

**SUMMARY REPORTS PURSUANT TO
SECTIONS 52201 AND 53083 OF THE GOVERNMENT CODE
ON (A) THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT AND LEASE
BY AND BETWEEN THE CITY OF OAKLAND AND
OAKLAND CIVIC, LLC (OR A RELATED ENTITY OR AFFILIATE) (“DEVELOPER”)
FOR THE REHABILITATION AND OPERATION OF THE HENRY J. KAISER
CONVENTION CENTER LOCATED AT 10 TENTH STREET, OAKLAND, CA, AND
(B) ECONOMIC DEVELOPMENT SUBSIDIES (1) TO A YET-TO-BE FORMED
NONPROFIT THEATRE OPERATOR, TO BE USED FOR THE REHABILITATION
COST OF THE THEATRE LOCATED INSIDE THE HENRY J. KAISER CONVENTION
CENTER, AND (2) TO DEVELOPER FOR SUBSURFACE CONTAMINATION
REMEDATION COSTS**

I. INTRODUCTION

The City of Oakland (the “City”) is the fee title owner of single parcel of land encompassing a total of approximately 4.8 acres (±208,842 sf) located at 10 Tenth Street in Oakland, California, which is improved with the historic Henry J. Kaiser Convention Center (the “Kaiser Auditorium”) (the “Property”).

The City wishes to execute a Lease Disposition and Development Agreement (“LDDA”) and a lease up to 99 years (the “Lease”) between the City and Oakland Civic LLC (“Oakland Civic” or the “Developer”), an affiliate of Orton Development, Inc. (“Orton”) for the renovation of the Kaiser Auditorium” (the “Project”). The City also desires to provide an economic development subsidy in the form of a grant in an amount not to exceed \$ 3million to a yet-to-be formed nonprofit Theatre Operator, to be used for the rehabilitation cost of the Calvin Simmons Theatre (the “Theatre”) located inside the Kaiser Auditorium, and a grant of up to \$100,000 to Oakland Civic for the cost of subsurface hazardous materials remediation at the Kaiser Auditorium.

California Government Code Section 52201

California Government Code Section 52201 requires that a city wishing to sell or lease property to create an economic opportunity, must first secure approval of the proposed sale or lease from its city council after a public hearing. A copy of the proposed sale and a summary report that describes and contains the following information must be available for public inspection prior to the public hearing:

1. The cost of the agreement to the city, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the city, plus the expected interest on any loans or bonds to finance the agreements.
2. The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the general plan or zoning.

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3. The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessee will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use, then the city shall provide as a part of the summary an explanation of the reasons for the difference.
4. An explanation of why the sale or lease of the property will assist in the creation of economic opportunity, with reference to all supporting facts and materials relied upon in making this explanation.

In addition, the resolution approving the lease or sale shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for that purpose and shall contain a finding that the sale or lease of the property will assist in the creation of economic opportunity. The resolution shall also contain one of the following findings:

1. The consideration is not less than the fair market value at its highest and best use.
2. The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale or lease.

The California Government Code Section 53083

Section 53083 of the California Government Code requires that prior to approving an economic development subsidy within its jurisdiction, a local agency must provide all of the following information in written form and on its website:

1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.
2. The start and end dates and schedule, if applicable, for the economic development subsidy.
3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.
4. A statement of the public purposes for the economic development subsidy.
5. Projected tax revenue to the local agency as a result of the economic development subsidy.
6. Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

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This report provides the information required by Government Code Sections 52201 and 53083 regarding (A) a proposed LDDA, Lease and related documents, by and between the City and Oakland Civic, for the rehabilitation and operation of the Kaiser Auditorium; and (B) a grant not to exceed \$3 million to a yet-to-be formed nonprofit Theatre Operator, to be used for the rehabilitation cost of the Theatre located inside the Kaiser Auditorium, and (C) a grant of up to \$100,000 to Oakland Civic for the cost of subsurface hazardous materials remediation at the Kaiser Auditorium.

This report is based upon information in the attached term sheet (the “Term Sheet”, attached hereto as *Exhibit A*) for the proposed LDDA and Lease, and is organized in the following six sections:

- II. Summary of the Proposed LDDA and Lease** - This section includes a description of the Property, the proposed development, and the major responsibilities of the City and the Developer.
- III. Cost of the LDDA and Lease to the City** - This section outlines the cost of the LDDA and Lease to the City. It presents the terms of the Lease to the Developer by the City, and sets forth the net cost of the LDDA and Lease to the City.
- IV. Estimated Value of the Interest to be Leased at Its Highest and Best Use** - This section summarizes the value of the in the Property to be leased to the Developer.
- V. Economic Opportunity Analysis** – This section explains why the Lease of the Property will assist in the creation of economic opportunity.
- VI. Government Code Section 53083** – This section provides information regarding the economic development subsidy for the Project in the form of the City grants of \$3 million for the rehabilitation of the Theatre, and \$100,000 for hazardous materials remediation, respectively.

II. SUMMARY OF THE PROPOSED AGREEMENT

The Term Sheet for the proposed LDDA and Lease is attached to provide in general terms the proposed transaction, and is subject to further negotiation between the parties and modification prior to City Council action. Summaries of the proposed LDDA and Lease as reflected in the attached term sheet are provided below.

A. Description of the Property, the Developer and the Proposed Development

Property

The Property is approximately 4.8 acres (±208,842 sf) and is located at 10 Tenth Street in downtown Oakland. The Property’s Assessor Parcel Number (“APN”) is 018-0450-005 (see *Exhibit B*, Parcel Map). The Property is improved with the historic Kaiser Auditorium, with a building footprint of approximately 76,900 sf, and a total gross floor area of approximately 215,000 square feet. The building houses the 1,899-seat Theatre, which

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occupies approximately one third of the building at the western end, and a large arena that can accommodate up to 8,000 people in the remaining space at the eastern end. The Kaiser Auditorium also includes three large event rooms (the "Ballroom", the "Gold Room" and the "Olympic Room") next to the Theatre, a full basement, ancillary office spaces, lobby areas and large hallways. The Kaiser Auditorium has two major driveways on each side and an off-street surface parking lot with approximately 174 spaces.

Developer – Oakland Civic, LLC, an affiliate of Orton Development, Inc.

Developer is an affiliate of Orton. Orton and its affiliates have bought and repurposed over 20 million square feet of property throughout the United States. Orton has redeveloped a diverse range of properties including factories, offices, warehouses, retail, medical, educational, and live-work projects, repositioning and restoring buildings to functionality and productivity. One of the most notable examples is Ford Point in Richmond, a historic industrial plant that Orton adaptively reused and is now managing as a mixed-use project containing a restaurant, private office space, a public museum, improved open space and a performance venue, currently known as the Craneway Pavilion. Orton also completed the historic rehabilitation of 1440 Broadway in downtown Oakland, a historic office building that is now home to Oaklandish and Bittersweet Café. Lastly, another comparable historic renovation project is Orton's renovation of the historic Pier 70 project, comprised of eight historic office and industrial buildings along 20th Street east of Illinois Street, which it leased from the Port of San Francisco in 2015.

Project Description

The Developer will rehabilitate and reopen the historic Kaiser Auditorium. The planned building rehabilitation scope consists of major interior and exterior building renovation, including full replacement of all life safety and base building systems (mechanical, electrical and plumbing), roof repair and skylight restoration, limited seismic upgrades, hazardous materials remediation and tenant improvements. Most of the building's fixtures and furniture (such as the audience chairs and production systems in the Theatre) are outdated or non-functional and will be replaced. The Project also includes significant site work to improve building accessibility, public spaces, parking, and landscaping. The Developer will seek Leadership in Energy and Environmental Design ("LEED") Silver certification for the renovation and operation of the building.

The Theatre will be renovated and revived as a performing arts center at affordable rates to local education, nonprofit and art groups through an endowment funded from Project revenue. The balance of the Property, consisting of the former arena and basement, will be adaptively reused to create 76,000 square feet of office space, with a focus on attracting art and nonprofit organizations as tenants. A portion of that space, 13,000 square feet, will be reserved especially for local performance and arts groups, educational users and other nonprofit organizations. The Project will also include a new café and restaurant open to the public, improved public open spaces, including a new "front porch" or deck on the face of the building for public gathering, and better and more inviting physical connections between the building, Laney College, Oakland Museum of California Art and Lake Merritt. The Project costs are currently estimated at \$64.5 million.

B. *City Responsibilities*

The City, in its proprietary capacity, will have the pre-conveyance obligations described below, including delivery of the Property as set forth in the LDDA and review and approval of Developer submissions as provided under the Agreement.

Subject to the specific terms and conditions provided in the LDDA, the City shall:

1. Deliver the Property free of material amounts of rubbish.
2. Enter into the LDDA with the Developer for a 2-year term with a one 1-year administrative extension option (and an additional extension of up to one year due to force majeure).
3. Upon satisfaction by Developer of all pre-conveyance requirements, lease the Property for an initial term of 34 years with six 10-year extension options and one 5-year extension option for an aggregate term of up to 99 years.
4. Provide a \$3 million grant to a nonprofit Theatre operator, to be used for the rehabilitation cost of the Theatre.
5. Grant up to \$100,000 to the Developer for potential subsurface contamination remediation cost, if necessary.

C. *Developer Responsibilities*

Subject to the specific terms and conditions provided in the LDDA, the Developer shall:

1. Lease the Property “as is” from the City for long-term participation rent equal to 50% of net cash flow after the Developer has been paid its developer fee, equity investment and earned return on its investment.
2. Provide a 100% completion guaranty, and performance and payment bonds.
3. Complete construction of the Project by the dates specified in the LDDA. The Developer will be required to submit construction plans for the Project no later than 18 months after City approval of the LDDA; construction is required to begin within 25 months following City approval of the LDDA; and construction is to be completed no later 36 months after commencement of the Lease.
4. Provide the following community benefits:

Rehabilitation and Reopening of Historic Kaiser Auditorium

- A rehabilitated and activated Kaiser Auditorium after being closed for almost 14 years.
- Approximately 76,000 square feet of new office space in the arena and basement.
- Rehabilitation in accordance with the Secretary’s of Interior’s Standards for Rehabilitation and designation on the National Register of Historic Places.

Theatre Rental and Office Space Leasing for Local Education, Nonprofit and Arts Groups

- A reopened Theatre as a state-of-the-art performing arts venue.
- The Theatre will be available to local nonprofits for a minimum of two hundred (200) days in any calendar year at affordable rates.

- Approximately 13,000 square feet or 17% of the leasable area in the arena and the basement will be made available to nonprofit arts groups, of which 3,000 square feet (23%) will be reserved for local arts organizations at below Class B rent.

Funding Support for Local Education, Nonprofit and Arts Groups

- Each year of the Lease, Developer will place the first \$75,000 of the previous year's net Project income in an Annual Fund to subsidize low-cost access to the Theatre for local nonprofits.

Public Access

- The Theatre will be open to the public during all regular performances and events.
- Public access to tour/view the arena based on a given schedule for each month.
- New restaurant/café open to the public on the ground floor of the Theatre, which will open to a deck facing Lake Merritt.

Project Labor Agreement

- Developer will use good faith efforts to negotiate a project labor agreement (“PLA”) for the Project, which must explicitly facilitate compliance with the City Local Business and Employment Programs.

Employment Opportunities and City’s Local Business and Employment Programs

- 270 new construction jobs.
- 260 permanent jobs.
- City Programs will apply, with a goal of 50% of the work hours on a construction job to be performed by Oakland residents on a craft-by-craft basis.
- Minimum of 50% of all new hires (on a craft-by-craft basis) must be Oakland residents.
- Developer will pay prevailing wages during construction, and pay living wages for staff operating the building upon completion of the rehabilitation work.

Green Building Standards

- Compliance with Health and Environmental building requirements consistent with the Public Lands Resolution, including retention of trees, renewable energy and solar, use of low-volatile organic compound containing paint and indoor air quality measures.

Among the Developer’s post-construction obligations will be the following:

1. Agree not to engage in discriminatory practices with reference to the Project.
2. Pay living wages for staff operating the building upon completion of the rehabilitation work pursuant to the terms of the City’s Living Wage Ordinance.

III. COST OF THE AGREEMENT TO THE CITY

This section presents the total potential cost of the LDDA to the City, as well as the "net cost" of the Project after consideration of the Project revenues. The net cost can be either an actual cost, when expenditures exceed receipts, or a net gain, when revenues created by implementation of the LDDA exceed expenditures.

A. Estimated Cost to the City

The Property appears to have been open space on landfill near the shores of Lake Merritt prior to the construction of the Kaiser Auditorium by the City between 1913 and 1915. Per historic records the City issued bonds in the amount of \$1 million for the development of the Kaiser Auditorium. In 2019, the City expended \$125,000 for the clearance of rubbish from the building. The City commissioned an appraisal of the Property for \$7,500. The City will provide a \$3 million grant to a yet-to-be formed nonprofit Theatre operator, to be used for the rehabilitation cost of the Theatre located inside the Kaiser Auditorium. The City will also grant up to \$100,000 to Developer, for potential subsurface contamination remediation costs, if necessary. There are also on-going City staff costs. Table 1 summarizes these costs:

Table 1: Estimated Cost to City

Item	Cost
Building Clearance	\$125,000
Appraisal	\$7,500
City Grant to Theatre Operator	\$3,000,000
City Grant for Subsurface Contamination Remediation	\$100,000
Total	\$3,232,500

B. Revenues to the City

The City will receive rental income from the Lease of the Property to Developer over the 99-year Lease term. Specifically, the City will receive long-term participation rent equal to 50% of net cash flow after expenses and debt payments, and after the Developer has been paid its developer fee, equity investment and earned return on its investment. A recent appraisal analyzed Oakland Civic's operating cash flow statement for the Project and converted the future annual uneven participation rent payments to the City over the 99-year term of the Lease into a current value of \$10,276,767 in today's dollars. The appraiser then amortized this present value of the City's future rent payments over the 99-year Lease term at an interest rate of 7% to arrive at level annual payments to the City in the amount \$673,000. The City will also receive estimated development impact fees in an amount of \$776,000. The Project will produce ongoing tax revenue as indicated in Table 2 beginning at the completion of the Project in 2021:

Table 2: Estimated Revenues to the City from Project

PEP and Development Impact Fees	Amount
Up to three Project Expense Payments (“PEP”) @ \$25,000/year	\$75,000
Development Impact Fees	776,000
Total PEP and Development Impact Fees	\$861,000
Tax Revenues	
Annual Possessory Interest Tax	\$157,000
Annual Sales and Use Tax	\$26,000
Annual Business Tax	\$49,000
Parking Tax	\$149,000
Total Annual Tax Revenues	\$381,000
50% Participation Rent	\$673,000
Total Estimated Annual Revenues	\$1,054,000

C. Net Cost to the City

Without the historic costs for site acquisition (if any) and development, it is not possible to estimate the actual net cost to the City.

IV. ESTIMATED VALUE OF THE INTEREST TO BE CONVEYED AT ITS HIGHEST AND BEST USE

The Project is located in the Lake Merritt Station Specific Plan Area (the “Station Area Plan”). A specific plan is a tool for the systematic implementation of a city’s general plan. It effectively establishes a link between implementing policies of the general plan and the individual development proposals in a defined area. The Project is consistent with the goals of the Station Area Plan as follows:

- Preserving and reactivating the historic building.
- Activating the southern end of Lake Merritt.
- Helping to complete an entertainment, education and cultural hub in the area with the nearby Laney College, Oakland Museum of California Art and Lake Merritt.
- Establishing the building as an additional destination in the Plan area.

The Project is located in the D-LM-4 Lake Merritt Station Area District Zones Mixed-4 Commercial Zone, which designates areas of the Station Area Plan appropriate for a wide range of Residential, Commercial and compatible Light Industrial Activities. Following are the objectives of the D-LM Lake Merritt Station Area District Zones.

- Create a more active and vibrant Lake Merritt Station Area District to serve and attract residents, businesses, students, and visitors;

- Increase activity and vibrancy in the area by encouraging vital retail nodes that provide services, restaurants, and shopping opportunities;
- Improve safety and pedestrian-orientation;
- Increase the number of jobs and improve the local economy;
- Encourage and enhance a pedestrian-oriented streetscape.

The Project generally complies with the applicable zoning regulations.

The City hired Yovino and Young, a local appraisal firm, to determine the fair market rental value of the Lease (see *Exhibit C*). The appraiser determined that the highest and best use of the Property, under the applicable zoning regulations, is to implement the Developer proposal to rehabilitate the Kaiser Auditorium for use as a theater venue and office rental facility targeting nonprofit organizations and civic groups. Based on this determination, the appraiser concluded that the 50% participation rent from net revenues represents a fair market rental value for the City.

The appraiser reached this conclusion because (i) the existing Kaiser Auditorium must be preserved and maintained, and not demolished, as mandated by its designation as a Historic Resource; (ii) the extensive developer solicitation process undertaken by the City, (iii) the fact that the City only received two proposals, and (iv) the lengthy negotiations over business terms between the parties that resulted in further Project refinements.

Since the appraiser concluded that Orton's proposed Project is the highest and best use of the Property, the appraiser considers the rental value below (converted to level annual payments) to be the Property's fair market rental value. In terms of methodology, the appraiser analyzed Orton's operating cash flow statement for the Project and converted the future annual uneven participation rent payments to the City over the 99-year term of the Lease into a present value of \$10,276,767 stated in today's dollars. The appraiser then amortized this current value of the City's future rent payments over the 99-year Lease term at an interest rate of 7% to arrive at level annual payments to the City. This approach yielded an annual fair market rental value of \$673,000, or \$56,000 per month.

V. HOW PROJECT WILL ASSIST IN THE CREATION OF ECONOMIC OPPORTUNITY

First and foremost, the Project will reactivate a vacant and blighted, historically significant building, and will help create an arts and cultural hub at the foot of the revitalized Lake Merritt area, just two blocks from the Lake Merritt Bay Area Rapid Transit (BART) Station. The former arena and basement will be adaptively reused to create 76,000 square feet of new office space, with a focus on attracting art and nonprofit organizations as tenants. The Project provides numerous economic opportunities, including short-term and long-term jobs, contracting opportunities for Oakland businesses, and tax and lease revenue for the City and other taxing entities. The Project will provide high paying construction jobs under a PLA and target Oakland workers with a local hire commitment for construction, meaning that at least 50% of all construction workers on the Project must be local Oakland residents. The Project will also be subject to all City Programs, including payment of prevailing and living wages and local and small local business participation requirements. The Project is estimated to produce 270 construction jobs and 260 permanent jobs.

VI. GOVERNMENT CODE SECTION 53083

Government Code Section 53083 requires each local agency, before approving any economic development subsidy within its jurisdiction, to provide all of the following information in written form available to the public:

1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.

The City will provide a \$3 million grant to a yet-to-be formed nonprofit Theatre operator, to be used towards the rehabilitation cost of the Theatre located inside the Kaiser Auditorium. The name and address of the yet-to-be formed nonprofit Theatre operator are to be determined. The City will also grant up to \$100,000 to Oakland Civic, LLC, an affiliate of Orton Development, Inc., for potential subsurface contamination remediation costs, if necessary. The address of Orton Development, Inc., is *1475 Powell Street, Suite 101, Emeryville, CA 94608*.

2. The start and end dates and schedule, if applicable, for the economic development subsidy.

The City grant of \$3 million will be placed in escrow after execution of the Lease between the City and Developer, which is anticipated in the LDDA to be no later than three years after the effective date of the LDDA, potentially the summer of 2022. Funds will be disbursed from escrow to the Theatre operator to reimburse Developer for a portion of the rehabilitation costs of the Theatre. The grant of \$100,000 to Developer for potential subsurface contamination remediation costs would be disbursed after execution of the Lease between the City and Developer, which is anticipated in the LDDA to be no later than three years after the effective date of the LDDA, potentially the summer of 2022, and will only be used if the Developer discovers the presence, and performs remediation of, subsurface environmental contamination during construction.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

The City will provide a \$3 million grant to a yet-to-be formed nonprofit Theatre operator, to be used for the rehabilitation cost of the Theatre located inside the Kaiser Auditorium. The City will also grant up to \$100,000 to Developer for potential subsurface contamination remediation costs, if necessary.

4. A statement of the public purposes for the economic development subsidy.

The renovation and reopening of the Theatre is an integral component of the rehabilitation of the historic Kaiser Auditorium. It is critical that this part of the building be restored as part of the overall Project. Similarly, the \$100,000 grant to Developer for the cost of remediation of subsurface environmental contamination will provide needed funding for the Project.

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The public purposes of these economic development subsidies are manifold. First and foremost, the Project will reactivate a vacant and blighted, historically significant building that will be placed on the National Register of Historic Buildings upon completion, and will help create an arts and cultural hub at the foot of the revitalized Lake Merritt area, just two blocks from BART. The presence of the deteriorating Kaiser Auditorium at this location is an obstacle to the burgeoning revitalization of the area surrounding the building. Rehabilitation of this Oakland historic landmark will eliminate this blighting influence and facilitate on-going economic development in the area. Second, Oakland's office market is very active as office tenants in the market seek to relocate from San Francisco to Oakland's downtown. The former arena and basement, will be adaptively reused to create 76,000 square feet of new office space, with a focus on attracting art and nonprofit organizations as tenants, and therefore increase the supply of much needed office space in the downtown for such organizations. Third, the Project includes the reopening of the historic Theatre at affordable rates for local arts organizations. Fourth, the Project provides numerous economic opportunities, including short term and long term jobs, contracting opportunities for Oakland businesses, and significant tax and lease revenue for the City, as more particularly described in Table 2 above. The Project will create an estimated 270 construction jobs of which at least 50% must be filled by Oakland residents in compliance with the City Programs, and 260 permanent jobs.

5. Projected tax revenue to the local agency as a result of the economic development subsidy.

See Table 2 above.

6. Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

The renovation and operation of the Kaiser Auditorium will create an estimated 270 construction jobs, of which at least 50% must be filled by Oakland residents in compliance with the City Programs, and 260 permanent jobs. At present, it is not possible to estimate how many permanent jobs created by the Kaiser Auditorium's operations will be full-time as opposed to part-time because the tenancies in the building are not yet known, nor has the Developer fully determined the composition of its operation and maintenance staff for the Theatre and the arena and basement of the building.

Exhibits:

Exhibit A – Term Sheet

Exhibit B – Site Plan

Exhibit C – Appraisal