
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH LIBERATION PARK RESIDENCES, L.P., FOR A PORTION OF CITY-OWNED PROPERTY LOCATED AT 73RD AVENUE AND FOOTHILL BOULEVARD (PARCEL 2), TO REVISE THE GROUND LEASE TERMS OF RENT PAYMENT BY REPLACING THE PROVISION OF A 55-YEAR CAPITALIZED LOAN IN THE AMOUNT OF \$1,505,004 AT A 3% INTEREST RATE WITH AN ANNUAL GROUND RENT PAYMENT OF \$90,331 CAPPED AT \$1,505,004, TO BE PAID TO THE CITY DURING THE 99-YEAR GROUND LEASE TERM

WHEREAS, on March 6, 2024, the City Council adopted Ordinance No. 13784 C.M.S., which authorized a Lease Disposition and Development Agreement (LDDA) to Liberation Park Residences, L.P. (Residential Developer) for the development of 119 units of affordable housing (Residential Project) on a portion of the City-owned property located at 73rd Avenue and Foothill Boulevard (Parcel 2); and

WHEREAS, on March 18, 2024, the City executed an LDDA with the Residential Developer, pursuant to Ordinance No. 13784 C.M.S., which includes the terms of a ground lease, whereby Parcel 2 will be leased to the Residential Developer for 99 years, with a capitalized rent of \$1,505,004, with a 55-year residual receipts loan bearing 3% annual interest; and

WHEREAS, the Residential Developer submitted a request to revise the terms of the ground lease to remove the land acquisition cost, in order to improve the competitiveness of the Residential Project's application for bond allocation from the California Debt Limit Allocation Committee; and

WHEREAS, City staff recommends changing the structure from a capitalized loan with 3% deferred interest, to an annual rent of \$90,331 based on the appraised fair market rental value for Parcel 2 (Annual Rent); and

WHEREAS, the Annual Rent would include \$15,000 base rent payable annually to cover the City's administrative and asset management expenses, and \$75,331 structured as deferred rent that accrues annually and is payable from residual receipts, all to be capped at a total payment to the City of the fair market acquisition value of \$1,505,004; and

WHEREAS, the Annual Rent, including deferred rent, represents the fair reuse value of Parcel 2, given the development of affordable housing, as further described in the Agenda Report; and

WHEREAS, the Residential Project was also awarded \$28 million in City funds through the 2024–2025 Notice of Funding Availability (NOFA) for New Construction Affordable Housing Projects; and

WHEREAS, the revised payment structure would enhance the Residential Project's ability to leverage previously awarded City NOFA funds and attract external sources of capital, which supports the City's affordable housing production goals without increasing public subsidy; and

WHEREAS, the Residential Project was approved subject to the streamlined, ministerial approval process for mixed-use affordable housing developments under Government Code Section 65913.4, commonly referred to as an SB 35 project, and the negotiation and approval of leases for the development of the Residential Project are not subject to California Environmental Quality Act (CEQA) review pursuant to Government Code section 65913.4(k)(l) and Section 15268 (Ministerial Projects) of the State CEQA Guidelines;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes the City Administrator to negotiate and execute an amendment to the LDDA between the City and Liberation Park Residences, L.P, to revise the ground lease terms of payment to an Annual Rent of \$90,331, including a \$15,000 base rent payment and the remaining as deferred rent, all payments to be capped at the fair market value of Parcel 2 of \$1,505,004.

SECTION 2. The City Council finds and determines that (1) the Annual Rent with deferred rent based on residual receipts does not represent the fair market rental value, but the reuse rental value of Parcel 2, given the reuse restrictions associated with development of affordable housing, as required by the conditions, covenants, and development obligations in the LDDA and ground lease, and (2) that it is in the best interest of the City to lease Parcel 2 to the Residential Developer at this below market Annual Rent given the need to redevelop Parcel 2 into affordable housing for the benefit of the community.

SECTION 3. The City Council hereby finds and determines that the Annual Rent payments from the Residential Project will be accepted and deposited into City Entity (1), Central City East TA Bond Series 2006A-T Fund (5643), CIP Central City East Organization (94899), Miscellaneous Land Rental Account (44219), 73rd and Foothill Development Land Sale Project (1003729), Central City East Program (SC18).

SECTION 4. The City Council hereby finds and determines, on a separate and independent basis, that pursuant to Government Code Section 65913.4, the City's review and approval of the LDDA and Lease for the Residential Project, which consists of affordable housing, shall not constitute a "project" for purposes of CEQA (Section 21000 et seq. of the Public Resources Code), and therefore shall not be subject to CEQA review; and further, that the negotiation and approval of the Lease for the development of the Residential Project are not subject to CEQA review, pursuant to Government Code section 65913.4(k)(l) and Section 15268 (Ministerial Projects) of the State CEQA Guidelines.

SECTION 5. The agreements authorized by this Ordinance are subject to City Attorney review and approval for form and legality, and a copy of this Ordinance shall be filed with the City Clerk without returning to Council.

SECTION 6. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This ordinance shall become effective immediately on 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,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND

PRESIDENT PRO TEMPORE GALLO

NOES –

ABSENT – COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section 303)

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

NOTICE AND DIGEST

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH LIBERATION PARK RESIDENCES, L.P., FOR A PORTION OF CITY-OWNED PROPERTY LOCATED AT 73RD AVENUE AND FOOTHILL BOULEVARD (PARCEL 2), TO REVISE THE GROUND LEASE TERMS OF RENT PAYMENT BY REPLACING THE PROVISION OF A 55-YEAR CAPITALIZED LOAN IN THE AMOUNT OF \$1,505,004 AT A 3% INTEREST RATE WITH AN ANNUAL GROUND RENT PAYMENT OF \$90,331 CAPPED AT \$1,505,004, TO BE PAID TO THE CITY DURING THE 99-YEAR GROUND LEASE TERM

This Ordinance would authorize the City Administrator to amend the ground lease payment structure for the Lease Disposition and Development Agreement (LDDA) between the City of Oakland and Liberation Park Residences, L.P. The existing LDDA authorized a capitalized ground rent loan of \$1,505,004 at a 3% interest rate. This Ordinance would authorize an annual base rent of \$15,000 and \$70,331 deferred rent, to be capped at total payments to the City of \$1,505,004 over the 99-year term.