



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**AN ORDINANCE:**

**(A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE:**

- (1) A SECOND AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND STRADA T5, LLC, WHICH WILL, AMONG OTHER THINGS, (A) CONVERT THE AGREEMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT, FOR DEVELOPMENT OF A UNIVERSITY CAMPUS ON THE CITY CENTER T-5/T-6 PROPERTY LOCATED ON THE BLOCK BOUNDED BY BROADWAY, 11TH STREET, 12TH STREET AND CLAY STREET; (B) EXTEND THE TERM UP TO 15 MONTHS WITH NONREFUNDABLE MONTHLY EXTENSION FEES OF \$6,000; AND (C) PROVIDE TWO OPTIONAL ADMINISTRATIVE SIX-MONTH EXTENSIONS EACH FOR A NONREFUNDABLE EXTENSION FEE OF \$40,000; AND**
- (2) A 99-YEAR GROUND LEASE OF THE PROPERTY BETWEEN THE CITY AND SAMUEL MERRITT UNIVERSITY, OR ITS AFFILIATE, AND RELATED DOCUMENTS FOR (A) BASE RENT OF \$1 PER YEAR PREPAID ON THE COMMENCEMENT DATE, (B) MONTHLY CONSTRUCTION RENT OF 50 PERCENT OF MINIMUM RENT COMMENCING ON THE RENT COMMENCEMENT DATE FOR THE CONSTRUCTION PERIOD, (C) INITIAL MINIMUM RENT OF \$236,400 COMMENCING AT THE END OF THE CONSTRUCTION PERIOD, (D) A CREDIT OF THE \$50,000 GOOD FAITH DEPOSIT APPLIED TO CONSTRUCTION RENT AND/OR MINIMUM RENT, AND (E) ONE-TIME RENT CREDIT NOT TO EXCEED \$500,000 FOR REMEDIATION OF THE PROPERTY; AND**

**(B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the City of Oakland (“City”) and Strada T5 LLC, a California limited liability company (“Strada T5”), entered into that certain Disposition and Development Agreement for the T-5/T-6 Hotel and Residential Project dated as of November 6, 2015 (“Original DDA”) for the development of land located in downtown Oakland, California, that is within the block bounded by Broadway, 11th Street, 12th Street and Clay Street, commonly known as T-5/T-6 (Property”) (Ordinance No. 13328 C.M.S.); and

**WHEREAS**, the Property is located within the City Center Redevelopment Project and was owned by the former Oakland Redevelopment Agency prior to its dissolution pursuant to AB 1X 26 and AB 1484; and

**WHEREAS**, pursuant to the Original DDA the Property was comprised of two lots for development in two phases: Phase 1 on Lot 1 (Site A) consisting of a mixed-use development with 288 residential units, approximately 4,000 square feet of ground floor retail space, and a 12,075 square-foot publicly accessible plaza, and Phase 2 on Lot 2 (Site B) consisting of a hotel; and

**WHEREAS**, through a series of assignment and assumption agreements the rights and obligations related to development Phase 1 provided in the Original DDA were assigned to 1100 Clay (Oakland) Owner, LLC (“Phase 1 Developer”), an affiliated entity of Strada T5, and the City conveyed Lot 1 (Site A) to the Phase 1 Developer by Grant Deed recorded on March 12, 2018; and

**WHEREAS**, the Original DDA was amended by that certain First Amendment to T-5/T-6 Hotel and Residential Project Disposition and Development Agreement dated as of February 4, 2020 by and between the City and Strada T5 (“First Amendment” and together with the Original DDA, the “Existing DDA”); and

**WHEREAS**, upon the determination that hotel use of Lot 2 (Site B) was infeasible, the First Amendment authorized Strada T5 to propose an alternative use; and

**WHEREAS**, Strada T5 now proposes development of a new university campus to be leased pursuant to a ground lease between the City and Samuel Merritt University, a California nonprofit public benefit corporation, or its affiliate (“SMU”), and has obtained CEQA Clearance (as defined in the First Amendment) for university use; and

**WHEREAS**, Phase 1 Developer completed construction of Phase 1 (known as 1150 Clay Street) and the City recorded a Certificate of Completion pursuant to the Existing DDA on August 23, 2022; and

**WHEREAS**, the City Administrator has determined pursuant to Oakland Municipal Code (“OMC”) Section 2.42.180(A) that the rent set forth in the Ground Lease Term Sheet attached to the Agenda Report for this item is the fair market rental value; and

**WHEREAS**, the City and Strada T5 desire to enter into a second amendment of the Existing DDA (“Second Amendment”) to authorize the development of Phase 2 for university use, adjust the Schedule of Performance, and convert the Existing DDA to a Lease Disposition and Development Agreement (“LDDA”), and the City and SMU desire to enter into a ground lease pursuant to the LDDA; and

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

**SECTION 1.** The City Council hereby approves the proposed terms to enter into the Second Amendment of the Existing DDA, as more fully set forth in the Second Amendment to Lease Disposition and Development Agreement term sheet attached to the Agenda Report for this item.

**SECTION 2.** The City Council hereby approves the proposed terms to enter into a long-term lease (“Ground Lease”), as more fully set forth in the Ground Lease Term Sheet attached to the Agenda Report for this item.

**SECTION 3.** The City Council finds and determines that the Ground Lease of the City-owned Property is consistent with the City’s general policy to lease, rather than sell, City property (Resolution No. 85324 C.M.S.).

**SECTION 4.** The City Council hereby authorizes the City Administrator to negotiate and execute the (a) Second Amendment with Strada T5, and (b) the Ground Lease with SMU, and (c) such other additions, amendments or other modifications to the foregoing documents that the City Administrator, in consultation with the City Attorney’s Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance; and (d) such other documents as necessary or appropriate, in consultation with the City Attorney’s Office, to facilitate and consummate the transactions in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

**SECTION 5.** The City Council finds and determines that the rent for the Ground Lease set forth in the Ground Lease Term Sheet attached to the Agenda Report for this item is the fair market rental value in accordance with OMC Section 2.42.180.

**SECTION 6.** The City Council hereby authorizes that any rent payments from SMU to the City, including Base Rent, Construction Rent, Minimum Rent, and Additional Rent, as defined in the Ground Lease Term Sheet attached to the Agenda Report for this item, will be accepted and deposited into Central District Projects Fund (5610), Central District Redevelopment Organization (85245), Due to County Government Liability Account (21317), in a new project to be created, Downtown Redevelopment Program (SC13), and further authorizes the City Administrator to appropriate such rent payment proceeds to make any payments to the County of Alameda for distribution to the taxing entities from Central District Projects Fund (5610), Central District

Redevelopment Organization (85245), Due to County Government Liability Account (21317), in a new project to be created, Downtown Redevelopment Program (SC13).

**SECTION 7.** The City Council authorizes the City Administrator to accept, deposit and appropriate any fees payable under the LDDA by Strada T5 to extend the outside date or fees paid for any administrative extensions of the Phase 2 outside date paid into the Central District Projects Fund (5610), Central District Redevelopment Organization (85245), in a new project to be created, Downtown Redevelopment Program (SC13).

**SECTION 8.** The City Council has independently reviewed and considered this environmental determination, and the Council finds and determines that this action complies with the California Environmental Quality Act (“CEQA”) as follows:

(a) City staff determined that an addendum (“Addendum”) to the 2000 Oakland City Center Environmental Impact Report (“2000 EIR”) was appropriate because the Project was consistent with the development density and land use characteristics established by the City of Oakland General Plan, and any potential environmental impacts associated with the Project’s development were adequately analyzed and covered by the analysis in the 2000 EIR and its addenda.

(b) Upon Project approval, the Planning Commission found that further environmental review was not warranted because: (1) the Project satisfied the Community Plan Exemption pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan or Zoning) since the Project would not result in significant impacts that (A) would be peculiar to the project or project site; (B) were not previously identified in the 2000 EIR as significant project-level, cumulative, or off-site effects; or (C) were previously identified as significant but—as a result of substantial new information that was not known at the time the 2000 EIR was certified—would increase in severity above the level described in the 2000 EIR and; (2) the Project qualified for an addendum pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15164 (Subsequent EIRs, Supplements and Addenda to an EIR or Negative Declaration).

**SECTION 9.** The recital contained in this Ordinance are true and correct and are an integral part of the Council’s decision.

**SECTION 10. 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 11. 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 – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

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

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

## NOTICE AND DIGEST

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#### **(B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

This Ordinance authorizes the City Administrator to negotiate and execute Second Amendment to the Disposition and Development Agreement dated November 6, 2015, between the City of Oakland (“City”) and Strada T5 LLC (as amended by a First Amendment dated February 4, 2020 (“Existing DDA”) related to the portion property commonly known as T-5/T-6, bounded by Broadway, 11th Street, 12th Street and Clay Street (“Lot 2” or the “Property”). The Second Amendment, among other things, would (a) convert the Existing DDA to a Lease Disposition and Development Agreement (“LDDA”) for development of the Property as a university campus, (b) extend the term of the LDDA up to 15 months for a nonrefundable fee of \$6,000,

and (c) provide two optional six-month administrative extensions each for a nonrefundable fee of \$40,000.

The Ordinance also authorizes the City Administrator to negotiate and execute a 99-year Ground Lease the Property with the nonprofit Samuel Merritt University or its affiliate (“SMU”), pursuant to the LDDA, for a (a) base rent of \$1 per year prepaid on the commencement date, (b) monthly construction rent of 50 percent of minimum rent commencing on the rent commencement date for the construction period, (c) initial minimum rent of \$236,400 commencing at the end of the construction period, (d) a credit of the \$50,000 good faith deposit applied to the construction rent and/or the minimum rent, and (e) a one-time rent credit not to exceed \$500,000 for remediation of the Property.