

CITY COUNCIL RESOLUTION NO. 2023-113
FONTANA HOUSING AUTHORITY RESOLUTION NO. 2023-003

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AND HOUSING AUTHORITY OF THE CITY OF FONTANA, FINDING PUBLIC CONVENIENCE AND NECESSITY SUPPORT THE SALE OF THE PROPERTY; APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT AND REGULATORY AGREEMENT AMONG THE FONTANA HOUSING AUTHORITY, CITY OF FONTANA, AND FONTANA COURTPACE I HOUSING PARTNERS, L.P., FOR THE SALE OF 1.94 ACRES OF UNIMPROVED LAND LOCATED ON SIERRA AVENUE, BETWEEN SANTA ANA AVENUE TO THE NORTH AND JURUPA AVENUE TO THE SOUTH (A PORTION OF ASSESSOR PARCEL NUMBERS 0255-101-22-0-000 AND 0255-101-23-0-000); AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS CONCERNING THE ADEQUACY OF THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION, MITIGATION, MONITORING, AND REPORTING PROGRAM

WHEREAS, the City of Fontana (“City”) currently owns in fee that certain real property consisting of 1.94 acres of unimproved land located on Sierra Avenue, between Santa Ana Avenue to the north and Jurupa Avenue to the south (a portion of assessor parcel numbers 0255-101-22-0-000 and 0255-101-23-0-000) and legally described in Exhibit “A” attached to this resolution and incorporated by reference herein (the “Property”); and

WHEREAS, the City desires to sell the Property by executing a Disposition and Development Agreement (“DDA”) and Regulatory Agreement in a form substantially similar to Exhibit “B” attached to this resolution and incorporated by reference herein with Fontana Courtplace I Housing Partners, L.P. (“Purchaser”); and

WHEREAS, California Government Code Section 54220 *et seq.* (the “Surplus Land Act”) was amended in 2019 by Assembly Bill 1486 (“AB 1486”); and

WHEREAS, the Surplus Land Act, as amended by AB 1486, does not apply to this Property because pursuant to section 54221(f)(1)(A) of the Surplus Land Act, this Property is being transferred pursuant to Government Code Section 37364; and

WHEREAS, Government Code Section 37364 authorizes cities to convey land to a developer for developing housing where at least 40% of the total developed units are to be affordable to households whose incomes are less than or equal to 75% of the maximum income for lower income households (80% of Area Median Income “AMI”), and at least half of the affordable units are set aside for very low income households (50% of AMI); and

WHEREAS, pursuant to the Surplus Land Act, ten of the affordable units will be leased to families at or below 50% AMI and ten of the affordable units will be leased to families at or below 60% AMI in compliance with Government Code Section 37364, and

WHEREAS, California Government Code Sections 37420 through 37430 authorize the City to dispose of property; and

WHEREAS, on October 24, 2023, the City Council passed and approved Resolution No. 2023-102 which declared the City’s intent to sell the Property and announced a public hearing

scheduled for November 14, 2023 at 7:00 pm in order to hear any protests to the sale, and published notice of said hearing, and fixed the time for final action on the disposition of the Property and approval of the DDA; and

WHEREAS, in accordance with Government Code section 65402, the proposed disposition of the Property under the DDA will be presented to the City's Planning Commission ("Planning Commission") prior to the close of escrow; and

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an MND has been adopted, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code section 21166 and State CEQA Guidelines Section 15162 require additional environmental review; and,

WHEREAS, staff evaluated this Resolution approving a DDA and Regulatory Agreement for the Property in light of the standards for subsequent environmental review outlined in Public Resources Code section 21166, State CEQA Guidelines section 15162 and City of Fontana's 2019 Local Guidelines for Implementing CEQA; and,

WHEREAS, in connection with this Resolution approving the DDA and Regulatory Agreement for the Property and the City Council's review of the Courtplace Project MND, the City Council has independently reviewed all the prior environmental documentation prepared for the Courtplace Project, and has exercised its independent judgment in making the determination that the Courtplace Project MND fully analyzed and mitigated, all potentially significant environmental impacts, if any, that would result from the sale, and therefore, no subsequent EIR or mitigated negative declaration is required; and,

WHEREAS, the City, having heard protest, now desires to approve the execution of the DDA and Regulatory Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, AND THE HOUSING AUTHORITY OF THE CITY FONTANA DO HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Surplus Land Act Findings. The City Council of the City hereby finds and determines that the Property is exempt from the Surplus Land Act, as amended by AB 1486, because the Property is being transferred pursuant to Government Code Section 37364

SECTION 3. CEQA Findings The City Council and Housing Authority have reviewed and considered the Courtplace Project MND and the Mitigation, Monitoring, and Reporting Program (MMRP), pursuant State CEQA Guidelines Sections 15162 and 15164 along with the City of Fontana's 2019 Local Guidelines for Implementing CEQA, and has determined that the Courtplace Project MND fully analyzed and mitigated all potentially significant environmental impacts, if any, that would result from the Resolution approving the DDA and Regulatory Agreement for the Property, and therefore, no subsequent EIR or mitigated negative declaration is required.

SECTION 4. Public Convenience and Necessity Findings. The City Council hereby finds and determines that public convenience and necessity require the sale of the Property. The factors demonstrating that the public convenience and necessity require the sale of the Property include but are not limited to the following: (1) the Property is no longer needed by the City, and in excess of its foreseeable needs; (2) Developing the Property for a higher use with a 50 affordable family units, will revitalize an underutilized property, and provide much needed affordable housing in the City, that will assist City meet its Regional Housing Needs Allocation, and create jobs within the City; (3) it will alleviate conditions of economic and physical blight in the City, and potentially create an increase in property taxes by virtue of rising values, all of which benefit the health, safety, and welfare of the City.

SECTION 5. Approval. The City Council and Housing Authority approve the DDA (attached as Exhibit "B") and accompanying Regulatory Agreement (attached as Exhibit "L" of the DDA). The City Council and Housing Authority authorize the City Manager or designee, in consultation with the City Attorney, to take all necessary actions to effectuate the execution of the DDA and Regulatory Agreement after that time and make any minor revisions to the documents necessary to effectuate the intent of the parties. The City Manager is directed to perform the obligations of the City and Housing Authority under the DDA and Regulatory Agreement .

SECTION 6. Notice of Determination. The City Council hereby directs staff to prepare, execute and file with the San Bernardino County Clerk a Notice of Determination within five working days of the approval of this Resolution.

SECTION 7. Custodian of Documents. The custodian of documents constituting the record of proceedings for this matter is the City Clerk of the City of Fontana. The documents constituting the record of proceedings for this matter are located at City Hall at 8353 Sierra Avenue, Fontana, CA 92335.

SECTION 8. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 9. Effective Date. This Resolution shall become effective immediately upon its adoption, and the effective date of the DDA and Regulatory Agreement shall be effective when signed by all Parties.

The City Clerk of the City of Fontana shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2023.

EXHIBIT "A"
TO
RESOLUTION NO. 2023-113
LEGAL DESCRIPTION OF PROPERTY