



# AGENDA REPORT

**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Sofia Navarro  
Interim Director, Economic  
and Workforce  
Development Department

**SUBJECT:** Exclusive Negotiating Agreement  
with Oakland Pro Soccer LLC for the  
Malibu Property

**DATE:** August 25, 2023

City Administrator Approval

Date: Aug 30, 2023

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into An Exclusive Negotiation Agreement (ENA) With Oakland Pro Soccer LLC And Alameda County For The Potential Lease For The Proposed Temporary Project On The Malibu Property Located at 8000 South Coliseum Way, Which Is Co-Owned With The County, For A Term Of Six Months With Two Six-Month Administrative Extensions And Payment Of Nonrefundable ENA Payments Of \$25,000 And Extension Payments Of \$25,000 To Each Of The City And The County; And Adopting California Environmental Quality Act Findings**

## **EXECUTIVE SUMMARY**

The City of Oakland (City) and Alameda County (County) each own a fifty percent (50%) undivided interest in an approximately 8.8-acre, triangular-shaped property located at 8000 South Coliseum Way known as the Malibu Property (Property). The Property is a vacant asphalt and gravel lot used primarily for overflow parking for events at the adjacent Oakland-Alameda County Coliseum Complex.

Oakland Pro Soccer LLC, a California limited liability company (OPS), propose to lease the Property from the City and County for a term not to exceed ten (10) years for the installation and use of a temporary, outdoors soccer venue assembled from modular components (Temporary Project). The facility would function as a temporary home field for the Oakland Roots men's and Oakland Soul women's professional soccer teams, which are owned and managed by OPS, until OPS secures a site and completes plans for a permanent stadium. As currently proposed, the Temporary Project would not involve demolition or development, and the contemplated lease would allow the City and County to enter into separate negotiations to dispose of their respective interests in the Property during the lease term.

CED Committee  
September 12, 2023

Staff recommends that the City Council authorize the City Administrator to enter into an Exclusive Negotiation Agreement (ENA) with OPS and the County to better understand the proposed Temporary Project and to negotiate the terms of a proposed lease. Staff would then return to the City Council for authorization to execute a lease between the City and County, jointly as landlord, and OPS, as the tenant.

## **BACKGROUND / LEGISLATIVE HISTORY**

OPS is a professional soccer club founded in 2018 with the purpose of using soccer to create positive social change. The men's team is known as Oakland Roots and plays within the United Soccer League (USL) Championship league, the second tier of American professional soccer. The women's team, which was founded in 2023, is known as Oakland Soul and plays within the USL W League, a pre-professional tier of American soccer. The club played home games in Oakland at Laney College until May 2023 when facility changes required the team to relocate to Cal State University-East Bay in Hayward. The club wishes to return to Oakland by playing home games temporarily at the Property during an interim period while developing plans for a permanent stadium.

### **Property Description**

The County and the City's predecessor, the Oakland Redevelopment Agency, acquired the Property in 1994 and today it is jointly-owned by the City and County, each with a 50 percent undivided interest. The Property was previously used from the 1970s to the mid-1990s as Malibu Grand Prix, a miniature indy car racing track. It has since been used primarily as an asphalt and gravel-surface overflow parking lot for events at the adjacent Oakland-Alameda County Coliseum Complex.

As depicted on the map in **Attachment A**, the triangular-shaped Property, comprised of approximately 8.8 acres, is bounded by South Coliseum Way to the southwest, the City-owned Homebase property to the east, and Elmhurst Creek and the Coliseum Complex to the northwest. Access is available from South Coliseum Way and Collins Drive. The Homebase site is being used for emergency housing programs.

The Property is subject to two open environmental cases due to the presence of environmental hazardous materials, which are under the regulatory purview of the Alameda County Department of Environmental Health (ACDEH). The City and County submitted a Risk Management Plan (RMP) to ACDEH in June 2023 to help close these cases. If and when approved, the RMP is expected to result in a land use covenant recorded against the Property's title that would allow commercial activities such as OPS' proposed use, subject to a soil management plan. Residential use will likely be prohibited without additional environmental remediation and ACDEH approval.

### **Proposed Temporary Project**

OPS has requested to install the Temporary Project, which is proposed as a temporary venue for OPS to host soccer matches and other events of interest to the community. The proposed venue would serve up to 10,000 people and be comprised of modular, temporary structures that could be relocated, such as moveable bleachers, porta-potties, and shipping containers to sell food and merchandise, as well as related temporary infrastructure to serve the venue.

The Temporary Project would not impair the ability for future, permanent redevelopment of the Property and is not currently proposed to involve development of, or demolition on, the Property. The Temporary Project would be designed to USL standards and any other applicable standards, all at OPS' sole cost.

## **ANALYSIS AND POLICY ALTERNATIVES**

The recommended action would allow the City, County and OPS to fully characterize the Temporary Project and to negotiate the terms of an interim-use lease that would allow OPS to assemble a temporary soccer venue until they have secured plans for a permanent home in Oakland. This would help to ensure that OPS remains rooted in Oakland with the associated economic activity and contribution to civic pride, provide a new venue for smaller-scale events, generate sales tax revenue for the City, and activate with a vibrant use a property that is otherwise used to park vehicles.

While OPS is a relatively new organization, it has assembled a highly-qualified team of consultants to develop plans for and implement the Temporary Project.

The recommended action will further the **citywide policy of promoting housing, economic, and cultural security** by securing the Roots and Soul soccer teams as Oakland-based sports franchises.

### **ENA Terms**

City and County staff have negotiated the following ENA terms with OPS:

- Initial exclusive negotiation term of six (6) months
- OPS to make one-time, nonrefundable \$25,000 payments to each of the City and County upon execution of the ENA
- Two six (6)-month administrative options to extend exclusive negotiations subject to additional \$25,000 payments to each of the City and County for each extension
- City and County reserve the right during the ENA period to issue solicitations and enter into negotiations for the long-term disposition of their respective interests in the Property and future development of the Property
- A schedule of performance to be attached to the ENA, which would require OPS to meet milestones such as:
  - Submitting community engagement plan for approval
  - Submitting conceptual project plans that include use footprints, elevations and/or perspectives, parking, utilities, and vehicular and pedestrian access.
  - Identifying all relevant zoning, design review, environmental review and code requirements, and submit all necessary zoning permit applications and other land use permit applications

Staff would return to City Council for approval to execute a proposed lease that is negotiated during the ENA period.

## **Surplus Land Act**

On July 21, 2020 the City Council adopted [Resolution No. 88233 C.M.S.](#) declaring the City's interest in the Property and fifteen (15) other City-owned sites as "surplus land" pursuant to the Surplus Land Act (California Government Code Section 54221(b)(1)) (SLA), which established the City's intent to dispose of its interest in the Property for development.

Section 102(h) of the SLA Guidelines published by the California Department of Housing and Community Development provides that a disposition of surplus land means the sale or lease of local agency-owned land formally declared surplus, but not including "a lease of land on which no development or demolition will occur".

As currently proposed, the Temporary Project does not appear to be a "disposition of land" as defined by Guideline Section 102(h) because it is proposed to be an interim use which does not involve development or demolition; as it is comprised of modular, temporary structures that could be relocated, such as moveable bleachers, porta-potties, and shipping containers, as well as related temporary infrastructure to serve the venue. The Temporary Project is in a preliminary design stage and OPS will submit conceptual project plans that include use footprints, elevations and other detailed information to the City during the proposed ENA term. This additional information will allow staff to confirm that the proposed Temporary Project is not a "disposition of land" subject to the SLA as defined in SLA Guidelines Section 102(h), prior to returning to City Council for authorization to enter into an interim lease of the Property.

The City's interest in the Property has been included as one of approximately thirty City-owned sites in the City's 2023-2031 Housing Element Sites Inventory. The contemplated temporary use as proposed would not preclude disposition for development.

## **FISCAL IMPACT**

Aside from staff time, staff do not anticipate a fiscal impact on the City for the administration of the proposed ENA between the City and OPS.

OPS will bear sole responsibility for all costs associated with permitting the proposed Temporary Project. In addition, the ENA will require that OPS make a \$25,000 ENA payment to the City (as well as to the County) upon execution of the ENA, together with additional \$25,000 payments to each of the City and the County upon exercise of each of the two 6-month extensions. The ENA payment and extension payment(s) will be accepted and appropriated to Miscellaneous Capital Projects Fund (5999), Real Estate Organization (85231), Real Estate Program (PS32), in a new Project to be created.

### **PUBLIC OUTREACH / INTEREST**

The Roots and Soul soccer teams have enthusiastic and growing fan bases. OPS will be required to prepare and execute a community engagement plan during the ENA period.

### **COORDINATION**

The Economic and Workforce Development Department has coordinated on this agenda item with the City Administrator's Office, the Planning and Building Department, the Office of the City Attorney, and the Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The proposed Temporary Project will activate an otherwise underutilized property with economic activity during home games and other events held in the proposed venue. The City will receive at least one \$25,000 ENA payment and potential extension payments of up to an additional \$50,000.

**Environmental:** OPS would be responsible for applying for, and processing, applicable planning approvals and California Environmental Quality Act clearance from the City in its capacity as the lead regulatory agency. It would also be responsible for applying for, and processing, approvals from the Bay Conservation and Development Commission, the County, including ACDEH, and any other regulatory agencies with jurisdiction over the Property. While the Property is subject to environmental hazardous materials, those hazardous materials are contained underneath an asphalt cap. The required permitting processes will require that OPS take measures to protect public health to the satisfaction of the ACDEH.

**Race & Equity:** OPS has earned a reputation for being committed to diversity, equity and social justice. The ENA would require OPS to prepare a community engagement plan for the City's approval during the ENA period. City staff will review the proposed community engagement plan to ensure that it includes outreach to Black, Indigenous, and people of color (BIPOC) communities as well as other Oakland communities that have not historically had equitable access to professional sporting events.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Nothing in this action to authorize the City Administrator to enter into an ENA should be interpreted as an approval or a pre-commitment to approve, now or in the future, the disposition of the City's interest in the Property, to any particular party, on any particular terms, or for any particular purpose. Any proposed disposition of the City's interest in the Property and any development project on the Property, will require further discretionary actions of the City Council, and the City retains full discretion to proceed with disposition of its interest in the Property in compliance with CEQA. As such, this action will not result in a direct, or indirect, physical change in the environment and does not in-and-of-itself constitute a "project" pursuant to CEQA Guidelines Section 15378.

**ACTION REQUESTED OF THE CITY COUNCIL**

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Negotiate And Enter Into An Exclusive Negotiation Agreement (ENA) With Oakland Pro Soccer LLC And Alameda County For The Potential Lease For The Proposed Temporary Project On The Malibu Property Located at 8000 South Coliseum Way, Which Is Co-Owned With The County, For A Term of Six Months With Two Six-Month Administrative Extensions And Payment Of Nonrefundable ENA Payments Of \$25,000 And Extension Payments Of \$25,000 To Each Of The City And The County; And Adopting California Environmental Quality Act Findings**

For questions regarding this report, please contact Brendan Moriarty, Real Property Asset Manager, at 510-238-6354.

Respectfully submitted,



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SOFIA NAVARRO  
Interim Director, Economic & Workforce  
Development

Reviewed by:  
Kelley Kahn, Assistant Director, Real Estate &  
Strategic Partnerships  
Economic & Workforce Development

Prepared by:  
Brendan Moriarty, Real Property Asset  
Manager  
Economic & Workforce Development

Attachments (#): 1  
Attachment A: Property Map

# ASSESSOR'S MAP 42

Code Area Nos. 17-032

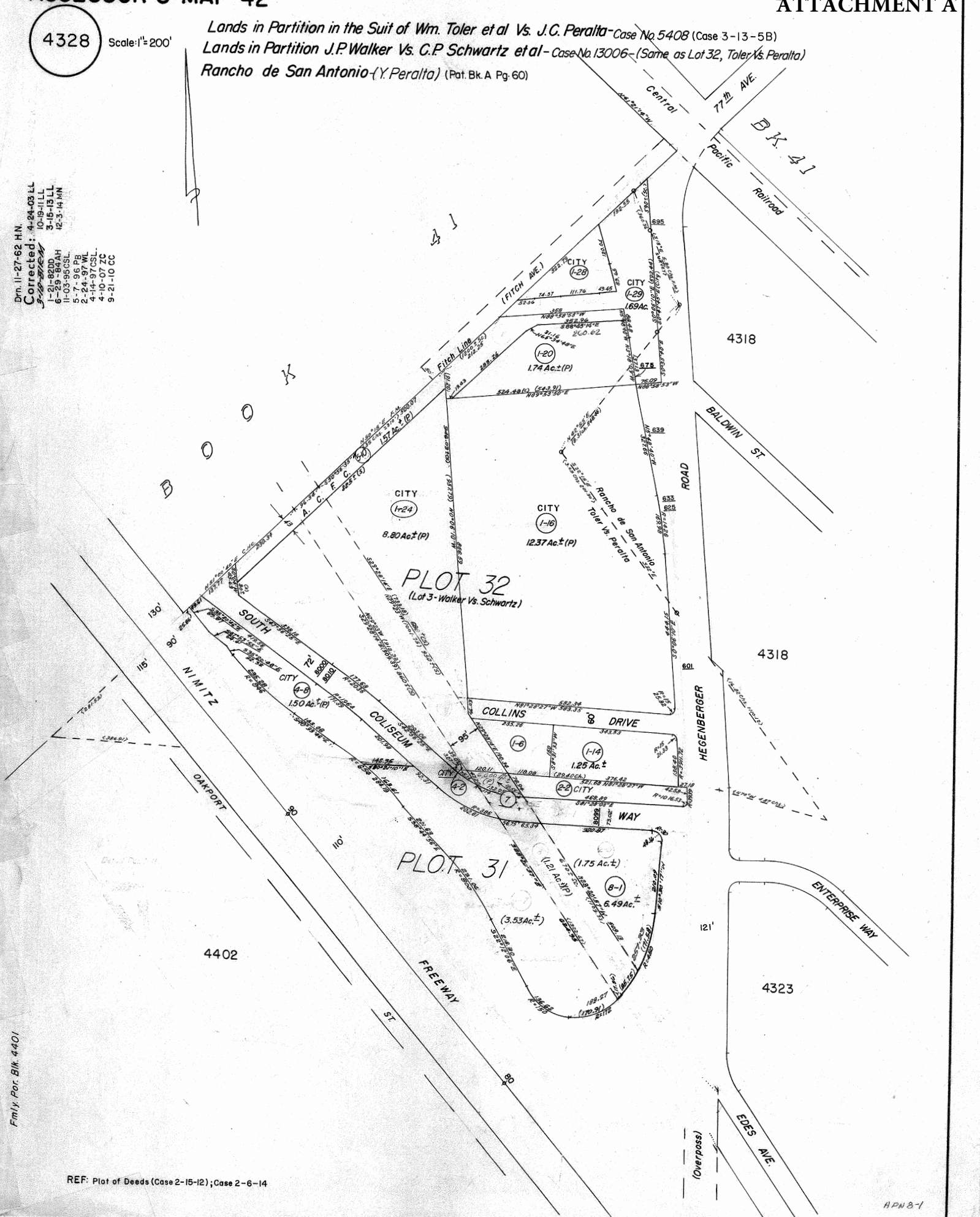
# ATTACHMENT A

4328

Scale: 1" = 200'

Lands in Partition in the Suit of Wm. Toler et al Vs. J.C. Peralta - Case No. 5408 (Case 3-13-5B)  
 Lands in Partition J.P. Walker Vs. C.P. Schwartz et al - Case No. 13006 - (Same as Lot 32, Toler Vs. Peralta)  
 Rancho de San Antonio - (Y. Peralta) (Pat. Bk. A Pg. 60)

Drn. 11-27-62 HN  
 Corrected: 4-24-03 LL  
 1-21-95 DD  
 6-15-95 DD  
 11-03-95 CSL  
 5-7-96 PB  
 2-24-97 WL  
 4-14-97 CSL  
 4-10-07 ZC  
 9-21-10 CC



REF: Plot of Deeds (Case 2-15-12); Case 2-6-14

Fmly. Por. Bk. 4401