

OFFICE OF THE CITY CLERK
OAKLAND

2006 JAN 12 PM 1:23

APPROVED AS TO FORM AND LEGALITY:



DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12726 C. M. S.

AN ORDINANCE AMENDING ORDINANCE NO. 12214 C.M.S., WHICH AUTHORIZED THE SALE OF FOUR CITY-OWNED PROPERTIES AT 9724 AND 9745 THERMAL STREET AND 2656 AND 2660 98TH AVE. TO BLACK PHOENIX DEVELOPMENT GROUP FOR THE DEVELOPMENT OF SIX HOMES AFFORDABLE TO MODERATE-INCOME HOUSEHOLDS, TO AUTHORIZE THE SALE OF THE PROPERTIES TO TOLER HEIGHTS ESTATES LLC, SUCCESSOR TO BLACK PHOENIX, FOR THE TOTAL FAIR MARKET VALUE OF \$810,500 FOR THE DEVELOPMENT OF SIX UNITS OF MARKET-RATE HOUSING

WHEREAS, on March 14, 2000 with Ordinance No. 12214 C.M.S., City Council authorized the negotiation and execution of a Disposition and Development Agreement (the "DDA") with Black Phoenix Development Group for the development of four City-owned properties; and

WHEREAS, Toler Heights Estates LLC (the "Developer") is successor to Black Phoenix Development Group, and has assumed all its assets and obligations; and

WHEREAS, the Developer has completed plans and obtained building permits and construction financing for two of the six planned units; and

WHEREAS, the City has already transferred title to the two properties on Thermal Street to the Developer; and

WHEREAS, the Developer is unable to proceed with development of the properties due to increased construction costs and the limitations of the DDA; and

WHEREAS, given the Developer's significant progress to date, it would be impractical to restart the process of selecting a developer; and

WHEREAS, the City Real Estate Department has determined that the fair market value of the properties totals \$810,500; and

WHEREAS, the property will be sold in accordance with requirements of the California Government Code sections 54220 et. seq; and City Ordinance No. 11602, C.M.S.; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 (“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 HEREBY 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 has followed the requirements for sale of surplus properties under Government Code sections 54220 et seq. and City Ordinance No. 11602 C.M.S.

SECTION 2. The City hereby amends Ordinance No. 12214 C.M.S.

SECTION 3. The Council hereby authorizes amendment of the terms of transfer to the Developer for the properties at 9724 and 9745 Thermal Street to provide for payment by Developer of the total fair market value of \$416,000, for development of housing.

SECTION 4. The Council hereby authorizes the sale of the properties at 2656 and 2660 98th Ave. to the Developer for the total fair market value of \$394,500 for development of housing.

SECTION 5. The City Administrator, or her designee, is authorized to negotiate and execute documents necessary to proceed with the amendment, including without limitation grant deeds and promissory notes, and to take all actions necessary, consistent with this Ordinance, to complete the sale of the properties

SECTION 6. Payments on the promissory notes will be deposited as follows:

\$75,000 to the Community Development Block Grant (CDBG) program for past maintenance: CDBG Fund (2108); Housing and Community Development Organization (88919), Sale of Land Account (48111), Vacant Housing Program Project (G08850), Housing Development (SC14).

69% of remaining proceeds to the General Fund: Real Estate Surplus Property Fund (1010), Real Estate Services Organization (88639), Sale of Land Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32).

The remaining 31% will be split equally between the General Fund (*same coding as preceding paragraph*) and the Public Works Street and Sidewalk Maintenance Program: State Gas Tax Fund (2230), Right of Way Management Org (30243), Sale of Land Account (48111), Nonproject (000000), Streets and Sidewalks Management Project (IN04).

SECTION 7. 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 this action by the City is exempt from CEQA pursuant to sections 15303 (new construction or conversion of small structures) and 15312 (surplus government property sales) of the CEQA Guidelines.

SECTION 8. The City Administrator or her designee shall cause a Notice of Exemption for this action to be filed with the County of Alameda.

SECTION 9. All documents shall be approved as to form and legality by the City Attorney's Office.

SECTION 10. This Ordinance shall take effect immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption..

Introduction Date: **FEB - 7 2006**
IN COUNCIL, OAKLAND, CALIFORNIA, **FEB 21 2006** , 2006

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:
 Linda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California