

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2004 JUN 24 PM 12:05

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: July 6, 2004

RE: **A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR ON BEHALF OF THE CITY OF OAKLAND TO ENTER INTO A TWO (2) YEAR LEASE, WITH OPTIONS, WITH THE EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) FOR THE ALICE STREET LEARNING CENTER PROPERTY, LOCATED AT 250 – 17TH STREET, AT AN INITIAL RATE NOT TO EXCEED \$1.40 PER SQUARE FOOT, PLUS THE COST OF UTILITIES AND SERVICES AND OTHER INDEX ADJUSTMENTS.**

SUMMARY

The City has been a tenant of the East Bay Municipal Utility District (EBMUD) since May 1, 1994 in their building located at 250 – 17th Street, Oakland. The EBMUD surplus property was converted into a downtown child care facility using \$600,000 in redevelopment funds.

The facility over the years has proven to be an asset to employees and residents in the downtown area and is the only one of its kind currently in operation downtown. Because of its importance to the revitalization of the Downtown and Uptown Areas, the City on numerous occasions have requested that EBMUD donate their building to the City to ensure the childcare's presence will not be terminated.

In July 1993, the City Council adopted a resolution approving a lease for this 4,920 square foot building for use as a child care center for downtown workers. The present lease expired April 30, 2003. The City has been in a holdover lease since May 1, 2003, paying \$10,332 per month rent or \$2.10 per square foot.

The City and EBMUD commissioned an independent real estate appraisal to determine the fair market rent and the fair market value of the property based upon its highest and best use. The appraisal determined that the fair market rent is \$1.40 per square foot or \$6,888 per month, plus the cost of utilities and services estimated at \$1,600 per month.

The Oakland Unified School District through a Memorandum of Understanding (MOU) with the City provides early childhood education at the site. Funds earmarked for the continuance of the lease with EBMUD expire on June 30, 2004.

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Staff recommends adoption of the resolution authorizing the City Administrator to enter into a new two (2) year firm term lease with three (3) one-year options to renew the lease effective July 1, 2004. The lease renewal will allow the City to continue its lease with EBMUD for at least two (2) more years at a lower rental rate. It will also allow the continuance of the child care program beyond June 30, 2004 at its present location.

FISCAL IMPACT

The present lease was budgeted for \$125,146 per year for FY 2002-03 and FY 2003-2004, in the City's General Purpose Fund. Effective July 1, 2004, the base rent will be reduced to \$6,888 per month or \$82,656 per year plus the estimated cost of utilities and services of \$1,600 per month or \$19,200 per year. The total cost of renting the facility would be \$101,856 per year (\$82,656 + \$19,200).

The Oakland Unified School District will provide \$80,000 for the partial payment of the first year's rent. The City is responsible for the additional \$2,656 rental plus the cost of utilities and services estimated at \$19,200 totaling \$21,856 in FY 2004-2005.

The second year's rent would be the full responsibility of the City. The estimated rent plus utilities for FY 2005-2006 is \$105,000, an increase of approximately 3%.

Staff recommends that the City Council consider using one or a combination of the following options for the FY 2004-05 and FY 2005-06 rent payments:

1. *Council Pay-Go Accounts* (funded through the City's Municipal Improvement Capital Fund); and/or
2. *Emergency Contingency Set-Aside* (budgeted at \$100,000 annually in the General Purpose Fund; can be used to provide assistance to non-City, outside groups – mostly non-profits – at the City Council discretion).

The City will assist the Alice Street Learning Center in applying for CDBG funds and other sources, which could be used toward the second year's rent. It is also anticipated that the Alice Street Learning Center will help raise funds for the second year's rent.

BACKGROUND

In 1993, the City's Redevelopment Agency, along with its Child Care Commission, undertook an effort to develop a child care center that would serve the needs of the growing downtown Oakland workforce. The center was envisioned as a facility providing services on a sliding scale, providing market rate child care and subsidized services to lower wage workers. The EBMUD site was identified and developed with \$600,000 in redevelopment funds.

The City has been a tenant in the building since 1994, when construction on the site was completed. The site contains approximately 17,866 square feet of land, and is improved

with a 4,920 square foot building. The Department of Human Services assumed stewardship of the building in 1997, and has supported both lease extensions of the building (1999 and 2001) with the current lease expiring April 30, 2003. The landlord has allowed the City to remain in a lease hold-over position under the current lease terms and conditions through June 30, 2004. The lease contains a clause that gives the City the first right of opportunity to re-lease or purchase.

The City invited the Oakland Unified School District (OUSD) to provide a preschool program, and the Oakland YWCA to operate infant care, at the center. Current estimates indicate that the OUSD provides child care services for approximately 78 children (ages 3-4), 16 of which pay for the entire amount of child care. The remaining 62 children receive subsidized child care.

Since 2001, the City has paid an average yearly rent of \$125,000 plus the additional cost of utilities to EBMUD as the primary leaseholder of the property, and subleased the building to both OUSD and YWCA. The OUSD pays \$1200 per month in rent to the City (which does not include their financial commitment for janitorial services, one site administrator, 4 teachers, 7 Instructional Aids, and one clerk), and has budgeted for this amount in the coming years. The OUSD has stated that they are unable to increase their contribution. The YWCA paid rent on the property until July 1996, at which point they were no longer able to pay rent due to bankruptcy. Since that time, the YWCA has been minimally contributing to the center including a one-time bankruptcy settlement of \$18,000, and a flat payment of \$2,400 for rent in 2002. The YWCA is still co-occupying the space.

City staff has been in negotiations with EBMUD staff over the years to acquire the property. The property was used by EBMUD as their Oakland Business Office. The property became surplus to EBMUD and the City agreed to rent the facility and expend \$600,000 to convert the building from its office use into a state of the art child care facility.

On July 23, 2002, EBMUD staff recommended to its Board of Directors that EBMUD sell the property to the City for its fair market value established by an independent appraisal.

On December 16, 2002, the City and EBMUD jointly commissioned an independent MAI appraisal on the property. The appraisal scope of work was jointly developed, the appraisal was jointly reviewed and approved and the appraisal cost was split between the two entities. The property presently consists of a one-story brick office building containing 4,920 square feet on a corner level lot containing 17,866 square feet. The highest and best use of the property is to demolish the existing interim use (one story office building) and construct an estimated forty-five (45) unit residential building that would be consistent with the sites R-90 (Downtown Apartment) zoning. The indicated value of the property based upon its highest and best use is \$1, 735,000.

The new two (2) year lease will contain the same clause that gives the City the first right of opportunity to re-lease or purchase.

KEY ISSUES AND IMPACTS

Child care is vital for both its contributions toward the growth and development of children and to our local economy. Currently, Oakland's demand for child care significantly outpaces its supply, especially concerning infant care. Conservative counts indicate that the supply of infant and school-age care provided in Oakland can supply only half of the care actually needed¹. Preschool care, although more plentiful, still cannot meet the demand. Oakland must continue to work to find child care in order to meet not only the current need but also the growing population's need for child care. Funding for the current lease expires on June 30, 2004. A replacement facility is not available at this time.

The Redevelopment Agency has a \$600,000 equity investment in the property. If the lease is terminated on June 30, 2004, the City/Agency may be responsible for restoring the EBMUD building back into an office use.

The new two year lease with three one-year options allows the child center facility to remain open to its 78 clients of whom at least 90% are Oakland residents. The lease also allows the City/Agency to explore the possibility of buying the property for future redevelopment.

SUSTAINABLE OPPORTUNITIES

Economic: The center provides childcare for at least one-third of the children served whose families work in downtown Oakland; 90% of the children either live in Oakland or have parents who work in Oakland.

Environmental: This property is close to public transportation nodes and may encourage use of public transit, which will ease general pressure on the regions congested transportation infrastructure.

Social Equity: The center provides a vital service for Oakland's workforce, especially low-wage workers, through the provision of some subsidized infant, toddler, and preschool child care.

¹ *Meeting the Child Care Needs of Alameda County's Children: A Comprehensive Assessment of Licensed Child Care Supply and Demand.* Alameda County Child Care Planning Council Report, Berkeley Policy Associates, February 2002.

DISABILITY AND SENIOR CITIZEN ACCESS

The subject property was completely upgraded and improved by the City before taking occupancy in 1994. The property does comply with the American with Disabilities Act. Any innovations or changes to this property will comply with the Americans with Disabilities Act in providing equal access for the disabled and senior citizens.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council authorize the City Administrator to enter into a two year lease extension with three 1-year options to renew at the Alice Street Learning Center property located at 250 – 17th Street, from the East Bay Municipal Utility District (EBMUD) for the appraised fair market rent.

Staff recommends that the City Council consider using one or a combination of the following options for the FY 2004-05 and FY 2005-06 rent payments:

3. *Council Pay-Go Accounts* (funded through the City's Municipal Improvement Capital Fund); and/or
4. *Emergency Contingency Set-Aside* (budgeted at \$100,000 annually in the General Purpose Fund; can be used to provide assistance to non-City, outside groups – mostly non-profits – at the City Council discretion).

Respectfully submitted,



DANIEL VANDERPRIEM, Director
Redevelopment, Economic Development,
Housing and Community Development

Prepared by:
Frank Fanelli, Manager
CEDA, Real Estate Services

APPROVED AND FORWARDED TO THE
CITY COUNCIL:


OFFICE OF THE CITY ADMINISTRATOR

Item: 15
City Council
July 6, 2004

B. DeLuca

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 JUN 24 PM 12:05

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR ON BEHALF OF THE CITY OF OAKLAND TO ENTER INTO A TWO (2) YEAR LEASE, WITH OPTIONS, WITH THE EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) FOR THE ALICE STREET LEARNING CENTER PROPERTY, LOCATED AT 250 - 17TH STREET, AT A INITIAL RATE NOT TO EXCEED \$1.40 PER SQUARE FOOT, PLUS THE COST OF UTILITIES AND SERVICES AND OTHER INDEX ADJUSTMENTS.

WHEREAS, the City of Oakland adopted a resolution in July 1993, approving a lease for this 4,920 square foot building for use as a child care center for downtown workers; and

WHEREAS, the facility over the years has proven to be an asset to employees and residents in the downtown area and is the only one of its kind currently in operation downtown; and

WHEREAS, the Oakland Unified School District through a Memorandum of Understanding (MOU) with the City, provides early childhood education at the site and funds earmarked for the continuance of the lease with EBMUD expire on June 30, 2004; and

WHEREAS, the existing lease terms with EBMUD will be modified to reflect the following terms and conditions:

- a) The initial first years rent is set at \$1.40 per square foot or \$6,888 per month;
- b) The City will pay the cost of utilities and services associated with the operation of the facility;
- c) The base rent will increase at least 3% starting the second year of the lease;
- d) The City shall have the option to extend the lease by three one-year periods after the two year fixed term;
- e) The City shall have the first right of opportunity to re-lease or purchase the property from EBMUD;
- f) The City shall have the right to assign or sub-let the facility to child care providers;
- g) The Oakland Unified School District is the current child care provider and will allocate \$80,000 for the partial payment of the first years rent; now therefore be it,

RESOLVED: That the City Administrator is hereby authorized and directed to execute on behalf of the City of Oakland, a lease agreement with the East Bay Municipal Utility District

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consistent with this resolution; the Manager, Real Estate Services, is authorized and directed to take any and all actions necessary to complete the lease transaction hereby approved; and be it

FURTHER RESOLVED: That the lease shall be approved as to form and legality by the Office of the City Attorney and copies shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, WAN, AND PRESIDENT DE LA FUENTE

NOES- _____

ABSENT- _____

ABSTENTION- _____

Attest: _____
CEDA FLOYD

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

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ORA/COUNCIL
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