



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT WITH LONGFELLOW CORNER, L.P. (“DEVELOPER”) FOR THE DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT ON CITY PROPERTY LOCATED AT 3823-3829 MARTIN LUTHER KING JR. WAY AND ADJACENT DEVELOPER-OWNED PROPERTY LOCATED AT 3801-3807; (B) APPROVING THE PROPOSED CONVEYANCE OF THE CITY-OWNED PROPERTY TO DEVELOPER FOR \$99; AND (C) ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Oakland (“City”) owns two contiguous parcels of real property located at 3823-3829 Martin Luther King Jr. Way totaling approximately 0.22 acres (jointly, the “City Property”); and

WHEREAS, Resources for Community Development (“RCD”), or its affiliate, Longfellow Corner, L.P., a California limited partnership (“Developer”) owns two parcels of real property located at 3801-3807 Martin Luther King Jr. Way totaling approximately 0.27 acres (jointly, the “Developer Property”), which is adjacent to the City Property; and

WHEREAS, in response to a Request for Proposal issued by the City on May 11, 2018, RCD expressed interest in acquiring the City Property and combining it with the Developer Property for development of an affordable housing project on the combined property (the “Property”) referred to as Longfellow Corner; and

WHEREAS, on December 11, 2018, the City and Developer entered into that certain Exclusive Negotiating Agreement (3823-3829 Martin Luther King J. Way) (Resolution No. 87468 C.M.S.), (as amended, the “ENA”), for the purpose of studying the feasibility of development for the proposed Longfellow Corner affordable housing project comprised of 77 residential units, together with approximately 2,000 square feet of community commercial space (the “Project”) on the Property; and

WHEREAS, pursuant to the ENA, Developer conducted Phase I and Phase II environmental site assessments on the Property, which indicated the presence of contaminants of

concern above applicable screening levels that needed to be further characterized and assessed; and

WHEREAS, the additional assessments found ground water contamination and lead impacted soil contamination and provided data needed to prepare a Removal Action Work Plan (“RAW”), which was approved by the Department of Toxic Substances Control (“DTSC”) on July 6, 2022; and

WHEREAS, following implementation of the RAW, long-term monitoring of ground water contamination will be required, while not named currently, there is potential for the City to be named as a source of the ground water contamination, and the need for a single owner of the Property to assume liability, City staff has determined that it is in the best interests of the City to sell the City Property to Developer and not take title to the Developer Property; and

WHEREAS, pursuant to Resolution No. 85324 C.M.S. adopted on December 9, 2014, the City Council established a general policy to lease, rather than sell City-owned property, unless circumstances show that a sale of City-owned property is in the best interest of the City; and

WHEREAS, to eliminate the City’s risk of future environmental liability and ongoing costs related to the RAW, City staff recommends conveyance of the City Property to Developer pursuant to a Disposition and Development Agreement (“DDA”) for the Project, instead of a Lease Disposition and Development Agreement and ground lease; and

WHEREAS, City staff and Developer have negotiated proposed terms of the DDA as reflected in the Term Sheet attached to the Agenda Report for this item; and

WHEREAS, the purchase price is consistent with the City’s public lands policy (City Council Resolution No. 87483 C.M.S.), which permits discounted conveyances for projects that provide a benefit to the public, including low-income housing; and

WHEREAS, upon review of the City of Oakland Planning Bureau and as of September 11, 2019, the Project received a categorical exemption under the California Environmental Quality Act (“CEQA”) as an infill development (CEQA Guidelines Section 15332) and a project consistent with a community plan, general plan or zoning (CEQA Guidelines Section 15183(f)); and

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

SECTION 1. The City Council hereby finds and determines that it is in the best interest of the City to convey fee title to the City Property pursuant to a DDA instead of a ground lease, in order to eliminate the City’s risk of future environmental liability including ongoing costs related to the RAW, through the proposal for combining the City Property with the Developer Property to facilitate development and operation of the Project under single ownership.

SECTION 2. The City Council hereby approves the proposed terms to enter into the DDA, as more fully set forth in the DDA Term Sheet attached to the Agenda Report for this item (“DDA Term Sheet”).

SECTION 3. The City Council hereby authorizes the City Administrator to negotiate and execute the (a) DDA consistent with the DDA Term Sheet, and (b) such other additions, amendments or other modifications to the foregoing document 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 (c) 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 4. The City Council hereby approves the proposed purchase price of Ninety-Nine Dollars (\$99) consistent with the City’s public lands policy (City Council Resolution No. 87483 C.M.S.), which permits discounted conveyances for projects that provide a benefit to the public, including low-income housing.

SECTION 5. The City Council hereby authorizes the City Administrator to accept, deposit, and appropriate the \$99 purchase price into Fund 2830 (Low and Moderate Housing Income Asset Fund), Organization 89929 (Housing Development), Project Code 1000388 (Housing Development Project), Account Number 48720 (Other Revenues); and

SECTION 6. The City Council finds and determines, after independent review and consideration, that this action is categorically exempt under CEQA as an infill development (CEQA Guidelines Section 15332) and a project consistent with a community plan, general plan or zoning (CEQA Guidelines Section 15183(f)).

SECTION 7. The recitals contained in this Ordinance are true and correct and are an integral part of the Council’s decision.

SECTION 8. 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.

NOTICE AND DIGEST

AN ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT WITH LONGFELLOW CORNER, L.P. (“DEVELOPER”) FOR THE DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT ON CITY PROPERTY LOCATED AT 3823-3829 MARTIN LUTHER KING JR. WAY AND ADJACENT DEVELOPER-OWNED PROPERTY LOCATED AT 3801-3807; (B) APPROVING THE PROPOSED CONVEYANCE OF THE CITY-OWNED PROPERTY TO DEVELOPER FOR \$99; AND (C) ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Ordinance (a)authorizes the City Administrator to negotiate and execute a Disposition and Development Agreement with Longfellow Corner, L.P. (“Developer”), for development of an affordable housing project on City Property located at 3823-3829 Martin Luther King Jr Way and adjacent Developer-owned property located at 3801-3807 Martin Luther King Jr. Way; (b) approves the proposed conveyance of the City-owned Property to Developer for \$99; and (c) adopts findings under the California Environmental Quality Act.