

APPROVED AS TO FORM AND LEGALITY:

INTRODUCED BY COUNCILMEMBER _____

Devin
DEPUTY CITY ATTORNEY

FILED
OFFICE OF THE CITY CLERK
OAKLAND
03 MAR -4 AM 11:37

ORDINANCE NO. 12479 C.M.S.

AN ORDINANCE AUTHORIZING 1) THE NEGOTIATION AND EXECUTION OF A DISPOSITION AND DEVELOPMENT AGREEMENT 2) THE SALE OF THE CITY-OWNED PROPERTY AT 3615 AND 3619 35TH AVENUE AT FAIR MARKET VALUE TO PAUL WANG ENTERPRISES FOR THE DEVELOPMENT OF A MULTI-USE PROJECT AND 3) A MARKET-RATE LOAN TO PAUL WANG ENTERPRISES NOT TO EXCEED \$279,000 FOR THIS PROJECT.

WHEREAS, the City of Oakland is the owner of the adjacent vacant lots in the City of Oakland, Alameda County, State of California, commonly known as 3615 and 3619 35th Avenue, Assessor's Parcel Nos. 028-0957-009-02 and 011-03 (the "Property"); and

WHEREAS, the Property was purchased for a total of \$164,575 as part of a street-widening project; and

WHEREAS, the City Council has adopted Ordinance No. 11602 C.M.S., which established procedures for the sale and lease of City-owned property which is surplus; and

WHEREAS, in compliance with Ordinance No. 11602 C.M.S., the Property was offered to other public agencies for their use, and none of these entities was interested in purchasing the Property; and

WHEREAS, in compliance with the law of the State of California, the Property was offered to affordable housing developers, park authorities, and the Oakland Unified School District for their use, and none of these entities was interested in purchasing the Property; and

WHEREAS, the City of Oakland issued an RFP for development of the Property in 1999, but was not able to successfully negotiate a project with the respondents; and

WHEREAS, the City of Oakland issued a second RFP for the development of the Property in 2000, to which Paul Wang Enterprises (the "Developer") submitted a proposal; and

WHEREAS, the City proposes to sell the Property at its fair market value of \$279,000; and

WHEREAS, the \$279,000 fair market value of the property was determined by a licensed appraiser in the Real Estate Division of the Community and Economic Development Agency; and

WHEREAS, the Developer proposes to develop on the Property a multi-use project consisting of seven two-story rental townhomes above approximately 4,500 square feet of ground floor commercial space; and

WHEREAS, the Project will not be feasible unless the City makes a market-rate loan to the Developer for the fair market value of the property, to be repaid at the earlier of the close of the Developer's permanent financing or two years after the close of the Developer's construction loan; and

WHEREAS, the City is the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. Pursuant to Section 6 of Ordinance No. 11602 C.M.S., it is found and determined to be in the best interest of the City to sell the Property to the Developer in accordance with the proposal submitted in response to an RFP issued November 25, 2000.

SECTION 2. The City Council authorizes the sale of the Property to the Developer at its appraised fair market value, \$279,000.

SECTION 3. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that this action complies with CEQA because the project is exempt from CEQA pursuant to Class 32, Section 15332 of the CEQA Guidelines: urban infill project under five acres.

SECTION 4. The City Manager or his designee shall cause to be filed with the County of Alameda a Notice of Exemption for this project.

SECTION 5. The City Manager, or his designee, is hereby authorized to negotiate and execute a Disposition and Development Agreement ("DDA") with the Developer for the Property, to govern transfer and development of the Property.

SECTION 6. The City Manager is also authorized to execute a grant deed to convey the Property, upon satisfaction of preconveyance conditions in the DDA.

SECTION 7. The City Manager or his or her designee is authorized to negotiate a loan and execute a loan agreement for an amount not to exceed \$279,000 to Paul Wang Enterprises, to be used for purchase of the Property at fair market value.

SECTION 8. The loan shall be for a maximum term of two years, with an interest rate equal to the City's cost of funds per year, with the full amount of the loan and applicable interest due at the end of the term, or on such other repayment terms and schedule as the City Manager or his or her designee determines are in the best interests of the City and the Project.

SECTION 9: The City Manager or his or her designee in his or her discretion is authorized to subordinate the priority of the City's deed of trust and/or recorded restrictions to a lien or encumbrance of another private or governmental entity providing financial assistance to the Project, if the City Manager or his or her designee determines that (1) an economically feasible alternative method of financing the Project on substantially comparable terms and conditions but without subordination is not reasonably available, (2) the City's investment in the Project in the event of default is reasonably protected, and (3) subordination is in the best interests of the City.

SECTION 10. The City's Real Estate Division's administrative costs associated with the sale of the property of \$1,000 shall be reimbursed to Fund 1010, Organization 88639, Account 48311 – Sale of Surplus Land, and \$164,575 shall go to the Public Works Agency, Fund 2030 – Gas Tax, since the property was originally purchased using gas tax funds as part of a street widening project, and the remaining sales proceeds, anticipated to be approximately \$141,325, shall go to Fund 1010, Organization 88639, Account 48311, Project P47010 – Sale of Surplus Land.

SECTION 11. The Manager, Real Estate Services, is hereby authorized to take any and all actions necessary and consistent with this Ordinance to complete the sale of the Property.

SECTION 12. The City Manager or designee is authorized to conduct negotiations, execute documents, administer the loan, extend or modify repayment terms, or take any other actions with respect to the loan and the Project consistent with this Ordinance and its basic purposes.

SECTION 13. All documents shall be approved as to form and legality by the City Attorney.

Introduction Date: MAR 1 1 2003

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 2 5 2003²⁰

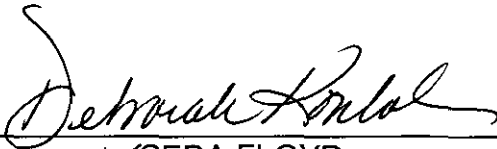
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, WAN, AND
PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
for CEDRA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California