robust and creative community outreach process to solicit feedback on its proposal from local stakeholders (such as residents, potential users, and local organizations and institutions). The developer will solicit input from the Oakland Landmarks Preservation Advisory Board, Oakland Heritage Alliance and other interested parties regarding the historic rehabilitation of the building and related design issues. The developer should anticipate making revisions to the project as a result of these discussions.
- The developer will initiate and complete the project entitlement and approval process.
- The developer will undertake any required environmental review.
- The City and the developer will negotiate an LDDA and form lease defining economic parameters for development, a performance schedule, public improvements, a public benefits plan related to prevailing wage, labor peace, open space improvements and other benefits, as well as other specific lease terms. The City and developer will have a 3<sup>rd</sup> party appraisal and/or reuse appraisal performed to assist in negotiating market lease. The negotiated lease terms will be appropriate for, and reflect, the proposed uses, the developer's capital investment, and market conditions.
- The developer will secure financial commitments for the proposed project from lenders and/or equity sources and, if appropriate, preliminary sublease commitments from proposed anchor and other tenants.

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- Following execution of an ENA, the developer will hold at least two interim public events per year to help activate the site in the short term, and allow the public to experience the site before the project is complete. Events could include food trucks, roller discos, art fairs, music performances or other ideas generated during the community outreach process.
- Within 30 days of executing an ENA with the City, the developer will submit a non-refundable deposit of \$25,000, which will be considered a Project Expense Payment (PEP), to cover City costs associated with managing the project.

This list of terms, provisions, and milestones is not intended to be exhaustive, but rather a summary of important, key items. Additional terms will be negotiated by the parties during the ENA period.

Once Orton completes the ENA requirements, assuming parties can agree on terms of a LDDA, staff will return to the City Council with a recommendation to execute a LDDA between the City and Orton.

### ***Policy Alignment***

The approved Lake Merritt Station Area Plan calls for the reuse of the Henry J. Kaiser Convention Center. The Plan rezoned the site from the old “S-2, Civic Center” zoning to a more flexible commercial zoning designation. The new zoning allows a broad range of uses including retail, office, and light manufacturing. Orton’s proposed uses for the building are consistent with the policies and objectives of the Plan and the revised zoning for the site. Completion of the Station Area Plan was the result of a multi-year, extensive community engagement process.

### **PUBLIC OUTREACH/INTEREST**

The RFP process was open and competitive, available to all interested and qualified developers. The RFP notice was emailed to more than 500 developers, brokers, and architects throughout the Country. The City issued a press release announcing its availability to garner media coverage and increase awareness of the opportunity. The RFP issuance was covered on KQED radio, the *San Francisco Business Times*, and other media outlets. An article about the RFP was included in the City’s *Oakland Economy Now* e-newsletter, which is emailed to more than 5,000 business owners, business organizations, developers, brokers, and other members of Oakland’s business community. Local groups such as the Oakland Measure DD Community Coalition ran items about the RFP in their blogs. The RFP was also posted in many national construction project bid listing publications.

A pre-bid meeting and building tour was held on October 10, 2014. More than 100 developers, architects, and local stakeholders attended. On November 10, 2014, staff made a presentation at a

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public meeting of the Oakland Landmarks Advisory Board about the contents of the RFP, project goals, and the process for developer selection.

Moving forward, the selected developer will be required to conduct an extensive public engagement process, meeting with a variety of stakeholders and using creative methods to seek input. Staff is exploring ways to collect community member's memories of the Henry J. Kaiser Convention Center, through oral histories or other documentation, and produce temporary exhibits in the building of them.

### **COORDINATION**

The City Administrator's Office has coordinated this project with the City Attorney's Office, the Economic and Workforce Development Department (including the Real Estate and Project Implementation divisions), Oakland Public Works (including Measure DD staff, facilities management staff and parking management staff), the Planning & Building Department, the Office of Contracts and Compliance, and the City Controller.

### **COST SUMMARY/IMPLICATIONS**

The proposed legislation does not commit the City to expenditure of any funds. During the ENA period, Orton will bear responsibility for all costs associated with developing the project for approval, including consultant fees, permitting fees, legal fees, financing expenses, etc.

The ENA will require payment of a \$25,000 Project Expense Payment by Orton for purposes of reimbursing City for its expenses associated with the project such as employing consultants to help review project pro-formas and assist with LDDA negotiations. These funds will be deposited and appropriated to Miscellaneous Capital Projects Fund (Fund 5999) and a project to be created.

As described in the RFP, Central City redevelopment funds that have been earmarked for public facilities may be available to support the rehabilitation of the Calvin Simmons Theater into a modern performing arts venue. Use of these funds would be negotiated as part of the future LDDA, which would return to the City Council for review and approval.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The project will bring a vacant, historically significant building back to life under a long-term ground lease that will generate rental income to the City once the project is stabilized. In addition, the project is anticipated to generate significant tax benefits to the City, and will create short-term construction jobs as well as permanent jobs once the project is complete.

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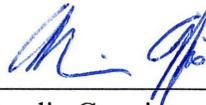
Staff's conservative assessment of project employment benefits includes approximately 170 construction jobs and the possibility of more than 350 permanent jobs (potentially many more depending on the final uses). A rough and conservative estimate suggests the City could receive annually approximately \$97,000 in property taxes, \$28,000 in sales tax, and \$7,000 in business license tax from the project if it moves forward.

**Environmental:** Reusing existing historic buildings in built-out cities is one of the most powerful sustainable building strategies available. The project will also incorporate green building and energy efficient components, and will increase the amount of new public open space and permeable surfaces around the building. The location of the project in proximity to major public transportation nodes will likely encourage project visitors and workers to use BART and AC Transit.

**Social Equity:** The developer is required to undertake a robust community engagement process to ensure a variety of stakeholders and voices are included in the project. In addition, the developer is responsible for exploring how community-based financing tools can be used to support the project. Community based financing tools, such as community developer IPOs or real estate crowdfunding, allow local residents to invest in the project, thereby participating in any profits or wealth generated from the project. In addition, the developer will be required to provide use of the refurbished Calvin Simmons Theater to local, non-profit performing arts groups on a regular base at subsidized rents. Lastly, the developer will be responsible for crafting a public benefits plan during the ENA process that addresses commitments to prevailing wage, local and small business hiring and labor peace.

For questions regarding this report, please contact Kelley Kahn, Special Projects Manager, at 510-238-6190.

Respectfully submitted,



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Claudia Cappio,  
Acting City Administrator

Reviewed by:  
Mark Sawicki  
Director of Economic and Workforce Development

Prepared by:  
Kelley Kahn, Special Projects Manager, Office of the City  
Administrator

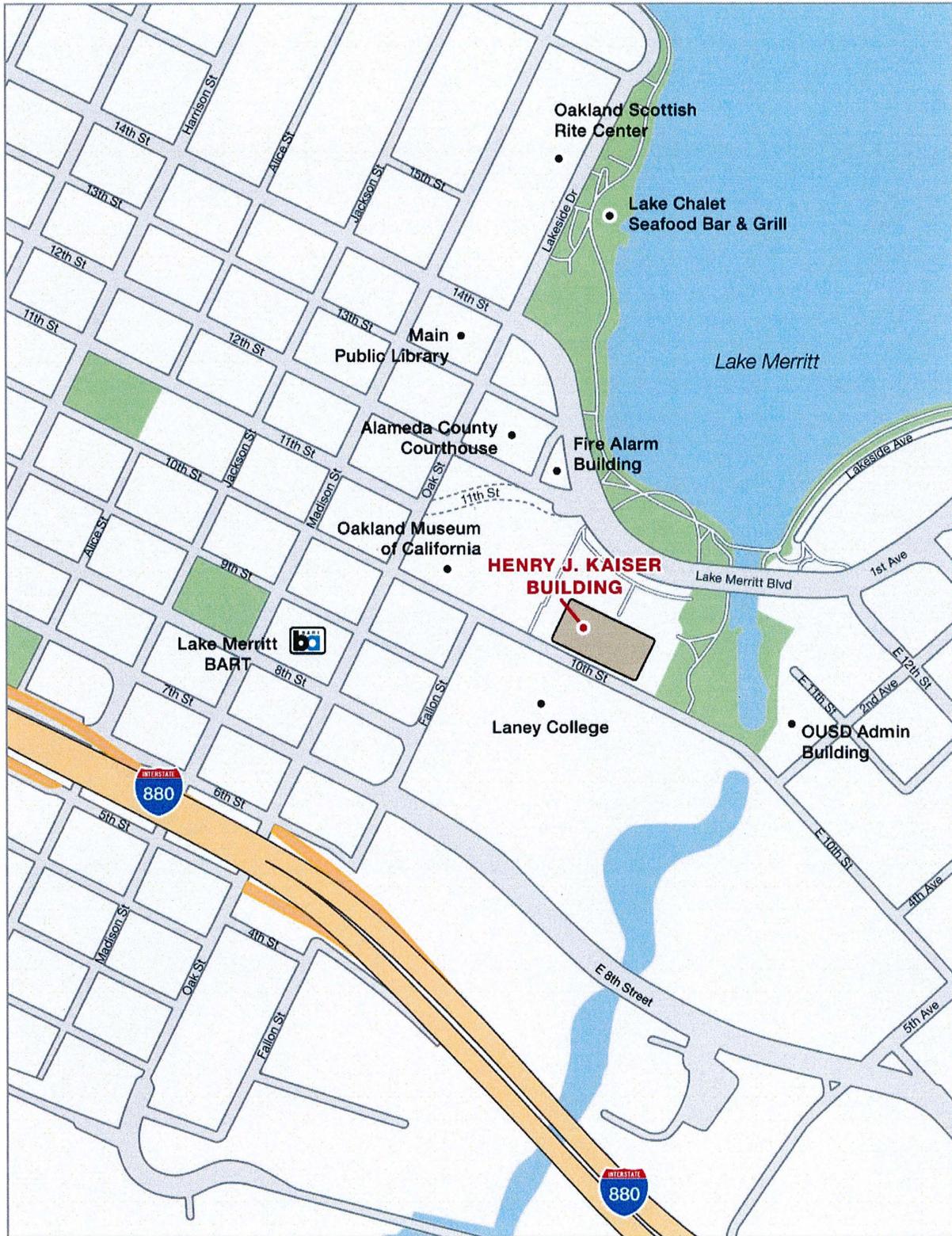
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Attachments:

- Attachment A: Map of Area
- Attachment B: Aerial View of Site
- Attachment C: Summary of Proposals Received
- Attachment D: Evaluation Criteria Contained in RFP
- Attachment E: Site plan and rendering of Creative Development Partners proposal
- Attachment F: Site plan of Orton Development proposal

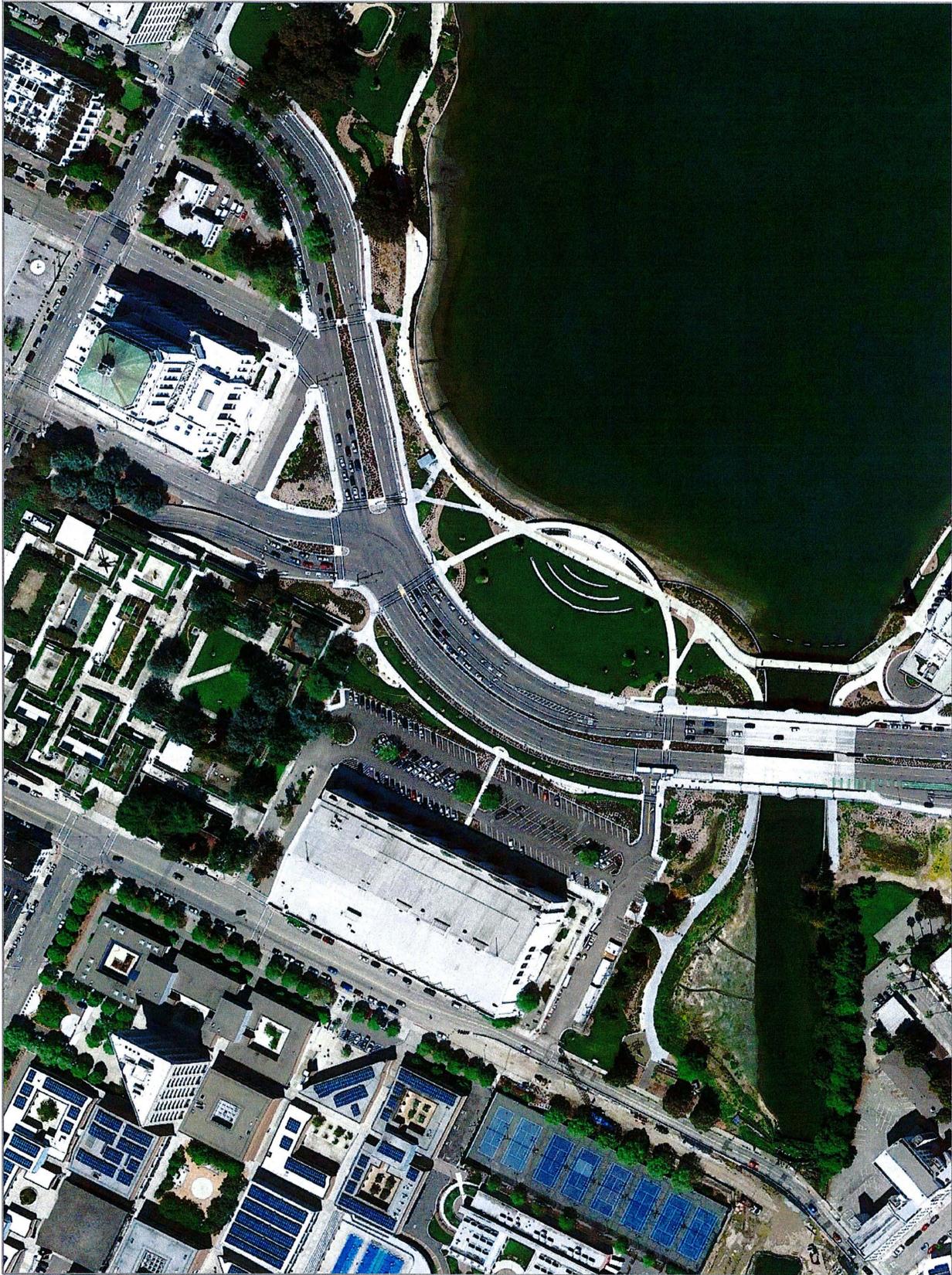
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# ATTACHMENT A: MAP OF AREA



Oakland Museum of California, Henry J. Kaiser Auditorium, Lake Merritt and Environs

ATTACHMENT B: SITE AERIAL



**ATTACHMENT C**  
**Henry J. Kaiser RFP**  
**Summary of Proposals Received**

	<b>Creative Development Partners</b>	<b>Orton Development</b>
<b>Developer</b>	Joint Venture: <ul style="list-style-type: none"> <li>• Creative Development Partners, Oakland (51%)</li> <li>• Harbinger Development, Boston, MA (39%)</li> <li>• Equinox-SynergyEB5, San Francisco (10%)</li> </ul>	Orton Development, Emeryville
<b>Architect</b>	Ken Lowney Architecture, Oakland	Heller Manus Architects, SF
<b>Landscape Architect</b>	PGAdesign, Oakland	Walter Hood, Oakland
<b>Historic Architect</b>	Alan Dreyfuss, WJE Associates, Emeryville	Rosemary Muller, Muller & Caulfield, Oakland
<b>Community-based Financing</b>	Jenny Kassan, Cutting Edge Capital, Oakland	Tom Lockhard, Fundrise, SF
<b>Structural Engineer</b>	Holmes Culley, SF	Nabih Yousseff Associates, SF
<b>Other</b>	Meyer Sound, Integral Group (green consultant), and various consultants related to retail, workforce, stormwater/sustainability, venue operations	Angela Tsay, Oaklandish, and Meyer Sound
<b>Key Developer Qualifications</b>	<ul style="list-style-type: none"> <li>• Ames Hotel, Boston, MA, 114 rooms, \$75 million (historic rehab). Role: Harbinger Development owner and developer of record. Completed.</li> <li>• California Hotel, Oakland, 137 units of affordable housing (historic rehab). \$43 million. Role: Member of CDP team development lead. Completed.</li> <li>• Old Mint, SF. (historic rehab). Role: Project manager for project sponsor. Not completed.</li> <li>• Parcel 24, Boston, MA, 325 mixed-income housing units, \$125 million. Role: CDP team member part of joint venture development team. Under construction.</li> </ul>	<ul style="list-style-type: none"> <li>• Ford Point, Richmond, Ca., 525,000 sf, performance/event space, office, restaurant (Historic Landmark). \$50 million. Role: Developer and operator. Completed.</li> <li>• Rosie the Riveter Museum, Richmond, Ca. 12,000sf, museum and exhibit hall (Historic Landmark). \$7 mil. Role: Developer. Completed.</li> <li>• Pier 70, San Francisco, collection of 6 Historic Landmark buildings, office/manufacturing space, 270,000 sf., \$100 million. Role: Developer and operator. Under construction.</li> <li>• 1440 Broadway, Oakland, 80,000sf, (Adaptive Reuse), office and retail. Role: Developer and owner. Completed.</li> <li>• Flint Ink, Berkeley, 50,000 sf, light manufacturing, maker space, office, \$5 million. Role: Developer and owner. Completed.</li> </ul>
<b>Key Design Team Qualifications</b>	Architect <ul style="list-style-type: none"> <li>• Whole Foods, Oakland (Historic Landmark)</li> <li>• Safeways, Sprouts, Walgreens and other retail throughout country</li> </ul> Landscape Architect <ul style="list-style-type: none"> <li>• Lake Merritt Blvd./12<sup>th</sup> St., Oakland (early design work)</li> <li>• Oakland Museum of California</li> </ul> Historic Architect <ul style="list-style-type: none"> <li>• Hibernia Bank, SF</li> <li>• Sherith Israel, SF</li> </ul> Structural Engineer <ul style="list-style-type: none"> <li>• The Cathedral Building, Oakland</li> <li>• 140 New Montgomery, SF</li> </ul>	Architect <ul style="list-style-type: none"> <li>• Masonic Auditorium, SF, 3,300 seats</li> <li>• San Francisco City Hall, 500,000 sf (Historic Landmark)</li> </ul> Landscape Architect <ul style="list-style-type: none"> <li>• De Young Museum</li> <li>• Splash Pad Park, Oakland</li> </ul> Historic Architect <ul style="list-style-type: none"> <li>• Carnegie Library, Alameda, Ca</li> <li>• Frank Ogawa Plaza building, Oakland</li> </ul> Structural Engineer <ul style="list-style-type: none"> <li>• 50 United Nations, SF</li> <li>• Los Angeles City Hall</li> </ul>

<b>Calvin Simmons Theater Proposal</b>	Performing arts theater. Support for non-profit arts organizations.	Performing arts theater. Subsidized fees for non-profit arts organizations. Design to allow for smaller performances and audiences.
<b>Operator of Calvin Simmons</b>	Third-party venue operator TBD	Orton Entertainment LLC
<b>HJK Arena/Ancillary Spaces Proposal</b>	<ul style="list-style-type: none"> <li>Arena: sporting events (baseball, boxing, martial arts)</li> <li>Ballrooms: events, exhibitions, meeting space for hotel (see note below), smaller performance spaces</li> <li>Basement: media production and broadcast</li> <li>Project also includes new, 15-story hotel on site. See notes below.</li> </ul> <p>Operator: Third-party venue operator(s) TBD.</p>	<ul style="list-style-type: none"> <li>Flexible maker and art spaces/light manufacturing</li> <li>Office space</li> <li>Bar/restaurant/food</li> <li>Market- and building- dependent – more specific uses TBD based on design feasibility and market at time of leasing</li> <li>Design approach: atrium through center of building; mezzanine in arena</li> </ul> <p>Operator: Orton Development</p>
<b>Public Realm/Circulation Proposals</b>	<ul style="list-style-type: none"> <li>Parking lot remains, becomes multi-use plaza</li> <li>Improved 10<sup>th</sup> Street public realm</li> <li>Connection from Museum garden level directly into hotel upper level</li> </ul>	<ul style="list-style-type: none"> <li>Two new plazas on north and south ends including new “theater plaza”</li> <li>Landscaped, grand connection from HJK to Lake across parking lot &amp; 12<sup>th</sup> St.</li> <li>New pedestrian connection across 12<sup>th</sup> St. and enhanced public realm along 10<sup>th</sup> Street</li> </ul>
<b>Total Cost Assumption (HJK)</b>	\$69,595,200 (HJK) +\$73,145,333 (hotel) <b>\$142,740,533 (total project)</b>	<b>\$51,797,925 (HJK)</b>
<b>Support Requested from City</b>	\$3 million in a grant or deferred loan for Calvin Simmons Theater; below market rent; portions of taxes generated returned to project	None at this time
<b>Funding Sources</b>	<ol style="list-style-type: none"> <li>Private equity (various investors)</li> <li>EB-5 and private debt</li> <li>Tax Exempt Bond funded from tax revenue generated from project</li> <li>City of Oakland funds (\$3 million)</li> <li>New Market Tax Credits</li> <li>Historic Tax Credits</li> <li>Private foundation support</li> </ol>	<ol style="list-style-type: none"> <li>Construction loan</li> <li>Developer equity</li> <li>Historic Tax Credits</li> </ol>
<b>Rent to City</b>	\$1 per year	To be negotiated. Regular lease payments or single upfront lease payment.
<b>Construction Start/End</b>	Fall 2017/Summer 2019 (hotel completed summer 2020)	December 2016/December 2018
<b>Other Key Elements of Proposal</b>	<ul style="list-style-type: none"> <li>15 story hotel, 280-room hotel located between HJK and OMCA offering job training programs related to new hotel in hospitality, facilities etc.</li> <li>Agreements with Laney College/Peralta, OUSD and Alameda County Office of Education for curriculum and career training partnerships</li> <li>Many letters of support from local arts and workforce organizations.</li> </ul>	<ul style="list-style-type: none"> <li>Partnership with Oakland Museum on creating sculpture gardens on building grounds</li> </ul>

## Attachment D

### Evaluation Criteria from Request for Proposals

Evaluation of the submittals from RFP respondents will focus on the capability of the respondent and the strength of the respondent's proposed concept for the rehabilitation and reuse of the Henry J. Kaiser building ("Rehabilitation Concept"). The evaluation criteria below will be used to assess the relative strength of each submittal.

#### 1. Developer Experience (30 Points)

- a. Successful track record in rehabilitating, developing and operating facilities similar to the proposed project.
- b. Experience with adaptive reuse and historic preservation projects, in particular with meeting the Secretary of the Interior's Standards.
- c. Experience with complex projects that included identifying and securing tenants, defining a rehabilitation scope, structuring the transaction, securing necessary approvals and managing the construction process.
- d. Demonstrated ability to operate and maintain real estate projects once completed, including sustaining occupancy and addressing on-going operational needs.
- e. Proven ability to work with public sector in delivering projects and meeting development goals.
- f. Sufficient staff and consultant resources to deliver the project.
- g. Track record of local hiring and participation of locally owned businesses in prior projects.
- h. Demonstrated ability to work with and solicit input from community stakeholders and local organizations, and address community concerns.
- i. Demonstrated understanding, ability and flexibility to obtain key approvals and community support in a complex political and regulatory context.
- j. Demonstrated experience in incorporating green building standards into the design and operation of the project.

#### 2. Financial Capacity (20 points)

Proven ability of developer to possess or attract equity and debt capital for projects similar in scope and cost to the proposed Rehabilitation Concept as evidenced by:

- a. Financing of comparable projects.
- b. Access to sufficient debt and equity for the project proposed.
- c. On-going relationships with financial sources.

#### 3. Rehabilitation Concept and Key Objectives (30 points)

- a. Consistency of proposed Rehabilitation Concept with objectives for the project discussed in the RFP on pages 13 – 14.

- b. Responsiveness to key terms contained in the RFP on pages 15 – 16.
- c. Fit and synergies of proposed building use(s) and improvements with surrounding land uses including Lake Merritt and surrounding open spaces, the Oakland Museum of California, Laney College and BART.
- d. Overall sensitivity to the surrounding context including understanding of circulation possibilities and site landscaping opportunities.
- e. Overall ability of the proposed project to add to the vitality of the surrounding neighborhood and maintain a sense of public accessibility to the building.

4. Feasibility (20 points)

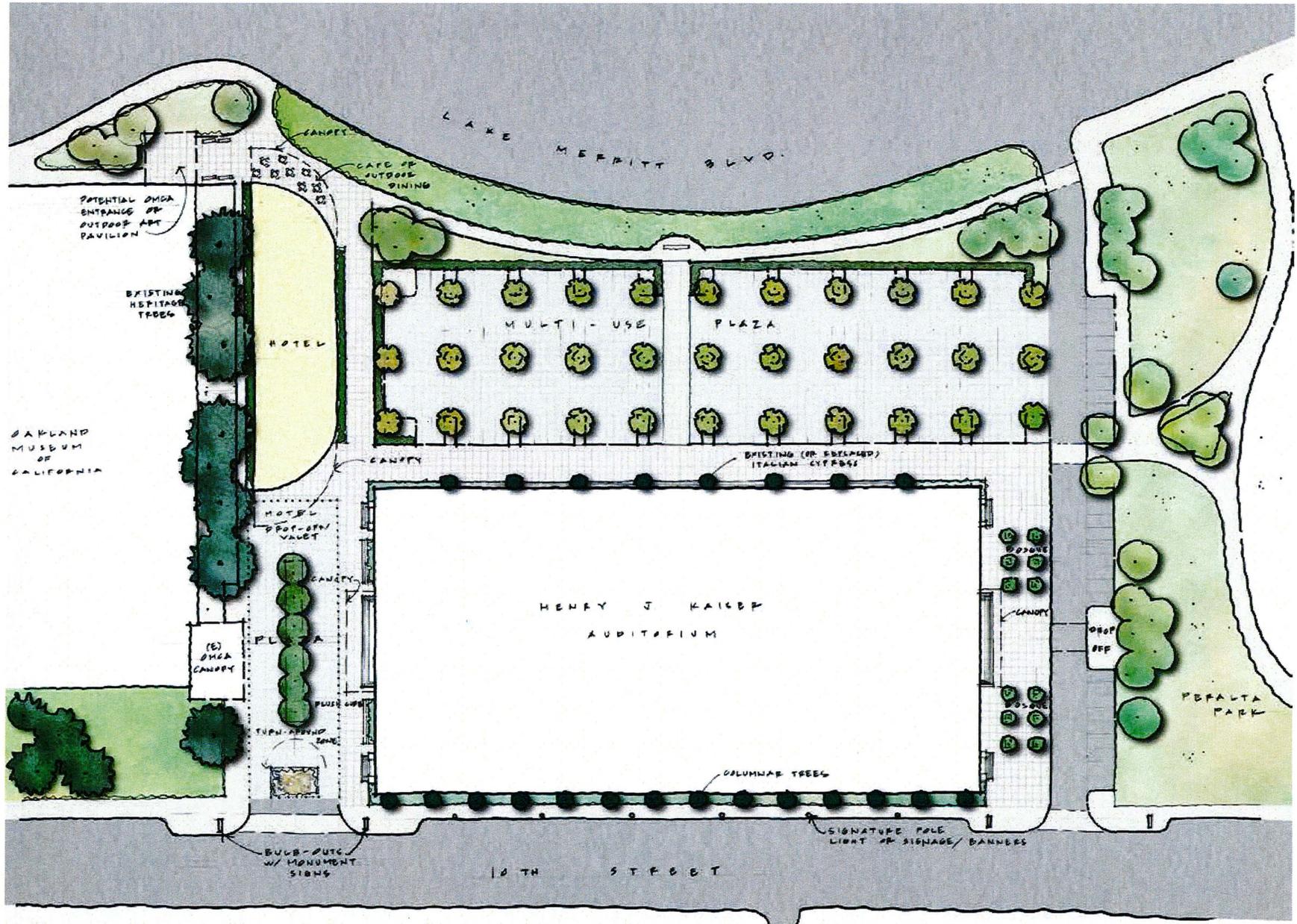
- a. Likelihood of Respondent and proposed concept meeting the City objectives in an expedient manner. Factors considered will include:
- b. Evidence of ability of this Respondent to attract necessary public and private investment for the Rehabilitation Concept proposed.
- c. Feasibility of the Rehabilitation Concept to address the deteriorated state of the building in the near term.
- d. The probability of obtaining approvals for the proposed project, given the historic status of the building and the physical and regulatory constraints on development.
- e. Cash flow projections that demonstrate the project, once operational, will meet all lease, debt service and operating expenses.
- f. Demonstrated strength of the real estate market for specific uses proposed.

5. Community and Public Objectives (15 points)

Amount of community benefit derived from the project, *such as but not limited to*, amount of local and small business participation, commitment to prevailing and living wages, commitment to labor peace, number of jobs created, opportunities for mentoring or job training, number and quality of public facilities and amenities proposed, etc.



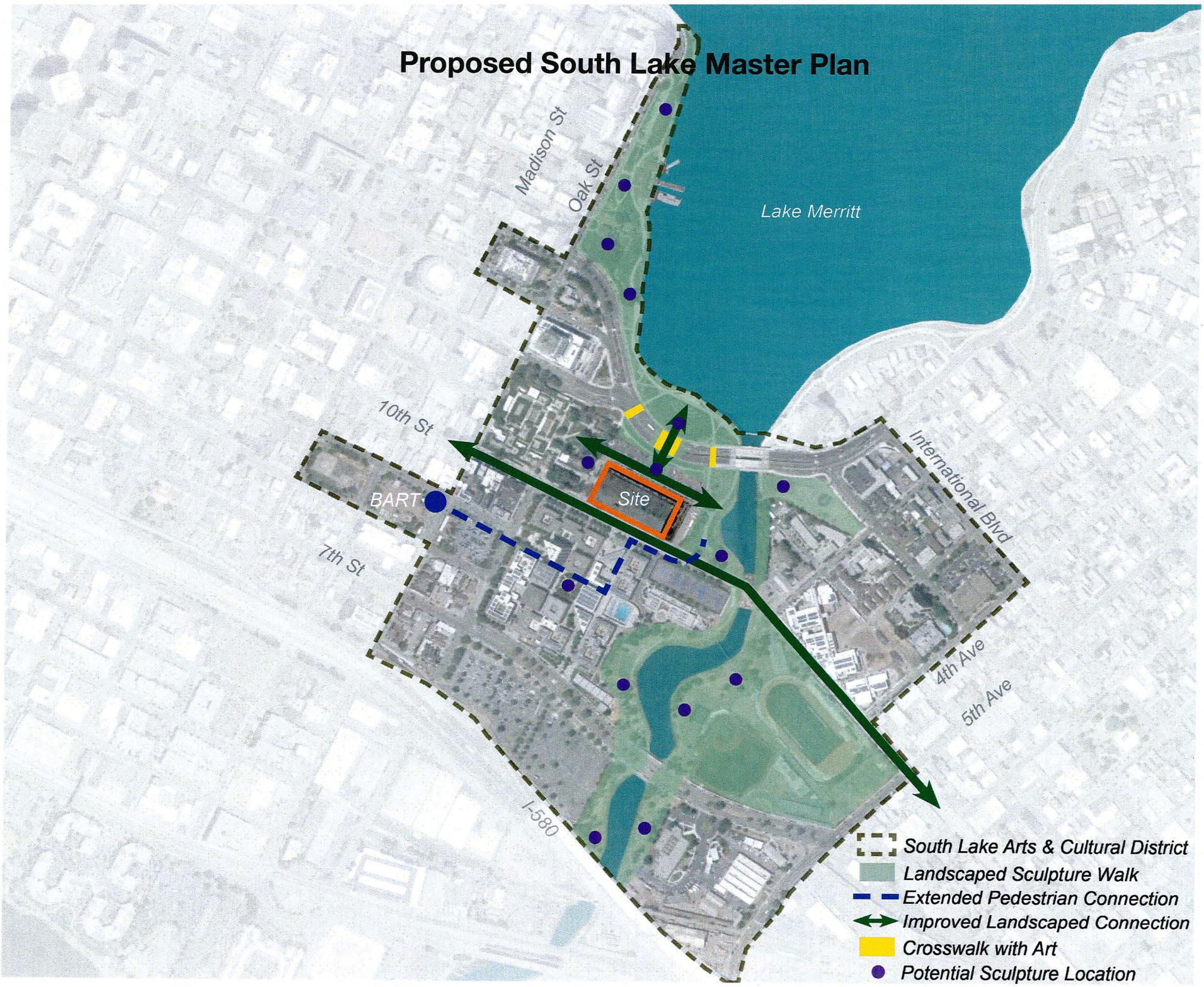
Kaiser Auditorium Site plan



HENRY J. KAISER AUDITORIUM  
SITE PLAN OCT 29, 2014



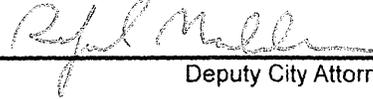
# Proposed South Lake Master Plan



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2015 MAY 14 PM 12: 58

Approved as to Form and Legality:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**A RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT WITH ORTON DEVELOPMENT, INC. FOR THE REHABILITATION, ADAPTIVE REUSE, AND OPERATION OF THE HENRY J. KAISER CONVENTION CENTER, ALSO KNOWN AS THE OAKLAND MUNICIPAL AUDITORIUM**

**WHEREAS**, the City owns the Henry J. Kaiser Convention Center, also known as the Oakland Civic Auditorium, located at 10 10<sup>th</sup> Street and bounded by Lake Merritt Boulevard to the north, 10<sup>th</sup> Street to the south, the Oakland Museum of California to the west, and the Lake Merritt Channel to the east (the "Property"); and

**WHEREAS**, the City closed the Property in 2005 due to the cost of operating and maintaining the building; and

**WHEREAS**, the Property is a designated City of Oakland Landmark that abuts the recently improved Lake Merritt, and the City seeks to retain and reuse the Property; and

**WHEREAS**, on September 22, 2014, the City issued a Request for Proposals for the rehabilitation and adaptive reuse of the Property under a long term ground lease with the City; and

**WHEREAS**, Orton Development, Inc. ("Orton") submitted a proposal to lease the Property and rehabilitate, adaptively reuse and operate it as a mixed-use project including a performing arts theater, office, retail, light manufacturing and other uses allowed under the approved *Lake Merritt Station Area Plan* (the "Project"); and

**WHEREAS**, the City and Orton, as the prospective developer, 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 or his/her designee to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") with Orton for the

purposes of developing a refined project proposal, conducting California Environmental Quality Act ("CEQA") review and approval and negotiating the terms and conditions of a Lease Disposition and Development Agreement ("LDDA"); and be it

**FURTHER RESOLVED:** That the exclusive negotiating period will be for twelve months from the date of this Resolution, with the option by the City to extend said period by an additional six months with the approval of the City Administrator or his/her designee in his/her sole discretion; and be it

**FURTHER RESOLVED:** That the City shall require payment of a \$25,000 Project Expense Payment by Orton for purposes of reimbursing City for its staff costs and third party expenses; and be it

**FURTHER RESOLVED:** That the \$25,000 nonrefundable Project Expense Payment from Orton will be deposited and appropriated to Miscellaneous Capital Projects Fund (Fund 5999) and a project to be created; 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 his/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 or his/her designee 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, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON McELHANEY

NOES -

ABSENT -

ABSTENTION -

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