

OFFICE OF THE CITY CLERK

2007 SEP 27 PM 5:56

Approved as to Form and Legality

D. Lewis

CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12836 - C. M. S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT TO SELL APPROXIMATELY 1,400 SQUARE FEET OF CITY-OWNED SURPLUS REAL PROPERTY LOCATED AT 73RD AND DEERWOOD AVENUES TO JOHNNY R. NICKS AND PINKEY R. MITCHELL-NICKS, THE ADJOINING PROPERTY OWNERS, FOR THE FAIR MARKET PRICE OF FOUR THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$4,250.00) INCLUDING ALL FEES AND COSTS.

WHEREAS, the City of Oakland ("City") owns an approximately 1,400 square foot, surplus parcel of land located at Deerwood and 73rd Avenue, Assessor's Parcel Number 040-3327-041-03, described in Exhibit "A" attached hereto (the "Property"); and

WHEREAS, a legal description has been developed that indicates that the property is approximately 1,400 square feet in area; and

WHEREAS, the Property is not developable as a separate parcel; and

WHEREAS, as the parcel is less than 5000 square feet and considered a substandard lot, and is located adjacent to a parcel owned by the Purchaser, the Property is not subject to the California Surplus Lands Act (California Government Code 54220-5432), but is subject to City Ordinance No. 11602, C.M.S., covering sales of surplus City-owned property; and

WHEREAS, information regarding the surplus property was circulated pursuant to Government Code requirements and the Property may be sold through a negotiated sale; and

WHEREAS, an independent appraisal established the Property's fair market value at \$4,250.00, and the price will include all fees and costs; and

WHEREAS, the Property is to be sold in "AS-IS" condition and the City makes no representations regarding land use or other permitting issues that may affect the property; and

WHEREAS, Johnny R. Nicks and Pinkey R. Mitchell-Nicks, the owners of the abutting property, have tendered an offer to purchase the Property for the amount of \$4,250.00; and

WHEREAS, Johnny R. Nicks and Pinkey R. Mitchell-Nicks provided the City a non-refundable security deposit in the amount of \$1,000 for the subject property; and

WHEREAS, after the Property is sold to Johnny R. Nicks and Pinkey R. Mitchell-Nicks, the City will receive property taxes and will save the cost of maintaining the Property; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of 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. The City Council finds and determines that the herein-described real property is not needed for any public purpose, is surplus to the needs of the City, and the City is not required to put the property out for competitive bidding.

Section 2. Pursuant to Ordinance No. 11602 C.M.S., the City Administrator may conduct a negotiated sale of the surplus Property because such sale is in the best interest of the City.

Section 3. The sale of the Property to the abutting property owner is in the City's best interests as it returns a property to the tax rolls and removes the Property from City liability and maintenance responsibility.

Section 4. The City Administrator, or her designee, is authorized to negotiate, execute and accept the Offer to Purchase and Sales Agreement from Johnny R. Nicks and Pinkey R. Mitchell-Nicks the adjoining property owner, for the sum of \$4,250.00, and to execute a Quitclaim Deed conveying the Property, and any and all other documents necessary to effectuate the sale of the Property.

Section 5. The sales proceeds will be placed in General Purpose Fund (1010), Real Estate Services Organization (88639), Surplus Property Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32); and the sale of this Property will help meet the surplus property revenue requirements in the Fiscal year 2007-08 budget.

Section 6. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information in the staff report accompanying this Resolution, that it can be seen with certainty that there is no possibility that the conveyance of the Property by the City to the Purchaser may have a significant effect on the environment, and therefore this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA guidelines;

Section 7. The City Administrator, or her designee, shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration (California Fish and Game Code Section 711.4) for this action.

Section 8. The Manager, Real Estate Services is hereby authorized to take any and all actions necessary, consistent with this ordinance, to complete the sale of the Property.

Section 9. The Purchase and Sales Agreement for the purchase of this property shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

Section 10. This Ordinance shall become effective immediately upon 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, **NOV 6 2007**, 2007

PASSED BY THE FOLLOWING VOTE:

AYES-BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



LA TONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date: **OCT 16 2007**

Lewis

NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT TO SELL APPROXIMATELY 1,400 SQUARE FEET OF CITY-OWNED SURPLUS REAL PROPERTY LOCATED AT 73rd AND DEERWOOD AVENUES TO JOHNNY R. NICKS AND PINKEY R. MITCHELL-NICKS, THE ADJOINING PROPERTY OWNERS, FOR THE FAIR MARKET PRICE OF FOUR THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$4,250.00) INCLUDING ALL FEES AND COSTS.

This ordinance authorizes the sale of surplus City-owned property at 73rd and Deerwood Avenues to the adjoining property owner.

The City property, a rectangular shaped parcel containing approximately 1,400 square feet, is surplus from the widening of 73rd Avenue.