

# CITY OF OAKLAND

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2003 NOV 20 PM 12:27

## Agenda Report

TO: Office of the City Manager  
ATTN: Deborah Edgerly, Interim City Manager  
FROM: Community and Economic Development Agency  
DATE: December 2, 2003

**RE: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE AND SALES AGREEMENT FOR THE SALE OF A CITY OWNED SURPLUS PROPERTY (APN 045-5276-022-02) FROM THE NEGOTIATED SALE CONDUCTED ON OCTOBER 24, 2003 TO THE HIGHEST BIDDER: THE HOTHEN TRUST IN THE AMOUNT OF \$170,000.**

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### SUMMARY

The Finance Committee and City Council recommended the Public Auction of eleven city-owned surplus properties on July 15, 2003 (Resolution 77963 C.M.S.) and authorized the City of Oakland (City) to conduct a public auction on October 2, 2003, for the sale of eleven (11) surplus properties. The official noticing of the Public Auction was advertised in the Oakland Tribune newspaper; "For Sale" signs were posted on the properties and the Auction Notice was posted on the City's web site. This property was one of the City-owned surplus properties that did not sell at the Public Auction. If no bids are received or the bid amount is not acceptable, Ordinance 11602 C.M.S. allows the City to conduct a negotiated sale with interested buyers subject to City Council approval. Therefore, the Real Estate Division conducted a negotiated sale process with several interested buyers and reached an agreement on October 24, 2003 with the Hothem Trust in the amount of \$170,000.

Staff recommends adoption of this Ordinance authorizing the City Manager to enter into Purchase and Sales Agreement for the sale of a City-owned surplus property from the negotiated sale conducted on October 24, 2003 to the highest bidder, the Hothem Trust in the amount of \$170,000.

Adoption of this Ordinance satisfies Mayor and City Council Goals by providing opportunities to facilitate the possible development of new housing and by reducing blight and nuisance.

### FISCAL IMPACT

No bids were received at the October 3, 2003 Public Auction for this property. The minimum bid amount was \$130,000. After the Public Auction several bids were received from interested parties on the property. Through the negotiated sale process, the highest bid amount for the

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property was \$170,000. The successful bidder will pay for all closing costs including, but not limited to, recording fees, transfer and sales tax and title insurance.

After reimbursing Real Estate Services \$5,000 for all administrative and related costs associated with the public auction and sale of the properties (Fund 1010, Org. 88639, Project P47010), the remaining sales proceeds estimated at \$165,000 could be placed into the City's General Fund.

In addition to the sales proceeds, the City will receive its share of the future property taxes once the property has been returned to the property tax rolls (estimated at \$2,000 per year) and will save the City the ongoing maintenance (estimated at \$3,000 per year) and liability costs associated with the properties. Currently, the subject property is leased to United Rental for \$250 per month. The existing rental agreement will be cancelled when the property is transferred to the new owner.

## **BACKGROUND**

Real Estate Services is renewing its efforts to generate additional revenue and reduce the City of Oakland's maintenance and liability expenses through the proactive identification and disposal of surplus property. The City plans to hold additional auctions annually until it disposes of all excess surplus property.

Real Estate Services conducted a Public Auction and received oral bids for eleven city-owned surplus properties on Friday, October 3, 2003, in City Hall, Hearing Room 3 at 3:00 P.M. The successful bidders for each property, upon making the highest bid, delivered to the City cash, a cashier's check, or money order for a nonrefundable earnest money deposit in an amount representing at least ten percent (10%) of the minimum bid price for each property. Any successful bidder's failure or refusal to complete the purchase of any properties will result in forfeiture of the respective deposit to the City. The successful bidder will be required to complete the transaction within 45 days after the City Council approves the sale.

The City did not receive any bids for the property located at 670-700 98<sup>th</sup> Ave, which is presently rented to United Rentals. The minimum bid for this property was \$130,000. Ordinance C.M.S. 11602 allows Real Estate Services to conduct a negotiated sale with interested buyers. Subsequently, the Real Estate Division negotiated with several potential buyers and reached an agreement with Hothem Trust by a negotiated sale for the amount of \$170,000.

## **KEY ISSUES AND IMPACTS**

The property is being sold "AS IS". The City of Oakland makes no representation as to the potential use of this property. The property is being purchased by the abutting property owner.

The right, title and interest in the property shall be conveyed by Quitclaim Deed and subject to all matters of public record. The City of Oakland does not assume any liability for possible encumbrances of any kind on this property. No warranty is made by the City of Oakland relative to the ground locations, property lines or the accuracy of the public records and/or the assessor's parcel maps related to this property.

Some of the surplus properties may be situated within the Special Studies Zone as designated under the Alquist-Priolo Special Studies Zones Act, Sections 2621-2625, inclusive of the California Public Resource Code. No representations on this subject are made by the City of Oakland on the potential effect of this Act on this property.

The City of Oakland makes no representations with respect to the land use or other permitting issues that may affect this property or with respect to buyer's ability to develop or improve the subject property.

This property is presently a burden on the City because of the maintenance and liability concerns. The selling of this property will maximize the City's economic and non-economic returns by placing the property back on the property tax rolls, eliminating the ongoing maintenance and liability, reducing future litigation exposure and generating additional revenue to the City's General Fund before December 31, 2003.

#### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The sale of this property will ultimately contribute to future in-fill projects, which will take blighted and underutilized sites and turn them into a potential housing and/or mixed-use projects which will contribute to job creation and increased tax revenue for the City.

**Environmental:** The subject property is in proximity to major public transportation nodes. This will likely encourage use of BART and AC Transit by project residents and possible retail customers, which will ease general pressure on the region's congested transportation infrastructure.

**Social Equity:** Sale of this property will provide opportunities for citizens to participate in owning and developing real estate in the City of Oakland.


#### **DISABILITIES AND SENIOR CITIZEN ACCESS**

Approval of this Ordinance will have no direct impact on disabled and senior citizen access. However, when the property is developed any public improvements that will be required through both state and local provisions will ensure equal access, such as sidewalks and parking spaces for disabled citizens and senior citizens.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends adoption of this Ordinance authorizing the City Manager to enter into Purchase and Sales Agreement for the sale of a City-owned surplus property from the negotiated sale conducted on October 24, 2003 to the highest bidder, the Hothem Trust in the amount of \$170,000.

Respectfully submitted,



Daniel Vanderprien, Director  
Redevelopment, Economic Development and Housing

Prepared by:  
Frank Fanelli, Manager  
Real Estate Services

APPROVED AND FORWARDED TO THE  
CITY COUNCIL

  
Office of the City Manager

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

INTRODUCED BY COUNCIL MEMBER  
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APPROVED AS TO FORM AND LEGALITY  
*[Signature]*  
CITY ATTORNEY

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

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE AND SALES AGREEMENT FOR THE SALE OF A CITY OWNED SURPLUS PROPERTY (APN 045-5276-022-02) FROM THE NEGOTIATED SALE CONDUCTED ON OCTOBER 24, 2003 TO THE HIGHEST BIDDER: THE HOTHEM TRUST IN THE AMOUNT OF \$170,000**

**WHEREAS**, the City of Oakland (City) currently owns surplus properties that the Finance Committee and City Council recommended be sold by oral competitive bids at a public auction, pursuant to Ordinance 11602 C.M.S.; and

**WHEREAS**, these properties are in-fill lots that have some development challenges such as creek-side status, slope development and zoning or General Plan inconsistencies; and

**WHEREAS**, each property is to be sold in "AS-IS" condition and the City makes no representations with respect to the land use or other permitting issues that may affect these properties or with respect to buyer's ability to develop or improve these properties; and

**WHEREAS**, the right, title and interest in these properties shall be conveyed by Quitclaim Deed and subject to all matters of public record; and

**WHEREAS**, the City Council adopted Resolution No. 77963 C.M.S., dated July 15, 2003, which authorized the Real Estate Services Division to conduct a public auction and receive oral bids at 3:00 P.M. on Friday, October 3, 2003, in Hearing Room 3 at City Hall; and

**WHEREAS**, the Official Notice of Public Auction of the eleven properties was advertised in the newspaper, and "For Sale" signs were posted on the properties, and the Official Notice of Public Auction was posed on the City's web site; and

**WHEREAS**, Ordinance 11602 C.M.S. allows the City to conduct a negotiated sale with interested buyers subject to City Council approval, if no bids were received or the bid amount is not acceptable; and

**WHEREAS**, the subject property did not sell at the original Public Auction and the City was negotiating with various interested buyers for the property located at 670-700 98<sup>th</sup> Ave.; and

**WHEREAS**, the Real Estate Division reached an agreement to sell this property through a negotiated sale process on October 24, 2003, in the amount of \$170,000; and

**WHEREAS**, a nonrefundable security deposit in the amount of \$17,000 was received for the subject parcel; and

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**WHEREAS**, the successful bidder's failure or refusal to complete the purchase of the property as required shall result in a forfeiture of their respective security deposit to the City; and

**WHEREAS**, the City reserves the right to reject any and all offers and waive any informality or irregularity in any offer or to accept any offer deemed in the best interest of the City.

THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Manager, or his designee, is authorized to enter into Purchase and Sales Agreements for the sale of an ordinance authorizing the city manager to enter into purchase and sales agreements for the sale of a city owned surplus property from the negotiated sale conducted on October 24, 2003 to the high bidder: (APN-045-5276-022-02 for \$170,000) Hothem Trust;

SECTION 2. After reimbursing Real Estate Services \$5,000 for all related costs associated with the public auction and sale of the properties (Fund 1010, Org. 88639, Project P47010), the remaining sales proceeds of \$165,000 will be placed into the City's General Fund.

SECTION 3. The Manager of Real Estate Services or such other City Manager designee, as the City Manager may determine, is hereby authorized to take all actions as may be required to carry out the intent of terms of the Purchase and Sales Agreement and this Ordinance and Ordinance 11602 C.M.S.

SECTION 4. The Purchase and Sales Agreement for the purchase of these property rights shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

SECTION 5. This Ordinance shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2003  
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

NOTICE AND DIGEST

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE AND SALES AGREEMENT FOR THE SALE OF A CITY OWNED SURPLUS PROPERTY (APN 045-5276-022-02) FROM THE NEGOTIATED SALE CONDUCTED ON OCTOBER 24, 2003 TO THE HIGHEST BIDDER: THE HOTHEN TRUST IN THE AMOUNT OF \$170,000**

An Ordinance has been prepared authorizing the City Manager to enter into Purchase and Sales Agreement for the sale of a City-owned surplus property by a negotiated sale following the Public Auction on October 24, 2003, to the following bidder: the Hothem Trust in the amount of \$170,000

The Finance Committee and City Council recommended the Public Auction of eleven city-owned surplus properties on July 15, 2003 (Resolution 77963 C.M.S.) authorized the City of Oakland (City) to conduct a public auction on October 2, 2003, for the sale of eleven (11) surplus properties. The official noticing of the Public Auction was advertised in the Oakland Tribune newspaper; "For Sale" signs were posted on the properties and the Auction Notice was posted on the City's web site. This property was one of the city-owned surplus properties that did not sell at the Public Auction. If no bids are received or the bid amount is not acceptable Ordinance 11602 C.M.S. allows the City to conduct a negotiated sale with interested buyers subject to City Council approval. Therefore, the Real Estate Division conducted a negotiated sale process with several interested buyers and reached an agreement on October 24, 2003 with the Hothem Trust in the amount of \$170,000.

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