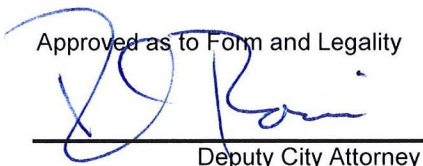


2016 APR 21 PM 12:57

Approved as to Form and Legality

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE (1) AUTHORIZING THE PURCHASE OF 500 KIRKHAM STREET IN WEST OAKLAND (THE "PROPERTY") FROM CALTRANS, (2) AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH TL PARTNERS V, L.P., OR A RELATED ENTITY, FOR THE SALE AND DEVELOPMENT OF THE PROPERTY FOR A MIXED-USE PROJECT, AND (3) MAKING CEQA FINDINGS FOR THIS ACTION**

**WHEREAS**, the California Department of Transportation (Caltrans) owns approximately 2.85 acres of excess land that was the site of the former Cypress Freeway on the block bounded by 5th Street, 7th Street, Kirkham Street and Union Street, commonly known as 500 Kirkham and identified by Caltrans as Director's Deed number 009579-01-01 (the "Property"); and

**WHEREAS**, State procedures for sale of excess property (per California Transportation Commission Resolution G-98-28) authorizes Caltrans to sell excess land to public agencies at fair market value without calling for competitive auction bids upon a determination that the intended uses are for a public purpose, such as a transit oriented development (TOD); and

**WHEREAS**, Caltrans offered the Property for lease or sale to a public agency for a public purpose; the City responded to the offer with a request to purchase the Property for development as a transit-oriented mixed-use project; and the City negotiated a sales price with Caltrans for the Property in the amount of \$3,271,325, if 325 residential units are entitled, plus an additional \$10,681 per unit entitled above 325, the Property's fair market value; and

**WHEREAS**, Charter section 219(6) and Section 2.41.020 of the Oakland Municipal Code authorize the City to acquire real property by ordinance; and

**WHEREAS**, the City Council authorized an Exclusive Negotiating Agreement (ENA) in April 2013 between the City and West Oakland Development Group (WODG) for the purposes of developing a project proposal for the Property, completing California Environmental Quality Act (CEQA) review, and negotiating the terms and conditions of a Disposition and Development Agreement (DDA) (Resolution No. 84309 C.M.S.); and

**WHEREAS**, on October 14, 2014, under the authority of the ENA, the City and Caltrans entered into an Option to Purchase Agreement (“Option”) to lock in the Property’s price and facilitate the transfer of the Property for a TOD project, for a term that expires on June 10, 2016; and

**WHEREAS**, WODG satisfied all the requirements of the ENA, including identifying a qualified developer partner who has experience and success with vertical developments to lead DDA negotiations, close on the land transfer, and get the project financed and built; and

**WHEREAS**, WODG assigned their position for the purchase of the Property to TL Partners V, L.P. (“TLC”); and

**WHEREAS**, TLC is offering the City the funds necessary to exercise the Option to acquire the Property from Caltrans and immediately convey to TLC via a double escrow sale; and

**WHEREAS**, TLC proposes to build an eight-story mixed-use building with approximately 417 residential units, approximately 21,961 square feet of ground floor retail, approximately 264 parking spaces and approximately 72,354 square feet of open space (the “Project”); and

**WHEREAS**, Section 2.42.140, et seq., of the Oakland Municipal Code authorizes the City to sell or lease real property for development by ordinance; and

**WHEREAS**, since the Property is being sold for development for a particular use to promote the economic development, housing, environmental, and community development goals of the City, and has never been in City use, the Property is not “surplus” property of the City; and

**WHEREAS**, the DDA will set forth the terms and conditions under which the City will sell the Property to TLC or its related entities or affiliates, and by which TLC will construct improvements on the Property; and

**WHEREAS**, the City Council adopted a Resolution in December 2014 to establish a general policy to lease rather than sell City property (Resolution No. 85324 C.M.S.); and

**WHEREAS**, staff is recommending a sale of the Property instead of a ground lease in this case because a sale is necessary to promote the economic development and housing goals of the City for the reasons set forth in the Agenda Report for this item; now, therefore,

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

**SECTION 1.** The City Council hereby authorizes the purchase of the Property from Caltrans for the purchase price established under the terms of the Option, its fair market value.

**SECTION 2.** The City Council hereby authorizes the sale of the Property to TL Partners V, L.P., or an affiliated entity approved by the City Administrator, for a price equal to the City's purchase price from Caltrans.

**SECTION 3.** The City Council hereby finds, pursuant to Resolution No. 85324 C.M.S., that it is in the best interests of the City to sell rather than lease the Property for the reasons described in the Agenda Report for this item.

**SECTION 4.** The City Council, pursuant to Oakland Municipal Code Section 2.42.170(B), hereby waives a competitive Notice of Development Opportunity (NODO) process for disposition of the Property, and finds and determines that disposition of the Property without a competitive NODO process is in the best interest of the City because TLC has the experience, capacity and other qualifications, as well as demonstrated interest in developing a project on the site to achieve the City's goals for development of the Property, and the disposition through a competitive NODO process would have been impractical because it would take considerable City resources to undertake a NODO process to identify a developer with experience and qualifications similar to those already offered by TLC before the expiration of the Option.

**SECTION 5.** The City Council hereby finds and determines that, based on the appraisal conducted by two Caltrans-approved appraisers, that the Property is being conveyed at its fair market value, and that the City is not granting any economic development subsidy to the Project.

**SECTION 6.** The City Council hereby authorizes the City Administrator or his/her designee, without returning to the City Council to: (1) exercise the Option to purchase the Property from Caltrans relying solely on developer funds and without any expenditure of City funds, and (2) negotiate and execute a Disposition and Development Agreement and related documents with TLC, or an affiliated entity approved by the City Administrator, for the sale and development of the Property for the Project consistent with the terms of this Ordinance, as well as negotiate and execute grant deeds and any other agreements or documents as necessary to convey the Property upon the satisfaction of any preconveyance conditions imposed by the City Administrator or her designee. The terms and conditions of the DDA shall be consistent with the term sheet attached as Exhibit A to this Ordinance, with such other additions, amendments or other modifications to the term sheet 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 transactions contemplated by this Ordinance. The City Administrator or his or her designee is further authorized to execute documents, accept funds, and take whatever other actions are necessary with respect

to the Property and the Project consistent with this Ordinance and its basic purposes, and the Council hereby appropriates funds as needed to effectuate the transaction set forth in this Ordinance.

**SECTION 7.** The City Council hereby appropriates and authorizes the City Administrator to deposit TLC's contribution to affordable housing per the term sheet of up to \$3,150,000 into the Affordable Housing Trust Fund (1870), Housing Development Organization (89929), in an existing project or a new project to be established.

**SECTION 8.** The City Council authorizes the City Administrator to deposit TLC's contribution to job training per the term sheet of \$1,000,000 into a Misc. Grant Fund (2999), West Oakland Redevelopment Organization (85241), and appropriates such funds to a community benefits jobs program designated by the City Administrator in a project to be established.

**SECTION 9.** All agreements associated with the Property and the Project shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City, and shall be placed on file with the City Clerk.

**SECTION 10.** The City Council finds and determines that the anticipated environmental effects of the Project have been evaluated by the West Oakland Specific Plan Final Environmental Impact Report (Final EIR) (certified June 2014) and, as supported by substantial evidence in the record, no further environmental review is required for the purchase and sale of the Property and the development of the Project. As separate and independent bases, the purchase and sale of the Property and development of the Project are categorically exempt from CEQA pursuant to Section 15332 of the State CEQA Guidelines (in-fill exemption), Section 15183 of the State CEQA Guidelines (projects consistent with a Community Plan, General Plan or Zoning), Section 15183.5 of the State CEQA Guidelines (transit priority projects), and Section 15183.3 of the State CEQA Guidelines (streamlining for infill projects). The City Administrator or his/her designee is hereby authorized to file a notice of determination with the Office of the Alameda County Recorder and the State Office of Planning and Research, and to take any other action necessary in furtherance of the Project, consistent with this Ordinance and its basic purposes.

**SECTION 11.** The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the Planning Commission Report and all notices relating to this Ordinance and the DDA;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance, including without limitation the Planning Commission consideration of general plan conformity; and
- C. All matters of common knowledge and all official enactments and acts of the City,

such as (1) the General Plan; (2) the Oakland Municipal Code, without limitation, the Oakland real estate regulations; (3) the Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

**SECTION 12.** The custodians and locations of the documents or other materials which constitute the record of proceedings upon with the City Council's decision is based are respectively (a) the Project Implementation Division, 250 Frank Ogawa Plaza, 5<sup>th</sup> Floor, Oakland, CA; (b) Planning and Building Department, 250 Frank Ogawa Plaza, 3<sup>rd</sup>, Floor, Oakland, CA; and (c) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1<sup>st</sup> Floor, Oakland, CA.

**SECTION 13.** The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

**SECTION 14.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_ 2016

**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

**ORDINANCE (1) AUTHORIZING THE PURCHASE OF 500 KIRKHAM STREET IN WEST OAKLAND (THE "PROPERTY") FROM CALTRANS, (2) AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH TL PARTNERS V, L.P., OR A RELATED ENTITY, FOR THE SALE AND DEVELOPMENT OF THE PROPERTY FOR A MIXED-USE PROJECT, AND (3) MAKING CEQA FINDINGS FOR THIS ACTION**

**EXHIBIT A**

**TERM SHEET**

*(attached)*

**Exhibit A**  
**DDA TERM SHEET**  
**500 KIRKHAM**

Note- This nonbinding term sheet shall serve as the basis for the negotiations of a detailed final Disposition and Development Agreement (“DDA”) between City staff and the developer. The terms hereof are not binding on the City unless and until the developer and the City Administrator, pursuant to City Council authorization within Council’s sole legislative discretion, have executed a mutually acceptable DDA for the proposed project.

<b>1</b>	<b>CURRENT OWNER</b>	State of California (Caltrans)
<b>2A</b>	<b>DEVELOPER</b>	TL Partners V, L.P., a limited partnership or a related entity controlled by TL Partners V, L.P.
<b>2B</b>	<b>COMPLETION GUARANTY</b>	<p>Developer to provide City a completion guaranty as a condition to closing under the DDA. Guarantor must be a financially strong entity with significant assets, pursuant to criteria set forth in the DDA and acceptable to the City in its sole and absolute discretion. The guarantor shall guarantee project completion, as determined by City.</p> <p>A “Form of Guaranty” will be included as an attachment to DDA and will need to be executed by the City-approved guarantor at close of escrow.</p>
<b>3</b>	<b>PROPERTY</b>	An approximately 2.85 acre vacant lot bounded by 7 <sup>th</sup> Street to the north, 5 <sup>th</sup> Street to the south, Kirkham Street to the west and Union Street to the east. Although commonly referenced as “500 Kirkham,” the Property actually consists of various contiguous parcels that were assembled for use as the former Cypress Street section of the original Interstate 880 freeway. The Property is dissected near its 5 <sup>th</sup> St boundary by overhead BART tracks. The Property is currently owned by Caltrans and is identified as DD-009579-01-01.
<b>4</b>	<b>PROJECT DESCRIPTION</b>	The Project will consist of residential and commercial development per the following minimum unit/square footage amounts: 325 residential units; 30,000 sq. ft. of commercial space including retail, the work portion of live-work, incubator space, etc.
<b>5</b>	<b>PURCHASE PRICE</b>	<p>Per Option Agreement between City and Caltrans, the purchase price shall be \$3,271,325 (\$26/sqft.). If the City entitles more than 325 units to be developed on the property, then the purchase price shall increase by a per unit value of \$10,681.</p> <p>By way of example, the purchase price to build a 417 unit development would be \$4,253,977 or (\$34/sqft).</p>

## Exhibit A

<b>6</b>	<b>TERMS OF PAYMENT/CLOSING</b>	<p>Purchase price to be due and payable in cash submitted into escrow 3 business days before close of escrow. Escrow to close in accordance with the schedule of performance contained herein (Item 12)</p> <p>The property is currently owned by Caltrans and will be sold by Caltrans directly to the City for immediate transfer to Developer via a double escrow sale and simultaneous close.</p>
<b>7</b>	<b>TITLE INSURANCE</b>	Developer to secure title insurance policy, if desired, at its own cost and expense.
<b>8</b>	<b>CLOSING COSTS</b>	Developer to pay all escrow fees and closing costs including, without limitation, city and any other county taxes.
<b>9</b>	<b>LIMITATIONS ON PROPERTY RIGHTS</b>	<p>Developer accepts and acknowledges that Property is subject to deed restrictions and a recorded covenant to restrict use of Property, as contained in the DDA.</p> <p>Developer to comply with provisions of 1) the West Oakland Redevelopment Plan and nondiscrimination provisions of redevelopment law, and 2) the West Oakland Specific Plan.</p>
<b>10</b>	<b>CONDITION OF PROPERTY AT DELIVERY</b>	Developer agrees to accept the Property "as is" in its current condition without warranty express or implied by the City, including without limitation, with respect to the presence of hazardous materials known or unknown on or near the Property.
<b>11</b>	<b>GOOD FAITH DEPOSIT</b>	Upon executing the DDA, Developer will provide a \$50,000 good faith deposit. Except as otherwise provided herein below, such good faith deposit shall be credited against the purchase price at closing. If Developer fails to fulfill the conditions or meet the obligations set forth in the DDA as reasonably determined by the City, the City may exercise its option to terminate the DDA and retain the good faith deposit as liquidated damages, as well as pursue other remedies.



## Exhibit A

12	<b>SCHEDULE OF PERFORMANCE -</b>	<b>DDA Schedule of Performance</b>	<b>Deadline</b>
<p>Note: Option expires on 6/10/2016 but Caltrans may be agreeable to extending until 12/10/2016 for additional fee.</p> <p>Schedule assumes (1) Planning Commission approval of Planning Application, including CEQA determination, Conditional Use Permits, and other discretionary approvals, (2) no appeal of the Planning Commission's approval is filed with the City Council, and (3) DDA term sheet is approved by the City Council. Note: DDA approval, which is subject to the sole and absolute discretion of the City Council, will likely require at least one closed session meeting of City Council; at least one meeting at CED Committee (Community and Economic Development); and at least two meetings of City Council</p>		1. Developer submits 2 years of audited financial statements for each principal and joint venture partner for City review and approval.	3 months after DDA approval; submit updates prior to close of escrow
		2. Developer submits updated and refined Project Proforma (Development Budget & Operating Cash Flow) for City review and approval.	3 months after DDA approval; submit updates prior to close of escrow
		3. Developer submits Financial Plan, including evidence of funds/equity commitments for land acquisition for City review and approval.	4 months after DDA approval; submit updates prior to close of escrow
		4. Conveyance/Close of Escrow, Execution of Completion Guarantee	Before June 10 <sup>th</sup> or Dec 10 <sup>th</sup> 2016, depending on term of Caltrans option
		5. Developer submits Schematic Designs, Development Designs and Construction Designs	8, 13 and 18 months respectively, after DDA Approval
		6. Developer has a "Construction Pre-Application Meeting" and a draft "Compliance Matrix" submitted to Bureau of Building (i.e. start building permit application process)	18 months after DDA approval (Developer allowed 1 month extension)
		7. Developer submits "Construction Permit Application" including Construction Drawings to Bureau of Building	19 months after DDA approval (Developer allowed 1 month extension)
		8. Developer finalizes Project Financing: submit evidence of construction financing and copy of a construction contract; payment and performance bonds; and other sources (which may include equity commitments from the investors in Developer).	24 months after DDA approval (Developer allowed 1 month extension)
		9. Developer submits approved Construction Permits	Within 30 days after receiving final building permit approvals from the City of Oakland
		10. Commence construction (Site Improvements)	By the later of 60 days after submittal of approved Construction permits, or 60 days after final DTSC approvals, but not later than 36 months after close of escrow
		11. Complete construction	Within 36 months of construction commencement

## Exhibit A

<p><b>13</b></p>	<p><b>REPURCHASE OPTION</b></p>	<p>In addition to all other City remedies for Developer default, and subject to the notice and cure rights described below, if (i) construction on the Project does not start by the latter of 36 months after close of escrow, or (ii) the Developer does not diligently continue construction thereafter, or (iii) the Developer does not complete construction within the time period required under the DDA (subject in each case to extension for force majeure), the City will have the option to repurchase the Property (the "Option"). If the Option is exercised prior to the commencement of construction, the repurchase price will be equal to the Purchase Price. If the repurchase option is exercised after the commencement of construction, the City may at its option a) require the Developer at its sole cost to demolish any improvements on the Property and repurchase the Property for the Purchase Price, or b) repurchase the Property with any improvements constructed thereon by the Developer for the Purchase Price plus the fair market value of the improvements. The appraisal process to determine fair market value of the improvements will be set forth in the DDA. Prior to close of escrow, if force majeure individually or cumulatively exceeds 12 months, either party shall have the right to terminate the agreement. Developer shall deposit an executed reversionary grant deed into escrow at close with instructions to deliver reversionary grant deed to City if City exercises the Option.</p> <p>City's Option is assignable or transferable in its sole and absolute discretion.</p> <p>There will be a 30-day notice and cure process for any such default, and the cure period will be extended if the default cannot reasonably be cured within such 30-day period and the Developer has commenced and is proceeding diligently with efforts to cure the default; subject, however, to an maximum cure date deadline to be negotiated by the parties.</p> <p>The City will execute and record such instruments as Developer may reasonably request to terminate the Option, at such time as the Option is no longer exercisable in accordance with its terms.</p>
<p><b>14</b></p>	<p><b>OFF-SITE IMPROVEMENTS</b></p>	<p>Developer to be responsible for the cost of any required off-site improvements in connection with the Project.</p>

## Exhibit A

15	<b>ENVIRONMENTAL REMEDICATION</b>	<p>The City gives notice of environmental reports as follows:</p> <ol style="list-style-type: none"> <li>1) 500 Kirkham - Phase I Report, prepared by Northgate Environmental Management, Inc. for the City of Oakland, dated June 6, 2011. Available on City's website: <a href="http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak032703.pdf">http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak032703.pdf</a></li> <li>2) 500 Kirkham - Phase II report, prepared by Northgate Environmental Management, Inc. for the City of Oakland, dated Dec 16, 2011 Available on City's website: <a href="http://www2.oaklandnet.com/Government/o/PWA/o/FE/s/BAC/OAK026274">http://www2.oaklandnet.com/Government/o/PWA/o/FE/s/BAC/OAK026274</a></li> <li>3) 500 Kirkham - Site Mitigation Cost Estimate, prepared by Northgate Environmental Management, Inc. for the City of Oakland, dated October 17, 2011</li> <li>4) 500 Kirkham – Preliminary Site Investigation Report, prepared by Geocon Consultants, Inc. for Caltrans, dated July 2013</li> <li>5) DTSC Letter dated May 20, 2014 – response to 500 Kirkham site investigation reports</li> <li>6) Northgate Letter dated Sept 29, 2014 – response to DTSC May 20 Letter, prepared for the City of Oakland</li> </ol> <p>Developer should be working directly with DTSC now to negotiate and finalize a remediation plan for implementation.</p>
16A	<b>INDEMNIFICATION</b>	Developer to indemnify, hold harmless and defend City and its employees, officers, directors, shareholders, and agents from any claims, actions or liabilities arising from the Project.
16B	<b>ENVIRONMENTAL INDEMNIFICATION</b>	Developer to indemnify and defend the City for any liability or actions arising from environmental conditions on the Property, including preexisting conditions.
16C	<b>POLLUTION INSURANCE</b>	<p>Developer to secure pollution legal liability insurance policy at its sole expense covering pre-existing condition with a 10 year term that names the Developer as the named insured and the City as an additional insured.</p> <p>Minimum coverage: \$10,000,000 per claim and in aggregate</p> <p>Maximum deductible: \$100,000</p> <p>Perils covered including: Pollution Legal Liability, On-site and off-site clean-up costs; non-owned disposal site; in-bound and out-bound contingent transportation; legal defense expense; and business interruption for Developer including soft costs and construction delay.</p> <p>Proof of pollution insurance shall be provided before transfer of Property.</p>
17	<b>DEVELOPER MAINTENANCE</b>	Upon close of escrow, Developer is responsible for all maintenance of the Property, excluding any land that is deeded or dedicated to the City of Oakland.

## Exhibit A

<b>18</b>	<b>NO COMMISSION</b>	City shall not pay or be liable for any commissions or brokerage fees. The parties shall hold each other harmless and defend against any claims for commissions or brokerage.
<b>19</b>	<b>SIGNAGE</b>	Developer may not install or place signage on any existing City street outside the Property or in the public corridor. Developer may install and place signage on the remaining Property in compliance with City codes, or other applicable codes or regulations.
<b>20</b>	<b>STANDARD OF PROPERTY</b>	Developer to maintain the Property and Project in first-class condition and will ensure that at no time does the Property violate the City Blight Ordinance. This obligation will be memorialized in the DDA, grant deed and/or recorded covenants.
<b>21</b>	<b>FINAL CONSTRUCTION PLANS</b>	<p>Developer and its design consultants must meet or exceed requirements of City's Green Building Ordinance as it pertains to this project.</p> <p>The Final Construction Plans shall include a plan and schedule to incorporate public art into the Project pursuant to Project's Condition of Approvals and Oakland Municipal Code Section 15.70. Pursuant to the foregoing, the total amount of the obligation shall be calculated as follows:</p> <ol style="list-style-type: none"> <li>1. 1% of "building development costs" allocated to the nonresidential portion of the Project; plus</li> <li>2. 0.5% of the "building development costs" allocated to the residential portion of the Project.</li> </ol> <p>"Building development costs" shall be equal to the aggregate construction costs declared on the building permit applications for the Project (building, plumbing, mechanical and electrical) and accepted by the Building Official.</p>
<b>22</b>	<b>PAYMENT &amp; PERFORMANCE BONDS</b>	Developer shall obtain payment and performance bonds, each in an amount not less than 100% of the cost of construction of the Project pursuant to the Construction Contract to be executed by Developer.
<b>23</b>	<b>RIGHT OF ENTRY</b>	<p>Developer to have the right to enter onto the Property prior to transfer to conduct any investigation, testing, appraisals and other studies, at Developer's cost, required as part of its due diligence. Developer shall be required to provide City with indemnity and evidence of insurance (in form and amounts to be further described in an exhibit to the DDA) and meet other standard City conditions to entry.</p> <p>City to have right of entry onto the Property from close of escrow until construction is completed, to inspect the Property and the Project during standard operating hours and upon required notice except for emergencies; this provision does not otherwise limit City's right to enter under its separate regulatory authority.</p>
<b>24</b>	<b>FINANCING</b>	DDA will include an objective standard (experience, size, etc.) of what an "Approved Lender" is, subject to administrative approval. The DDA shall include customary mortgagee protections in favor of any Approved Lender.

## Exhibit A

25	<b>PERMITTED TRANSFERS</b>	<p>Prior to Project completion, Developer shall not have the right to assign or transfer all or any portion of its rights and obligations under the DDA, other than an Affiliate Transfer, without the prior written consent of the City, in the City’s sole and absolute discretion</p> <p>An Affiliate Transfer shall not require consent, but shall require prior notice and documentation related to the Affiliate Transfer to the City, and shall mean a transfer to an entity or entities controlled by TL Partners V, L.P..</p>
26	<b>STANDARD CONDITIONS</b>	<p>DDA to include standard City conditions, including without limitation: executed completion guaranty, provision of payment and performance bonds, City approval of financing plan, restrictions on assignment and transfer prior to completion of construction, default and cure provisions, termination provisions, and requirements for submission of copies of all required regulatory approvals and insurance policies..</p>
27	<b>CITY EMPLOYMENT PROGRAMS</b>	<p>Does not apply to this Project.</p>
28	<b>PROHIBITION OF GENERATION OF CONDOMINIUM CONVERSION RIGHTS</b>	<p>The DDA shall include an acknowledgement and agreement by Developer that the Project shall not generate, and the Developer shall not assert, condominium “conversion rights” under Chapter 16.36 of the Oakland Municipal Code. Nothing in the DDA shall limit the Developer’s right to create apartment or condominium units on the Project. However, the Developer shall agree that, in the event that Project includes rental apartments, the Developer shall not at any time sell any “conversion rights” to another property within the City of Oakland.</p>
29 A	<b>AFFORDABLE HOUSING - City impact fee</b>	<p>If the City adopts an affordable housing impact fee either following or before the Effective Date of this Agreement (an “AH Requirement”) that applies to the Project, any payment by Developer of an affordable housing impact fee pursuant to an AH Requirement would be credited against any amount to be paid under Item 29B.</p> <p>If the City’s adopted AH Requirement includes an option to provide affordable units onsite, the number of affordable units required by Item 29B shall be reduced by the number of units provided onsite at the same affordability level to meet the AH Requirement.</p>

## Exhibit A

<p><b>29 B</b></p>	<p><b>AFFORDABLE HOUSING</b></p>	<p>A. Developer to set aside 7.5% of residential units onsite as work force housing, affordable to moderate income households (3.75% at 100% of AMI and 3.75% at 120% of AMI), subject to a recorded Regulatory Agreement with an affordability term of 55 years and will remain rental when the other units are sold as condominiums. Developer will not seek City funding assistance for the affordable units.</p> <p style="text-align: center;">AND</p> <p>B. Developer to pay \$3,150,000 to the City of Oakland Affordable Housing Trust Fund. This payment will be due at the time impact fees would be due.</p>
<p><b>30</b></p>	<p><b>ADDITIONAL COMMUNITY BENEFITS</b></p>	<ol style="list-style-type: none"> <li>1. Developer to provide a total payment of \$1,000,000 to provide job training for local residents to the City of Oakland or an entity to-be named by the City Administrator. This payment will be due at the time of building permit application. This payment would be in-lieu of any prevailing wage obligations or Project Labor Agreements.</li> <li>2. Developer to build and maintain +/-19,500 square feet of open space at the corner of 5<sup>th</sup> and Kirkham to be made available to the public. Developer values the construction of this open space at approximately \$307,125.</li> </ol>

**ORDINANCE (1) AUTHORIZING THE PURCHASE OF 500 KIRKHAM STREET IN WEST OAKLAND (THE "PROPERTY") FROM CALTRANS, (2) AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH TL PARTNERS V, L.P., OR A RELATED ENTITY, FOR THE SALE AND DEVELOPMENT OF THE PROPERTY FOR A MIXED-USE PROJECT, AND (3) MAKING CEQA FINDINGS FOR THIS ACTION**

**NOTICE AND DIGEST**

This Ordinance authorizes the purchase of real property located at 7<sup>th</sup> Street and Kirkham Street in Oakland from Caltrans, and authorizes the sale of the property to TL Partners V, L.P. for the amount of the purchase price with Caltrans. This Ordinance also authorizes the City Administrator to negotiate and enter into a Disposition and Development Agreement with TL Partners V, L.P. for the sale and development of the property as a mixed-use project, and makes associated findings with respect to the California Environmental Quality Act (CEQA) and other matters.