

  
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

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

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**AN ORDINANCE APPROVING THE PROPOSED TERMS OF A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT, A SEVENTY-FIVE YEAR GROUND LEASE FOR A 55-YEAR CAPITALIZED LOAN VALUE IN THE AMOUNT EQUAL TO OR NO LESS THAN \$1,210,000, WITH FULLY DEFERRED PAYMENTS, AND RELATED DOCUMENTS (COLLECTIVELY, “DISPOSITION DOCUMENTS”) WITH 95<sup>TH</sup> & INTERNATIONAL HOUSING PARTNERS, L.P., AND/OR AFFILIATED ENTITIES (“DEVELOPER”) FOR THE DEVELOPMENT AT 95<sup>TH</sup> AVENUE & INTERNATIONAL BOULEVARD ON CITY OWNED PARCELS CURRENTLY DESIGNATED AS ASSESSOR’S PARCEL NUMBERS 044-4967-002, 044-4967-003, 044-4967-004-02, 044-4967-004-03, 044-4967-005, 044-4967-007-01, 044-4967-009 WITH FRONTAGE ON INTERNATIONAL BOULEVARD BETWEEN 94<sup>TH</sup> AND 95<sup>TH</sup> AVENUES (COLLECTIVELY, “CITY PROPERTY”); 2) APPROVING THE PROPOSED CONVEYANCE OF PRIVATELY-OWNED PARCEL CURRENTLY DESIGNATED AS ASSESSOR’S PARCEL NUMBER 044-4967-001 (“PRIVATE PARCEL”) FROM DEVELOPER TO THE CITY AT NO COST; AND 3) AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE THE FINAL DISPOSITION DOCUMENTS, INCLUDING THE GRANT DEED CONVEYANCE OF THE PRIVATE PARCEL TO THE CITY AND THE GROUND LEASE CONVEYANCE OF THE COMBINED CITY PROPERTY AND PRIVATE PARCEL TO DEVELOPER FOR THE PROPOSED DEVELOPMENT**

**WHEREAS**, pursuant to the authority granted in Resolution No. 2011-0056 C.M.S adopted on January 5, 2011, the former City of Oakland Redevelopment Agency (the “Agency”) purchased seven contiguous parcels, including: 9409 International Blvd. or APN 044-4967-002; 9415 International Blvd. or APN 044-4967-003; 9423 International Blvd. or APN 044-4967-004-03; 9431 International Blvd. or APN 044-4967-005; 9437 International Blvd. or APN 044-4967-007-01; 1361 95th Avenue or APN 044-4967-004-02; and 95th Avenue with no street address or 044-4967-009 (collectively, “City Property”) for a total of \$1,227,038, to promote economic development in the community; and

**WHEREAS**, in January 2012, all redevelopment agencies in the State of California were dissolved, the Oakland Redevelopment Successor Agency (“ORSA”) became the successor agency to the former Agency and pursuant to the Long-Range Property Management Plan approved by the California Department of Finance in May 2014, the Property was transferred to the City of Oakland (the “City”); and

**WHEREAS**, the City, Related/95<sup>th</sup>&International Development Co., LLC, an affiliate of The Related Companies of California, LLC, a California limited liability company (“**Related**”), and Acts Community Development, a California non-profit public benefit corporation (“Acts”) jointly entered into an Exclusive Negotiating Agreement (“ENA”) with the City on September 17, 2019, as authorized by Resolution No. 87858 C.M.S., for the purpose of studying the feasibility of the development of a proposed housing project (the “Project”) that consists of 55 affordable residential units and 2,500 square feet of commercial space on the City Property along with a privately owned parcel located at 9401 International Boulevard or APN044-4967-001 (the “Corner Parcel”). The City Property and the Corner Parcel are collectively referred to as the “95<sup>th</sup> and International Boulevard Property”; and

**WHEREAS**, In 2019, Related and Acts together formed 95<sup>th</sup> and International Housing Partners, L.P., a California limited partnership, the legal entity serving as the developer of the Project (the “Developer”); and

**WHEREAS**, Developer acquired a loan from the City’s Naturally Occurring Affordable Housing (NOAH) Program of \$495,000, pursuant to a Promissory Note secured by a Deed of Trust dated September 12, 2019, as a means to acquire the “Corner Parcel”; and

**WHEREAS**, the parties anticipate that the ownership of the Corner Parcel will subsequently be transferred to the City at no cost and be merged with the City Property, prior to the City ground leasing the 95<sup>th</sup> and International Boulevard Property to Developer; and

**WHEREAS**, City staff and Developers have negotiated Term Sheets for the Project, attached hereto as **Exhibit A & B**, which sets forth the terms and conditions pursuant to which the City will enter into a Lease Disposition and Development Agreement (“LDDA”) and long term ground lease for the 95<sup>th</sup> and International Boulevard Property (“Ground Lease”); and

**WHEREAS**, the Ground Lease will be for up to 75 years, with a 55-Year capitalized loan value in the amount equal to or no less than \$1,210,000, with fully deferred payments to the extent there are insufficient annual Project residual receipts; and

**WHEREAS**, the \$1,227,038 in bond funds used for the original purchase of the City Property are restricted by bond covenants for redevelopment activities within the Coliseum Redevelopment Project Area. Therefore, any residual receipts received from the Project will be restricted to the Coliseum Project Area and deposited in Entity (1), Coliseum Bond Series 2006B-T Taxable Fund (5656), CIP Coliseum Organization (94859), Land Rental: Miscellaneous Account (44219), Coliseum Program (SC12), and a Project to be determined later for appropriation; and

**WHEREAS**, California Government Code Section 52201 (“State Law”) requires that before any real property formerly owned by the Agency is sold or leased for economic development purposes, the sale or lease must first be approved by the legislative body (i.e., the City Council) by resolution after public hearing; and

**WHEREAS**, a public hearing of the City Council was held to hear public comments on the lease of the 95<sup>th</sup> Avenue and International Boulevard Property to the Developer for the Project; and

**WHEREAS**, notice of the time and place of the public hearing was given by publication in a newspaper of general circulation in Alameda County at least once a week for at least two successive weeks prior to the public hearing; and

**WHEREAS**, as required by State Law, the City made a Section 52201 report available to the public for inspection, no later than the first date of publication of the notice for the hearing, that contains: (i) a copy of the proposed lease of the Property and (ii) a summary of (a) the cost of the agreement to the City, (b) the estimated highest and best use value of the Property permitted under the City’s General Plan or Zoning Ordinance, (c) the estimated value of the Property determined at the use with the conditions, covenants, and developments required by the proposed lease, the present value of the residual receipts payments required to commence at the time of closing, and (d) an explanation, with supporting facts and materials, of why the lease and development of the Property conforms to the goals and priorities of the City Council as it relates to economic activity, growth, and opportunities; and

**WHEREAS**, the Oakland City Planning Commission, for development permit Case File No. PLN18399, approved the Project on October 23, 2018, based on additional findings that, pursuant to Sections 15332 (Infill Development) and 15183 (Plan Consistency) of the California Environmental Quality Act (CEQA) Guidelines, the Project is exempt and no additional environmental review is necessary for this Project; and

**WHEREAS**, In order to include the possibility of a community health clinic on the ground floor, the Developer applied for a Conditional Use Permit with the Planning and Building Department, which the Planning Commission approved on February 26, 2020, based on additional findings that, pursuant to CEQA Sections 15332 (Infill Development) and 15183 (Plan Consistency), the revised Project was exempt and no additional environmental review is necessary for this Project; now, therefore

The Council of the City of Oakland, acting as ORSA and as the City Council, does ordain as follows:

**SECTION 1.** The City Council hereby approves the proposed terms, as more fully set forth in Exhibit A attached hereto and incorporated herein, of an LDDA, a seventy-five year Ground lease for a 55-year capitalized loan value in the amount equal to or no less than \$1,210,000, with fully deferred payments.

**SECTION 2.** The City Council hereby authorizes the City Administrator or his or her designee to negotiate and execute the LDDA, in a form consistent with Exhibit A and this Ordinance, with Developer for the Project.

**SECTION 3.** The City Council hereby approves the proposed conveyance of the Corner Parcel from Developer to the City at no cost and authorizes the City Administrator or his or her designee to

execute all documents necessary to effectuate such conveyance, upon satisfaction of all conditions precedent set forth in the LDDA.

**SECTION 4.** The City Council hereby authorizes the City Administrator or his or her designee to negotiate the form of the Ground Lease, in a form consistent with Exhibit A and this Ordinance, and to execute such Ground Lease with Developer for the Project upon the date of closing of the construction loan for the Project, and subject to additional requirements of Project lender(s) and investors.

**SECTION 5.** The City Council hereby finds and determines that the \$1,227,038 million bond funds used for the original purchase of the property are restricted by bond covenants for redevelopment activities with the Coliseum Redevelopment Project Area and that any payments from the Project will be restricted, accepted and appropriated within the Coliseum Project Area and deposited in Entity (1), Coliseum Bond Series 2006B-T Taxable Fund (5656), Land Rental: Misc. Account (44219), CIP Coliseum (94859), Coliseum Program (SC12), and a Project to be determined later for appropriation; and

**SECTION 6.** The City Council hereby finds and determines that the Ground Lease of the City Property for the Project will assist in the creation of affordable housing and economic opportunity in the City by:

- creating 55 units of housing and expanding new jobs, including approximately 165 construction jobs and 11 permanent jobs; and
- increasing combined tax revenue to all taxing entities by an estimated \$50,000; and
- Providing health care services to an underserved community.

**SECTION 7.** The City Council hereby further finds and determines that the consideration for the Ground Lease of the City Property is not less than the fair reuse value of the City Property at the use and with the covenants and conditions and development costs authorized by the Ground Lease, and that it is in the best interest of the City to ground lease the City Property to the Developer at its fair reuse value given the need to redevelop the 95<sup>th</sup> and International Boulevard Property for the benefit of the community.

**SECTION 8.** All agreements, deeds, and contracts associated with the disposition of the 95<sup>th</sup> and International Boulevard Property for the Project as set forth herein shall be reviewed and approved as to form and legality by the Office of the City Attorney prior to execution by the City, and shall be placed on file with the City Clerk.

**SECTION 9.** The City Council hereby finds and determines that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines are present in that (1) there are no substantial changes proposed in the Project or the circumstances under which the Project is to be undertaken that would involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) there is no “new information of substantial importance,” as defined in CEQA Guidelines Section 15162(a)(3); and (3) the Planning Commission’s findings of exemption for the Project under Sections 15332 (Infill Development) and 15183 (Plan Consistency) are still valid.

**SECTION 10.** The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

**SECTION 11.** The City Council hereby authorizes the City Administrator or his or her designees to (1) determine satisfaction of conditions precedent under the LDDA to the conveyance of the Ground Lease, such determination to be conclusively evidenced by the execution and delivery by the City Administrator of the Ground Lease in a form approved by the City Attorney; and (2) take whatever action is necessary with respect to the Ground Lease of the 95<sup>th</sup> and International Boulevard Property for the Project consistent with this Ordinance and its basic purposes.

**SECTION 12.** This Ordinance shall be in full force and effect immediately upon final adoption, 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,

**PASSED BY THE FOLLOWING VOTE:**

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO  
AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

ASHA REED

Acting City Clerk and Acting Clerk of the Council of the  
City of  
Oakland, California

Date of Attestation: \_\_\_\_\_

**AN ORDINANCE APPROVING THE PROPOSED TERMS OF A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT, A SEVENTY-FIVE YEAR GROUND LEASE FOR A 55-YEAR CAPITALIZED LOAN VALUE IN THE AMOUNT EQUAL TO OR NO LESS THAN \$1,210,000, WITH FULLY DEFERRED PAYMENTS, AND RELATED DOCUMENTS (COLLECTIVELY, “DISPOSITION DOCUMENTS”) WITH 95<sup>TH</sup> & INTERNATIONAL HOUSING PARTNERS, L.P., AND/OR AFFILIATED ENTITIES (“DEVELOPER”) FOR THE DEVELOPMENT AT 95<sup>TH</sup> AVENUE & INTERNATIONAL BOULEVARD ON CITY OWNED PARCELS CURRENTLY DESIGNATED AS ASSESSOR’S PARCEL NUMBERS 044-4967-002, 044-4967-003, 044-4967-004-02, 044-4967-004-03, 044-4967-005, 044-4967-007-01, 044-4967-009 WITH FRONTAGE ON INTERNATIONAL BOULEVARD BETWEEN 94<sup>TH</sup> AND 95<sup>TH</sup> AVENUES (COLLECTIVELY, “CITY PROPERTY”); 2) APPROVING THE PROPOSED CONVEYANCE OF PRIVATELY-OWNED PARCEL CURRENTLY DESIGNATED AS ASSESSOR’S PARCEL NUMBER 044-4967-001 (“PRIVATE PARCEL”) FROM DEVELOPER TO THE CITY AT NO COST; AND 3) AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE THE FINAL DISPOSITION DOCUMENTS, INCLUDING THE GRANT DEED CONVEYANCE OF THE PRIVATE PARCEL TO THE CITY AND THE GROUND LEASE CONVEYANCE OF THE COMBINED CITY PROPERTY AND PRIVATE PARCEL TO DEVELOPER FOR THE PROPOSED DEVELOPMENT**

## **NOTICE AND DIGEST**

This Ordinance authorizes the disposition of City-owned parcels at 95<sup>th</sup> Avenue and International Boulevard, including assessor’s parcel numbers 044-4967-002, 044-4967-003, 044-4967-004-02, 044-4967-004-03, 044-4967-005, 044-4967-007-01, 044-4967-009 and privately-owned parcel APN 044-4967-001 to be transferred to the City’s ownership to 95<sup>th</sup> and International Housing Partners, L.P., for the development of 55 affordable residential units, 33 parking spaces, and approximately 2,514 square feet of non-profit/commercial space. This Ordinance authorizes the City Administrator or his designee to sign the Lease Disposition and Development Agreement (LDDA) with 95<sup>th</sup> and International Housing Partners, L.P., and/or Affiliated Entities for this transaction, and makes associated findings with respect to the California Environmental Quality Act (CEQA) and other matters.