

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AUTHORIZING A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT AND A GROUND LEASE WITH HOUSING CONSORTIUM OF THE EAST BAY, OR ITS AFFILIATES, FOR THE DEVELOPMENT OF AFFORDABLE HOUSING ON THE PROPERTY LOCATED AT 606 CLARA STREET AND 9418 EDES AVENUE, AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR THIS ACTION

WHEREAS, the City of Oakland owns two parcels of property at 606 Clara Street, Assessor's Parcel Number 044-5014-006-3, and 9418 Edes Avenue, Assessor's Parcel Number 044-5014-005 (together, the "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 August 25, 2021, the California Department of Housing and Community Development determined that the City met all requirements under the SLA for the purpose of disposing of the Property for the development of a project; and

WHEREAS, the City's Homekey Round 3 Request for Proposals ("RFP") opened on October 4, 2022, and closed on November 28, 2022, offered the Property for disposition in a competitive process for a project under the State of California's Homekey program; and

WHEREAS, the RFP was a public and competitive Notice of Development Opportunity as required by Section 2.42.170.A of the Oakland Municipal Code for disposition of City real property for development; and

WHEREAS, a development team including Housing Consortium of the East Bay ("HCEB") submitted the highest scoring proposal to build an affordable housing development ("Project") on the Property; and

WHEREAS, the Project, commonly referred to as Dignity Village, will include the new modular construction of 40 permanent supportive housing units serving chronically homeless seniors with incomes at or below 15% of Area Median Income, plus one manager's unit, for a total of 41 units; and

WHEREAS, the Project will be funded in part by the State of California Homekey program, and is subject to the regulations contained in the Homekey Notice of Funding Availability for the third round of Homekey funding issued on March 29, 2023; and

WHEREAS, Section 2.42.140, et seq., of the Oakland Municipal Code authorizes the City to sell or lease real property for development by ordinance; and

WHEREAS, the City and HCEB have negotiated proposed terms of a Lease Disposition and Development Agreement (the "LDDA") setting forth the terms and conditions under which the City will dispose of the Property to HCEB and/or affiliated entities by means of a long-term ground lease, and by which HCEB and/or affiliated entities will construct the Project on the Property; and

WHEREAS, the City and HCEB have negotiated proposed terms of the long-term ground lease (the "Ground Lease") for the lease of the Property to HCEB, or an affiliated entity or entities, for development and operation of the Project; and

WHEREAS, the conveyance of the Property to HCEB or its affiliates for development and operation of affordable housing will further the health, safety, and general welfare of the residents of the City of Oakland by increasing the stock of housing affordable to homeless persons and persons at risk of homelessness; and

WHEREAS, Section 2.42.180 of the Oakland Municipal Code authorizes the City to dispose of property at its fair reuse value as assessed based on the property's proposed development and use, prevailing market conditions, development climate at the time of disposition, and other economic and noneconomic factors, and requires Council findings to justify any below-market disposition; and

WHEREAS, the assessment set forth in the staff report accompanying this Ordinance concludes that, based on a financial feasibility analysis of the proposed Project, the fair reuse value of the Property is nominal; and

WHEREAS, given the economics of the proposed Project and the need to make the Project work, the ground lease of the Property to the developer at a nominal cost is necessary; and

WHEREAS, the City is lead agency for the purposes of environmental review of this Project under the California Environmental Quality Act ("CEQA"); and

WHEREAS, this Project and the actions in furtherance of this Project under this Ordinance are exempt from review under CEQA regulations;

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

SECTION 1. The City Council hereby authorizes the conveyance of the Property to HCEB, or an affiliated entity or entities approved by the City Administrator, by long-term ground lease for a nominal lease payment, in return for an agreement by the developer to develop and operate the Project as affordable housing.

SECTION 2. The City Council hereby authorizes the City Administrator to negotiate and execute the LDDA and the Ground Lease for the disposition of the Property to HCEB or its affiliates and the development of the Project on the Property in accordance with the terms of this Ordinance. The City Council further authorizes the City Administrator to negotiate and execute such other documents, as well as 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 to take any other action necessary in furtherance of the Project consistent with this Ordinance and its basic purposes. The City Council hereby authorizes the City Administrator in their discretion to exercise any City option to extend or consent to an extension of the term of the Ground Lease up to the maximum lease term allowed under the Charter.

SECTION 3. The City Council hereby finds and determines that Ground Rent payment from the Residential Project will be accepted and deposited into City Entity (1), Coliseum: TA Bonds Series 2006B-TE (Tax Exempt) Fund (5656), Land Rental Miscellaneous Revenue Account (44219), new project to be determined, Coliseum Program (SC12).

SECTION 4. As a condition of the disposition of the Property, the City shall require that restrictions on occupancy, rents and operations for affordable units developed on the Property be recorded against the Property and the improvements developed on the Property.

SECTION 5. Based on the reuse value assessment set forth in the staff accompanying this Ordinance concluding that the fair reuse rental value of the Property is nominal given its required use as affordable housing and the need to make the Project financially feasible, the City Council hereby finds that it is in the best interest of the City to lease the Property at a nominal rent given the need to redevelop the Property into affordable housing for the benefit of the community.

SECTION 6. All agreements associated with the disposition of the Property and the Project shall be reviewed and approved as to form and legality by the Office of the City Attorney prior to execution by the City, and shall be placed on file with the City Clerk.

SECTION 7. The City Council finds and determines that the conveyance of the Property for the Project and the development of the Project is action is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the CEQA regulations (in-fill exemption). The City Administrator is hereby authorized to file a notice of determination with the Office of the Alameda County Recorder and the State Office of Planning and Research, in connection with this Ordinance.

SECTION 8. The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports, decision letters and other documentation and information produced by or on behalf of the City, and all notices relating to this Ordinance and the LDDA;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance;
- C. All matters of common knowledge and all official enactments and acts of the City, such as (1) the General Plan; (2) the Oakland Municipal Code, including, without limitation, the Oakland real estate regulations; (3) the Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

SECTION 9. The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) the Office of Housing And Community Development, 250 Frank H. Ogawa Plaza, 5th floor, Oakland CA; (b) Planning and Neighborhood Preservation Department, Planning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

SECTION 10. 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 Ordinance. 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 11. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

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

ORDINANCE AUTHORIZING A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT AND A GROUND LEASE WITH HOUSING CONSORTIUM OF THE EAST BAY, OR ITS AFFILIATES, FOR THE DEVELOPMENT OF AFFORDABLE HOUSING ON THE PROPERTY LOCATED AT 606 CLARA STREET AND 9418 EDES AVENUE, AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR THIS ACTION

This Ordinance would authorize the City Administrator to enter into a Lease Disposition and Development Agreement and a long-term ground lease for the disposition and development of affordable housing on real property owned by the City and located at 606 Clara Street and 9418 Edes. This Ordinance would also adopt findings that a below market rate conveyance of the property for this project is in the best interests of the City, and that the project is exempt from environmental review under the California Environmental Quality Act.