

2016 NOV 22 AM 11:02

APPROVED AS TO FORM AND LEGALITY


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. ~~88~~ 13413 C.M.S.

ORDINANCE (1) AUTHORIZING THE CITY TO ACQUIRE PROJECT PARCEL A FOR AFFORDABLE HOUSING DEVELOPMENT AT THE BROOKLYN BASIN PROJECT FROM ZARSION-OHP I, LLC, IN EXCHANGE FOR PROJECT PARCEL G, (2) AUTHORIZING AN AMENDMENT TO THE COOPERATION AGREEMENT WITH THE OAK TO NINTH COMMUNITY BENEFITS COALITION TO REFLECT THE EXCHANGE, AND (3) AMENDING RESOLUTION NO. 84349 C.M.S. TO TERMINATE THE CITY'S PUT OPTION PROVIDING FOR THE OPTIONAL RESALE OF THE AFFORDABLE HOUSING PARCELS BACK TO ZARSION-OHP I

WHEREAS, under the Development Agreement ("DA") for the Brooklyn Basin development project (formerly the Oak to 9th project) with the Zarsion-OHP I, LLC ("ZOHP") (formerly Oakland Harbor Partners, LLC) approved by the City and the Redevelopment Agency of the City of Oakland (the "Redevelopment Agency") in 2006, ZOHP agreed to set aside and sell Project Parcels F and G to the Redevelopment Agency at a discount for affordable housing development, after ZOHP performed site work and environmental remediation on those parcels; and

WHEREAS, the DA required that the affordable housing developer selected by the Redevelopment Agency develop a certain amount of commercial space and associated parking on Project Parcel G, along with affordable housing; and

WHEREAS, the Redevelopment Agency in 2006 entered into a Cooperation Agreement with the Oak to Ninth Community Benefits Coalition, a consortium of four community organizations, requiring the Redevelopment Agency to purchase Project Parcels F and G for affordable housing development and to ensure the development of at least 465 affordable housing units on those parcels; and

WHEREAS, the City is the housing successor to the Redevelopment Agency under Health and Safety Code Section 34176, including the Redevelopment Agency's housing obligations and functions with respect to the DA, the Cooperation Agreement, and the Project Parcels designated for affordable housing development; and

WHEREAS, Resolution No. 84349 C.M.S. adopted on May 7, 2013, authorized the City to exercise the early purchase option in the DA to purchase Project Parcels F and G prior to the completion of site work and environmental remediation, subject to the condition that ZOHP grant the City an option to sell back these parcels to ZOHP for the original purchase price at any time from December 31, 2015, through December 31, 2018 (the "Put Option"); and

WHEREAS, the City purchased Project Parcels F and G from ZOHP in 2014 pursuant to the DA, the Cooperation Agreement, and Resolution No. 84349 C.M.S., and entered into a Put Option Agreement with ZOHP that granted the Put Option to the City and required ZOHP to set aside funds in escrow to secure its Put Option obligations; and

WHEREAS, ZOHP has proposed exchanging Project Parcel G for Project Parcel A, with Project Parcel A to be used for affordable housing development instead of Project Parcel G; and

WHEREAS, Parcel A is suitable for the development of affordable housing; and

WHEREAS, the proposed exchange would have certain benefits to the City and the affordable housing developer, in that (1) the affordable housing developer would be relieved from the obligation to develop commercial space on Project Parcel G as required under the DA, and (2) development of affordable housing on Project Parcel A would be less costly and more feasible than development on Project Parcel G; and

WHEREAS, the Oak to Ninth Community Benefits Coalition supports the proposed exchange; and

WHEREAS, a condition of the exchange is that the City agree to terminate the Put Option and release the escrowed Put Option security funds to ZOHP; and

WHEREAS, Section 2.41.020, et seq., of the Oakland Municipal Code authorizes the City to purchase real property by ordinance; and

WHEREAS, Section 2.42.050.C, et seq., of the Oakland Municipal Code authorizes the City to sell real property by ordinance; and

WHEREAS, the City Administrator and ZOHP will be addressing these changes pursuant to Section 11.2 of the DA (which specifies that certain project-related City actions do not constitute an amendment to the DA that requires a noticed public hearing) to provide for the exchange under the negotiated conditions; and

WHEREAS, the Environmental Impact Report for the Oak to Ninth Mixed Use Development Project prepared under the California Environmental Quality Act ("CEQA") and certified by the City Council in 2006 and recertified in 2009 (the "EIR") provides a project-level analysis of the environmental impacts of the Brooklyn Basin development project and supports all levels of approval necessary to implement the project; and

WHEREAS, the proposed exchange would not result in any significant effect that has not already been analyzed in the EIR, and there will be no significant environmental effects caused by the exchange that have not already been analyzed in the EIR; now, therefore

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

SECTION 1. The City Council hereby authorizes the City to acquire Project Parcel A from ZOHP, and to convey Project Parcel G to ZOHP in exchange for Project Parcel A. Upon the exchange, Project Parcel A shall then become one of the “affordable housing parcels” under the DA and the Cooperation Agreement.

SECTION 2. ~~The City Council hereby amends Resolution No. 84349 C.M.S. to authorize as a condition of the exchange the termination of the Put Option and the release of any Put Option security funds to ZOHP.~~

SECTION 3. The City Council hereby authorizes the City Administrator or her designee to negotiate and execute agreements and grant deeds with ZOHP for the property exchange, including the termination of the Put Option, consistent with the terms of this Ordinance, as well as negotiate and execute any other agreements or documents as necessary to effectuate the property exchange and the Put Option termination. This includes without limitation an amendment to the Cooperation Agreement with the Oak to Ninth Community Benefits Coalition to reflect the property exchange.

SECTION 4. The City Council, pursuant to Oakland Municipal Code Section 2.42.050.B., hereby waives a competitive process for disposition of Project Parcel G to ZOHP pursuant to the exchange, and finds and determines that disposition of this property without a competitive process is in the best interest of the City because of the benefits to the City and the affordable housing developer from the exchange as set forth in this Ordinance and the staff report accompanying this Ordinance.

SECTION 5. The City Council hereby finds and determines on the basis of substantial evidence in the record 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 because of the exchange, in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of 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). The City Council further finds and determines, each as a separate and independent basis, that this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning), 15378(b)(5) (the exchange will not independently result in a physical change in the environment) and 15061(b)(3) (no significant effect on the environment). The City Administrator or her designee 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.

SECTION 6. The City Administrator or her designee is hereby authorized to take any other action necessary in furtherance of the exchange and termination of the Put Option consistent with this Ordinance and its basic purposes.

SECTION 7. 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, JAN 17 2017, 2016

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, KALB, KAPLAN, REID
AND PRESIDENT GIBSON MCELHANEY -7

NOES- 0

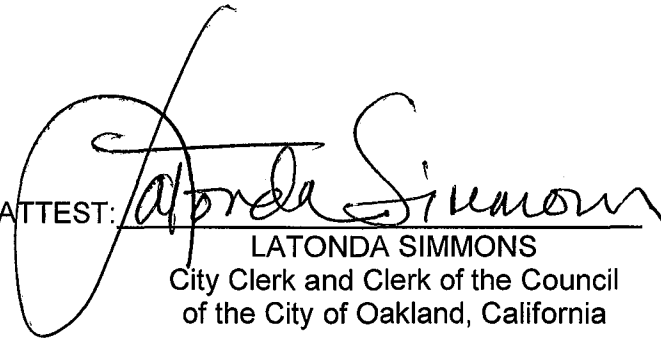
Excused - Gruiken - 1

ABSTENTION- 0

Introduction Date

DEC 13 2016

ATTEST:


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

Date of Attestation

1-23-17

ORDINANCE (1) AUTHORIZING THE CITY TO ACQUIRE PROJECT PARCEL A FOR AFFORDABLE HOUSING DEVELOPMENT AT THE BROOKLYN BASIN PROJECT FROM ZARSION-OHP I, LLC, IN EXCHANGE FOR PROJECT PARCEL G, (2) AUTHORIZING AN AMENDMENT TO THE COOPERATION AGREEMENT WITH THE OAK TO NINTH COMMUNITY BENEFITS COALITION TO REFLECT THE EXCHANGE, AND (3) AMENDING RESOLUTION NO. 84349 C.M.S. TO TERMINATE THE CITY'S PUT OPTION PROVIDING FOR THE OPTIONAL RESALE OF THE AFFORDABLE HOUSING PARCELS BACK TO ZARSION-OHP I

NOTICE AND DIGEST

This Ordinance authorizes the exchange of Project Parcel G, one of the affordable housing parcels at the Brooklyn Basin development project, with Zarsion-OHP I, LLC, for Project Parcel A. This Ordinance also authorizes an amendment to the Cooperation Agreement with the Oak to Ninth Community Benefits Coalition to reflect the exchange, and the termination of a Put Option held by the City providing for the optional resale of the affordable housing parcels back to Zarsion-OHP I, LLC. This Ordinance also makes associated findings with respect to the California Environmental Quality Act (CEQA).