


City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND LIBERATION PARK MARKET HALL, OR ITS AFFILIATES, FOR THE SALE OF A PORTION OF THE PROPERTY LOCATED AT 73RD AVENUE AND FOOTHILL BOULEVARD (PARCEL 1) AND DEVELOPMENT OF A MIXED-USE MARKET HALL AND CULTURAL CENTER, FOR THE APPRAISED \$994,996 FAIR MARKET VALUE, WITH A TERM OF TWO AND ONE-HALF YEARS WITH TWO ONE-YEAR ADMINISTRATIVE EXTENSION OPTIONS; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City of Oakland (“City”) owns a 1.22-acre parcel of land (APN 039-3291-020) located on the northwest corner of 73rd Avenue and Foothill Boulevard with an address of 7101 Foothill Boulevard, as more specifically described in the legal description attached hereto as Exhibit A (“Property”); and

WHEREAS, on July 21, 2020, the City Council adopted Resolution No. 88233 C.M.S., declaring the Property as “surplus land” pursuant to the Surplus Land Act (“SLA”), California Government Code Section 54220(b)(1), and authorizing the City Administrator to issue a Notice of Availability (“NOA”) to solicit development proposals for the disposition and development of the Property; and

WHEREAS, on October 26, 2020, the City issued an NOA for the Property, and selected a development team including the Black Cultural Zone Community Development Corporation (“BCZ”), the Community Arts Stabilization Trust (“CAST”), and Curtis Development (“Curtis”) (collectively, the “Original Developer”), which submitted a proposal to build Liberation Park Mixed-Use Development, an affordable housing and commercial project (“Project”); and

WHEREAS, on August 25, 2021, the California Department of Housing & Community Development determined that the City met all requirements under the SLA for the purpose of disposing of the Property for development of the Project; and

WHEREAS, on February 10, 2022, the City Administrator, pursuant to Resolution No. 88873 C.M.S., dated October 19, 2021, executed that certain Exclusive Negotiating Agreement

(“ENA”) between the City and the Original Developer for the proposed development of the Project; and

WHEREAS, on July 11, 2023, the City Administrator executed a First ENA Amendment to remove Curtis from the Original Developer and add Eden Housing, Inc. (“Eden”), pursuant to Section 11 of the ENA; and

WHEREAS, the Original Developer established two (2) separate entities for the development of the Project: Liberation Park Residences, L.P., an affiliate of BCZ and Eden (“Residential Developer”), for the affordable housing, and Liberation Park Market Hall, Inc., an affiliate of BCZ and CAST (“Commercial Developer”) for the commercial project; and

WHEREAS, the Commercial Developer proposes to build a free-standing market hall and arts and cultural center with an adjacent courtyard and outdoor roller-skating rink (“Commercial Project”) and the Residential Developer proposes to construct a six-story residential building with rental 119 units, 118 of which would be affordable to households with incomes ranging from 20% to 60% of Area Median Income in Alameda County (“Residential Project”); and

WHEREAS, on January 27, 2023, the City’s Planning Bureau approved the entitlements for the Project (PLN 22196) pursuant to Government Code Section 65913.4 (also known as SB 35); and

WHEREAS, the Original Developer requested that the Property be subdivided into two (2) legal Parcels: Parcel 2, comprising approximately 0.73 acres (“Parcel 2”), for development of the Residential Project, and Parcel 1, comprising approximately 0.49 acres (“Parcel 1”), for the development of the Commercial Project; and

WHEREAS, on May 24, 2023, the City Planning Bureau approved a Tentative Parcel Map to subdivide the Property into Parcel 1 and Parcel 2, which will not be recorded until execution of the Lease with the Residential Developer at closing; and

WHEREAS, on October 17, 2023, pursuant to Resolution No. 89947 C.M.S, the City Council approved a Second ENA Amendment, extending the ENA term to April 19, 2024, with one six-month administrative extension, to conclude negotiations of the transaction documents between the City and the Residential and the Commercial Developer; 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, the City and the Commercial Developer have negotiated proposed terms of a Disposition and Development Agreement (“DDA”) as reflected in the Term Sheet attached to the Agenda Report for this item, which is in the best interest of the City as set forth in the Agenda Report for this item; and

WHEREAS, the purchase price is equal to the proportional appraised fair market value of Parcel 1, consistent with Oakland Municipal Code Section 2.42.180; and

WHEREAS, concurrently with this Ordinance, City Council is considering an Ordinance to authorize a Lease Development and Disposition Agreement (“LDDA”) and ground lease with the Residential Developer to construct the Residential Project, and the Term Sheets specify that the Residential Project must begin construction before the DDA for the Commercial Project closes escrow; and

WHEREAS, The Project was approved subject to the streamlined, ministerial approval process for mixed-use affordable housing developments under Government Code Section 65913.4, commonly referred to as an SB 35 project, and the negotiation and approval of disposition documents for the development of the Project are not subject to CEQA review pursuant to Government Code section 65913.4(k)(1) and Section 15268 (Ministerial Projects) of the State CEQA Guidelines;

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

SECTION 1. The City Council hereby authorizes the City Administrator to (a) negotiate and execute the DDA substantially in accordance with the Term Sheet attached to the Agenda Report for this item for development of the Commercial Project on Parcel 1; (b) negotiate and execute 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 transaction contemplated by this Ordinance; and (c) to negotiate and execute such other documents as necessary or appropriate, in consultation with the City Attorney’s Office, to implement the DDA and development of the Commercial Project on Parcel 1 in order to consummate the transaction in accordance with this Ordinance, or to otherwise effectuate the purpose of this Ordinance and its basic purposes.

SECTION 2. Sales proceeds for Parcel 1 will be accepted and deposited into City Entity (1), Central City East TA Bonds Series 2006A-T Fund (5643), CIP Central City East Organization (94899), Sale of Land Revenue Account (48111), 73rd and Foothill Development Land Sale Project (1003729), Central City East Program (SC18).

SECTION 3. The City Council hereby further finds and determines that the sales price for Parcel 1 in the amount of \$995,000 represents the proportional fair market value of Parcel 1 as determined by an appraisal of the Property, dated March 30, 2023.

SECTION 4. The City Council hereby finds and determines, for the reasons described in the Agenda Report that are specific to this transaction and to the covenants and conditions affecting this Property, that the sale of Parcel 1 to the Commercial Developer is in the best interests of the City as a whole; and

SECTION 5. The City Council hereby finds and determines, on a separate and independent basis, that pursuant to Government Code Section 65913.4, the City’s review and approval of the Project, which consists of a mixed-use affordable housing and commercial development, shall not constitute a “project” for purposes of the California Environmental Quality Act (“CEQA”) (Section 21000 et seq. of the Public Resources Code), and therefore shall not be subject to CEQA review; and further, that the negotiation and approval of the DDA for the development of the

Project is not subject to CEQA review, pursuant to Government Code section 65913.4(k)(1) and Section 15268 (Ministerial Projects) of the State CEQA Guidelines.

SECTION 6. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council’s decision.

SECTION 7. The agreements authorized by this Ordinance are subject to City Attorney review and approval for form and legality, and a copy of this Ordinance shall be filed with the City Clerk without returning to Council.

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 there of irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 9. 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, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

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

NOTICE AND DIGEST

AN ORDINANCE: AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND (“CITY”) AND LIBERATION PARK MARKET HALL, OR ITS AFFILIATES, FOR THE SALE OF A PORTION OF THE CITY-OWNED PROPERTY LOCATED AT 73RD AVENUE AND FOOTHILL BOULEVARD (“PARCEL 1”) AND DEVELOPMENT OF A MIXED-USE MARKET HALL AND CULTURAL CENTER ON PARCEL 1, FOR THE APPRAISED \$994,996 FAIR MARKET VALUE, WITH A TERM OF TWO AND ONE-HALF YEARS WITH TWO ONE-YEAR ADMINISTRATIVE EXTENSION OPTIONS; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance would authorize the City Administrator to enter into a disposition and development agreement (“DDA”) for the development of a mixed-use market hall and cultural center and to convey approximately one half of the City-owned property located at 73rd Avenue and Foothill Boulevard. The DDA would have a term of two and one-half years, with two one-year extension options. The terms of the agreement would be substantially consistent with the negotiated term sheets attached to the Agenda Report for this Ordinance. The Ordinance makes findings that the sale price is based on the proportional appraised fair market value of the Parcel 1, that a sale is in the best interest of the City, and that no further environmental review is required under CEQA.