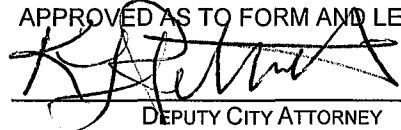


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OFFICE OF THE CITY CLERK
OAKLAND

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6 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. **13387** C.M.S.

AN EMERGENCY ORDINANCE PURSUANT TO CHARTER SECTION 213 AMENDING ORDINANCE NO. 13346 C.M.S. AND APPROVING (1) THE REMOVAL OF L & M DEVELOPMENT PARTNERS, INC. FROM THE DEVELOPMENT TEAM OF THE FRUITVALE TRANSIT VILLAGE PHASE IIA, A MIXED INCOME HOUSING PROJECT ("PROJECT"), AND AS A PARTY TO ALL RELATED DOCUMENTS AND (2) RETAINING THE SPANISH SPEAKING UNITY COUNCIL OF ALAMEDA COUNTY, INC. AND THE EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION, OR ANY RELATED ENTITY, AS THE DEVELOPMENT TEAM OF THE PROJECT AND AS PARTIES TO ALL RELATED DOCUMENTS AND AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE, AMEND AND EXECUTE ALL NECESSARY DOCUMENTS, AND ADOPTING CEQA EXEMPTIONS

WHEREAS, the City of Oakland ("City") owns a 3.4 acre surface parking lot consisting of two parcels located on property ("Property") adjacent to the Fruitvale San Francisco Bay Area Rapid Transit District ("BART") station; and

WHEREAS, the City and developers desire to improve the Property as a Transit Oriented Development ("TOD") known as the "Fruitvale Transit Village"; and

WHEREAS, the TOD is expected to be improved as Phase IIA which is planned to consist of 94 mixed-income rental housing units ("Phase IIA Project" or "Project") and Phase IIB which is planned to consist of 181 market rate rental housing units ("Phase IIB Project"); and

WHEREAS, the City, the Spanish Speaking Unity Council of Alameda County, Inc. ("Unity Council") and L & M Development Partners, Inc. ("L&M") entered into an Exclusive Negotiating Agreement ("ENA") on November 18, 2014 for the purpose of studying the feasibility of the development of the Phase IIA Project on parcel number 033-2177-021 and the Phase IIB Project on parcel number 033-2197-019; and

WHEREAS, on June 22, 2015, the City Council authorized the City Administrator to negotiate and execute a Lease and Disposition Agreement ("LDDA") and related development documents with the Unity Council and L & M for the development of the Phase IIA Project. The LDDA sets forth the terms and conditions of the development of the Phase IIA Project; and

WHEREAS, on December 8, 2015, the City Council approved Ordinance 13346 to add the East Bay Asian Local Development Corporation ("EBALDC") as an additional party to the LDDA and related development documents; and

WHEREAS, staff negotiated with the Unity Council, EBALDC, and L & M regarding the development of the Phase IIA Project and L&M did not agree with the City's terms and L & M now desires to remove itself from the development team and to remove itself as a party to the LDDA and related documents; and

WHEREAS, the City Council, desires to take such removal action and to retain Unity Council and EBALDC or any related entity as the developers of the Property and as parties to the LDDA and related documents; and

WHEREAS, pursuant to City Charter Section 213 the City Council may introduce and adopt an emergency ordinance at the same City Council meeting by an affirmative six votes of the Council; and

WHEREAS, pursuant to City Charter Section 213 the City Council must state the reasons constituting the necessity of an emergency ordinance in order to preserve the public peace, health or safety of the City in an emergency; and

WHEREAS, the approval of this Emergency Ordinance will allow the developer to maintain eligibility for tax equity credits and eligibility for housing funds that will be used to pay a portion of the costs and expenses of the construction of much needed affordable and mixed-income housing in the City; and

WHEREAS, the project's goal is to further the public health, safety and welfare and to meet the Mayor's development pipeline of new housing in Oakland to address the housing affordability crisis that threatens the public health and welfare of Oakland's citizenry; and

WHEREAS, a public hearing of the City Council was held to hear public comments on the lease of the Phase IIA Property to the Developer for the project; and

WHEREAS, notice of the time and place of the public hearing was given by publication in a newspaper of general circulation in Alameda County at least once a week for at least two successive weeks prior to the public hearing; and

WHEREAS, as required by State Law, the City made a report available to the public for inspection, no later than the first date of publication of the notice for the hearing, that contains: (i) a copy of the proposed lease of the Phase IIA Property and (ii) a summary of (a) the cost of the agreement to the City, (b) the estimated highest and best use value permitted under the City general plan or zoning, (c) the estimated value determined at the use required by the lease, with an explanation of the reasons for the difference between the two values, and (d) an explanation, with supporting facts and materials, of why the lease of the Phase IIA Property and development of the Phase IIA Project will assist in the creation of economic opportunity; and

WHEREAS, the City Council previously certified in May 2010 the Environmental Impact Report (EIR) for the Project and the Oakland City Planning Commission approved the Project for entitlements on May 6, 2015; now, therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. The City Council hereby authorizes an Emergency Ordinance to remove L & M Development Partners, Inc. from the development team and as a party from the related development documents for the Fruitvale Transit Village Phase IIA development project to meet eligibility requirements for housing tax equity funds.

SECTION 2. The City Council hereby authorizes the City Administrator or designee to negotiate with the Unity Council and EBALDC or any related entity approved by the City Administrator, for the lease and development of the Property consistent with the terms of Ordinance No. 13346 C.M.S as amended by this Ordinance and execute an amendment to the LDDA and related documents.

SECTION 3. The City Council hereby finds and determines that the lease of the Phase IIA Property for the Phase IIA Project will assist in the creation of economic opportunity in the City by:

- creating and expanding new jobs, including approximately 261 construction jobs and 3 permanent jobs, which is at least one full-time equivalent permanent job for every \$35,000 in City investment; and
- increasing property tax revenue to all taxing entities by at least 15% of total property tax when compared to the year prior to the City's acquisition of the Property.

SECTION 4. All agreements associated with the conveyance of the Phase IIA Property for the Phase IIA 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 5. The City Council hereby finds and determines that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that (1) there are no substantial changes proposed in the Phase IIA Project or the circumstances under which the Phase IIA Project is undertaken that would involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3).

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

SECTION 7. The City Council hereby authorizes the City Administrator or designees to (1) remove L & M Development Partners, Inc. from the development team of the Fruitvale Transit Village Phase IIA, a mixed income housing project and as a party to all related documents and (2) retain the Spanish Speaking Unity Council of Alameda County, Inc. and the East Bay Asian Local Development Corporation, or any related entity, as the development team of the project and

as parties to all related documents and authorizing the City Administrator or designee to negotiate, amend and execute all necessary documents, and adopting CEQA exemptions.

SECTION 8. This Ordinance shall be in full force and effect immediately upon final adoption, as provided by Section 213 of the City Charter, if adopted by at least six members of Council.

IN COUNCIL, OAKLAND, CALIFORNIA, July 19, 2016

PASSED BY THE FOLLOWING VOTE:

AYES- 8

BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,
and PRESIDENT GIBSON MCELHANEY

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



LATONDA SIMMONS

City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation

July 28, 2016

AN EMERGENCY ORDINANCE PURSUANT TO CHARTER SECTION 213 AMENDING ORDINANCE NO. 13346 C.M.S. AND APPROVING (1) THE REMOVAL OF L & M DEVELOPMENT PARTNERS, INC. FROM THE DEVELOPMENT TEAM OF THE FRUITVALE TRANSIT VILLAGE PHASE IIA, A MIXED INCOME HOUSING PROJECT ("PROJECT"), AND AS A PARTY TO ALL RELATED DOCUMENTS AND (2) RETAINING THE SPANISH SPEAKING UNITY COUNCIL OF ALAMEDA COUNTY, INC. AND THE EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION, OR ANY RELATED ENTITY, AS THE DEVELOPMENT TEAM OF THE PROJECT AND AS PARTIES TO ALL RELATED DOCUMENTS AND AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE, AMEND AND EXECUTE ALL NECESSARY DOCUMENTS, AND ADOPTING CEQA EXEMPTIONS

NOTICE AND DIGEST

This Ordinance authorizes the City Administrator to Amend the Lease Disposition and Development Agreement (LDDA) with the Spanish Speaking Unity Council of Alameda County and the East Bay Asian Local Development Corporation and to remove L & M Development Partners, Inc. from the development team for the development of the Fruitvale Transit Village Phase II, and remove L&M as a party from any and all documents related to the development. , and makes associated findings with respect to the California Environmental Quality Act and other matters.