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OAKLAND

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APPROVED AS TO FORM AND LEGALITY


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 1331 C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT, A SIXTY-SIX (66) YEAR GROUND LEASE AND RELATED DOCUMENTS (COLLECTIVELY "LDDA") BETWEEN THE CITY OF OAKLAND AND THE SPANISH SPEAKING UNITY COUNCIL OF ALAMEDA COUNTY, INC. AND L & M DEVELOPMENT PARTNERS, INC. FOR DEVELOPMENT OF MIXED-INCOME HOUSING LOCATED ON APN 033-2177-021 AT 35TH AVENUE AND EAST 12TH STREET

WHEREAS, pursuant to the authority granted in Resolution No. 2010-1000 C.M.S adopted July 13, 2010, the former City of Oakland Redevelopment Agency (the "Agency") purchased a 3.4 acre surface parking lot consisting of two parcels, APN 033-2177-021 ("Phase IIA Property") and APN 033-2197-019 ("Phase IIB Property") bounded by 35th and 37th Avenues, East 12th Street and the Bay Area Rapid Transit (BART) tracks (Phase IIA Property and Phase IIB Property, collectively, the "Property"), to promote economic development in the community and to assist with the development of Phase II of the Fruitvale Transit Village; 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 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, on November 18, 2014, the City and the Spanish Speaking Unity Council of Alameda County, Inc. ("Unity Council") entered into an Exclusive Negotiating Agreement ("ENA") for the purpose of studying the feasibility of the development of a proposed mixed income housing project comprised of 94 mixed income residential units on the parcel number 033-2177-021 ("Phase IIA Project") and a proposed market rate housing project comprised of 181 market rate residential units on the parcel number 033-2197-019 ("Phase IIB Project," and together with the Phase IIA Project, the "Project"); and

WHEREAS, the City desires to enter into a proposed Lease Disposition and Development Agreement and related documents (collectively, the "LDDA") with the Unity Council and L & M Development Partners, Inc. (collectively, the "Developer") which will set forth the terms and conditions of the development of the Phase IIA Project and the use of the Phase IIA Property by the Developer and any successors to the Phase IIA Property; and

WHEREAS, staff and Developer have negotiated a Term Sheet for Fruitvale Transit Village Phase IIA, Mixed Income Housing dated May 12, 2015 ("Term Sheet"), which sets forth the terms and conditions to be included in the LDDA and its exhibits, including the Ground Lease for 66 years for lease of the Phase IIA Property for the development of Phase IIA Project, with a lease payment of 50% percent of the Available Cashflow from Year 1 to Year 66, as detailed in the City Council Agenda Report and the Term Sheet attached as Attachment A thereto; and

WHEREAS, given the financial feasibility of the Phase IIA Project, the lease of the Property to the Developer will be for 66 years and will provide revenue to the City from Available Cashflow; 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 Phase IIA Property to the Developer for the Phase IIA 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, the City made a report available to the public for inspection, no later than the first date of publication of the notice for the hearing as required by State Law; and

WHEREAS, in May 2010, the City Council certified the Environmental Impact Report (EIR) for the Project and the Oakland City Planning Commission approved the Project for entitlements on May 6, 2015; now, therefore

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

SECTION 1. The City Council hereby authorizes the preparation of a LDDA related to the Phase IIA Property with the Developer for development of 94 mixed income residential units on the Phase IIA Property located on assessor's parcel number 033-2177-021 and to lease the Phase IIA Property for sixty-six (66) years to the Developer or an affiliated entity approved by the City Administrator; and

SECTION 2. The City Council hereby authorizes the City Administrator or his or her designee to negotiate and execute: (1) a LDDA, including without limitation, the exhibits thereto, in accordance with the terms and conditions set forth in the Term Sheet, with the Developer for the lease and development of the Phase IIA Project; (2) upon satisfaction or waiver of the conditions precedent, a Ground Lease; and (3) upon the satisfaction of any preconveyance conditions imposed by the City Administrator or his or her designee, such other agreements or documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate the lease and development of the Phase IIA Property for the Phase IIA Project in order to consummate the transaction under a

LDDA in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

SECTION 3. The City Council hereby authorizes the City Administrator or his or her designee to (1) determine satisfaction of conditions precedent under the LDDA to the conveyance of the leasehold estate in the Phase IIA Project, such determination to be conclusively evidenced by the execution and delivery by the City Administrator of a Ground Lease and (2) take whatever action is necessary with respect to the lease of the Phase IIA Property for the Phase IIA Project consistent with this Ordinance and its basic purposes.

SECTION 4. The City Council hereby finds and determines that the lease of the Phase IIA Property for the Phase IIA Project will assist in the creation of economic opportunity in the City by:

- creating and expanding new jobs, including approximately 261 construction jobs and 3 permanent jobs, which is at least one full-time equivalent permanent job for every \$35,000 in City investment; and
- increasing property tax revenue to all taxing entities by at least 15% of total property tax when compared to the year prior to the City's acquisition of the Property.

SECTION 5. The City Council hereby further finds and determines that the consideration for the lease of the Phase IIA Property is not less than the fair reuse value of the Phase IIA Property at the use and with the covenants and conditions and development costs authorized by the lease, and that it is in the best interest of the City to lease the Phase IIA Property to the Developer at its fair reuse value given the need to redevelop the Phase IIA Property for the benefit of the community.

SECTION 6. The City Council previously certified the EIR and hereby finds and determines that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that (1) there are no substantial changes proposed in the Phase IIA Project or the circumstances under which the Phase IIA Project is undertaken that would involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3).

SECTION 7. All agreements associated with the conveyance of the Phase IIA Property for the Phase IIA Project 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 8. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 9. 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, JUN 22 2015, 2015

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,
and PRESIDENT GIBSON MCELHANEY - 8

NOES- \emptyset

ABSENT- \emptyset

ABSTENTION- \emptyset

ATTEST: *Latonda Simmons*
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date

JUN 02 2015

Date of Attestation: July 1, 2015

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NOTICE AND DIGEST

This Ordinance authorizes the disposition of a portion of the property at 35th Avenue and East 12th Street known as assessor's parcel number 033-2177-021 to the Spanish Speaking Unity Council of Alameda County and L & M Development Partners Inc. for the development of Phase IIA which shall consist of 94 mixed income residential units and 47 parking spaces. This Ordinance authorizes the City Administrator to negotiate and enter into a Lease Disposition and Development Agreement with the Spanish Speaking Unity Council of Alameda County and L & M Development Partners Inc., for this transaction, and makes associated findings with respect to the California Environmental Quality Act (CEQA) and other matters.

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Notice of Publication

This Ordinance was introduced at the City Council meeting, Tuesday evening **June 2, 2015**, and passed to print **7 Ayes, 1 Absent - Gibson-McElhaney**. Final adoption has been scheduled for the City Council meeting Monday evening **June 22, 2015, 5:00 p.m.**, at One Frank H. Ogawa Plaza, Council Chambers, 3rd floor, Oakland, California.

Three full copies are available for use and examination by the public in the Office of the City Clerk at One Frank H. Ogawa Plaza, 1st floor, Oakland, California.

LATONDA SIMMONS, City Clerk
OT #5508233; Jun. 19, 2015