



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE:

(1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND (“CITY”) AND EAST 12TH STREET HOUSING, LP (“DEVELOPER”), FOR DEVELOPMENT OF 91 UNITS OF AFFORDABLE HOUSING ON A PORTION OF THE 12TH STREET REMAINDER (“PARCEL 1”), LOCATED AT EAST 12TH STREET AND 2ND AVENUE, WITH A TERM OF TWO YEARS WITH A ONE-YEAR EXTENSION;

(2) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A 99-YEAR GROUND LEASE BETWEEN THE CITY AND DEVELOPER WITH \$1 PER YEAR BASE RENT PLUS RENT BASED ON THE APPRAISED \$4,000,000 FAIR MARKET VALUE OF PARCEL 1;

(3) MAKING A SURPLUS LAND ACT EXEMPTION DETERMINATION; AND

(4) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City of Oakland (“City”) owns approximately 0.925 acres of vacant property (Assessor Parcel Number 019-0027-014), commonly known as the 12th Street Remainder Parcel, bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, open space to the west, and Lake Merritt Boulevard to the north (the “Property”); and

WHEREAS, the Property was previously public right-of-way for that portion of East 12th Street situated between 1st and 2nd Avenue; and

WHEREAS, on July 14, 2015, the City issued a Notice of Offer and Intent to Convey the Property to potential developers, and a team including East Bay Asian Local Development Corporation (“EBALDC”) and a market-rate developer was selected to develop a mixed-income project including 91 units of housing affordable to lower-income households; and

WHEREAS, the prior mixed-income project did not move forward; and

WHEREAS, On July 19, 2022, the City and Lakehouse Commons Affordable housing LP, an affiliate of EBALDC entered into an Exclusive Negotiating Agreement (“ENA”) for development of the 91-unit project as a standalone, 100 percent affordable housing building (the “Parcel 1 Project”) on a portion of the Property (“Parcel 1”) (Resolution Number No. 89333 C.M.S.); and

WHEREAS, the Parcel 1 Project meets the conditions for exemption under Government Code Section 54221(f)(1)(A) of the Surplus Land Act and Government Code Section 37364 because not less than 80 percent of Parcel 1 is proposed to be developed as housing, all of the proposed housing units will be affordable for households between 30 percent and no more than 80 percent of the County of Alameda Area Median Income, and the units will be restricted with a recorded regulatory agreement for over 30 years; and

WHEREAS, EBALDC was selected through a previous competitive solicitation process and has secured initial financing and preliminary planning approvals for the Parcel 1 Project, which will significantly facilitate development of much needed affordable housing on Parcel 1; and

WHEREAS, City staff and East 12th Street Housing, LP, a California limited partnership (“Developer”), is an affiliate of EBALDC, have negotiated proposed terms of the Lease Disposition and Development Agreement (“LDDA”) and lease (“Ground Lease”) as reflected in the Term Sheets attached to the Agenda Report for this item ; and

WHEREAS, the Environmental Review Officer determined (1) that pursuant to Government Code Section 65651(b)(2), the City’s review and approval of the Parcel 1 Project, which consists of affordable housing, including approximately 30 percent supportive housing, shall not constitute a “project” for purposes of the California Environmental Quality Act (“CEQA”) (Section 21000 et seq. of the Public Resources Code) and therefore shall not be subject to CEQA review, and (2) that the anticipated environmental effects of the Parcel 1 Project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report(Final EIR) (certified November 2014); the Parcel 1 Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and the Parcel 1 Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); further, the Parcel 1 Project is exempt from CEQA under the following Sections of the State CEQA Guidelines: Section 15601(b)(3) (Common Sense Exemption), Section 15268 (Ministerial Projects), and Section 15332 (In-Fill Development Projects); and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes the City Administrator to (a) negotiate and execute the LDDA and the Ground Lease substantially in accordance with the Term Sheets attached to the Agenda Report for this item for development of affordable housing on Parcel 1; (b)

negotiate and execute such other additions, amendments or other modifications to the foregoing documents that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transaction contemplated by this Ordinance; and (c) to negotiate and execute such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to implement the LDDA and the Ground Lease and development of Parcel 1 in order to consummate the transaction in accordance with this Ordinance, or to otherwise effectuate the purpose of this Ordinance and its basic purposes.

SECTION 2. The City Council hereby finds and determines that the residual receipts from the Parcel 1 Project will be restricted to the Central District Project Area and deposited in City Entity (1), Miscellaneous Capital Projects Fund (5999), Central District Redevelopment Organization (85245), Land Rental: Misc. Account (44219), Downtown Redevelopment Program (SC13), and a Project to be determined later for appropriation.

SECTION 3. The City Council hereby further finds and determines that the consideration for the lease of the Parcel 1 is not less than the fair market value of Parcel 1 and that it is in the best interest of the City to lease the Parcel 1 to the Developer given the need to redevelop Parcel 1 for the benefit of the community.

SECTION 4. The City Council hereby finds and determines that the Parcel 1 Project meets the conditions for exemption under Government Code Section 54221(f)(1)(A) of the Surplus Land Act and Government Code Section 37364.

SECTION 5. The City Council hereby finds and determines, on a separate and independent basis, (1) that pursuant to Government Code Section 65651(b)(2), the City's review and approval of the Parcel 1 Project, which consists of affordable housing, including approximately 30 percent supportive housing, shall not constitute a "project" for purposes of the California Environmental Quality Act ("CEQA") (Section 21000 et seq. of the Public Resources Code) and therefore shall not be subject to CEQA review, and (2) that the anticipated environmental effects of the Parcel 1 Project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014); the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and the Parcel 1 Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); further, the Parcel 1 Project is exempt from CEQA under the following Sections of the State CEQA Guidelines: Section 15601(b)(3) (Common Sense Exemption), Section 15268 (Ministerial Projects), and Section 15332 (In-Fill Development Projects).

SECTION 6. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the

Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, FORTUNATO BAS, GALLO, JENKINS, KALB, KAPLAN,
RAMACHANDRAN, REID, AND PRESIDENT _____

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE:

(1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND (“CITY”) AND EAST 12TH STREET HOUSING, LP (“DEVELOPER”), FOR DEVELOPMENT OF 91 UNITS OF AFFORDABLE HOUSING ON A PORTION OF THE 12TH STREET REMAINDER (“PARCEL 1”), LOCATED AT EAST 12TH STREET AND 2ND AVENUE, WITH A TERM OF UP TO SIX YEARS;

(2) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A 99-YEAR GROUND LEASE BETWEEN THE CITY AND DEVELOPER WITH \$1 PER YEAR BASE RENT PLUS RENT BASED ON THE APPRAISED \$4,000,000 FAIR MARKET VALUE OF PARCEL 1;

**(3) MAKING A SURPLUS LAND ACT EXEMPTION DETERMINATION;
AND**

(4) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance (1) authorizes the disposition by a 99-year lease of a portion of City-owned property commonly known as the 12th Street Remainder (“Parcel 1”), bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, open space to the west, and Lake Merritt Boulevard to the north to East 12th Street Housing, LP, a California limited partnership (“Developer”), an affiliate of the East Bay Asian Local Development Corporation, for the development of 91 units of affordable housing pursuant to a Lease Disposition and Development Agreement between the City and Developer; (2) makes findings regarding exemption from the Surplus Land Act, and (3) adopts California Environmental Quality Act findings.