

RESOLUTION 2020-061
OF THE COUNCIL OF THE CITY OF FORT COLLINS
DETERMINING FAIR VALUE FOR THE LEASE OF PROPERTY OWNED
BY THE DOWNTOWN DEVELOPMENT AUTHORITY IN CONNECTION
WITH THE 140 EAST OAK STREET AFFORDABLE HOUSING PROJECT

WHEREAS, on April 21, 1981, the City Council adopted Ordinance No. 046, 1981, creating the Fort Collins, Colorado Downtown Development Authority (the “DDA”); and

WHEREAS, the DDA was formed pursuant to, and is governed by, C.R.S. 31-25-801 et seq. (the “DDA Act”); and

WHEREAS, the DDA adopted a plan of development, as authorized by Section 807(2)(d) of the DDA Act, on July 1, 1981, which plan of development was approved by the City Council on September 8, 1981, by Resolution 1981-129 (the “Plan of Development”); and

WHEREAS, the DDA is the owner of the real property located at 140 East Oak Street, Fort Collins, Colorado (the “Property”); and

WHEREAS, there is a shortage of housing options in general, and lower-income housing options in particular, within the boundaries of the DDA (the “DDA District”); and

WHEREAS, the Plan of Development identifies “increasing the housing supply” as a primary objective and purpose of the DDA to help achieve the DDA’s goal of the DDA District as “an area of mixed-use residential, commercial and entertainment uses,” and “[encouraging] living within the District” as a way to improve the diversity and attractiveness of the DDA District; and

WHEREAS, the DDA’s priorities within the Plan of Development include providing sites for land uses that are important to the economic vitality of the DDA District, and working with developers and builders if their project is highly desirable, is consistent with the plans and objectives of the DDA, and may not otherwise be economically viable; and

WHEREAS, based upon substantial public outreach and community input, the Board of Directors of the DDA (the “DDA Board”) determined that construction on the Property of a mixed-use building containing qualified-affordable housing would be beneficial to the DDA District (the “Project Concept”); and

WHEREAS, on December 16, 1971, the City Council adopted Resolution 1971-099, creating the Fort Collins Housing Authority, now known as Housing Catalyst (“Housing Catalyst”); and

WHEREAS, the DDA and Housing Catalyst are collaborating to further develop the Project Concept and potential sources of financing for the Project Concept, with a goal of providing one- and two-bedroom units to a mix of households earning thirty percent of area median income (“AMI”), between thirty and fifty percent of AMI, between fifty and seventy percent of AMI, and

between seventy and eighty percent of AMI, with a target average household income of approximately sixty percent of AMI; and

WHEREAS, the DDA and Housing Catalyst have determined that the most beneficial and economically viable project would consist of construction of a single multi-story, mixed-use building containing a ground floor commercial space, and seventy-nine or more qualified-affordable housing units on the upper floors (the "Building"), financed with low-income housing tax credit assistance through the Colorado Housing and Financing Authority; private activity bonds issued by Housing Catalyst; federal, state, and local grants and loans; and construction and permanent loans made by banks or other institutional lenders (the "Project"); and

WHEREAS, the DDA and Housing Catalyst have agreed that the DDA, or a DDA-controlled entity, will retain ownership of the Property and the Building and will manage the ground floor of the building, while Housing Catalyst, through a Housing Catalyst-controlled entity, will lease the upper floors of the building for a nominal sum (one hundred dollars or less) for up to 99 years, and will control and manage the housing component of the Project; and

WHEREAS, Section 808(2) of the DDA Act require that any sale or letting of property by the DDA shall be at not less than its "fair value", as determined by the DDA and the City Council, for uses in accordance with the DDA's Plan of Development; and

WHEREAS Section 808(2) also states that this determination of fair value shall take into account and give consideration to the uses provided in the Plan of Development; the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee; and the objectives of such plan; and

WHEREAS, at its regular meeting on June 11, 2020, the DDA Board adopted Resolution 2020-03 making findings and determinations that the sale and/or lease of a portion of the DDA Property to Housing Catalyst, or a Housing Catalyst-controlled entity, for a nominal sum of one hundred dollars or less, for use in connection with the Project, constitutes "fair value" for purposes of C.R.S. 31-25-808(2), and requesting that the City Council make a similar determination; and

WHEREAS, in making this determination the DDA Board found that the Project is consistent with the uses identified in its Plan of Development and that completion of the Project would advance the objectives of its Plan of Development in several ways, including, but not limited to:

1. Increasing the housing stock to help reverse the declining residential population within the DDA District;
2. Promoting a diversity of activities within the DDA District;
3. Improving and sustaining the economic vitality of the DDA District; and
4. Maintaining the DDA District as a regional center for social, recreational and cultural activities; and

WHEREAS, the DDA Board further found that the Project would be financially infeasible without the lease and/or sale of a portion of the DDA Property to Housing Catalyst, or a Housing Catalyst-controlled entity, for a nominal sum; and

WHEREAS, the Property would be restricted by the terms of the lease and by covenants that will limit the use of the leased space to affordable housing and limit the assignment or transfer of the lease; and

WHEREAS, pursuant to Section 808(2) of the DDA Act, City Council must also make a determination that the DDA’s proposed lease of a portion of the DDA Property as described herein, constitutes “fair value”, and the DDA Board is requesting that City Council make such a determination; and

WHEREAS, the City Council supports the DDA’s goal of increasing the supply of housing within the DDA District, and finds that increasing economic diversity among residents of the DDA District contributes to the vitality of the District.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

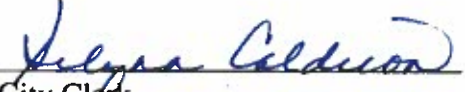
Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby determines that the lease of a portion of the DDA Property to Housing Catalyst, or a Housing Catalyst-controlled entity, for a nominal sum of One Hundred Dollars (\$100.00) or less, for use in connection with the Project, constitutes “fair value” for purposes of C.R.S. 31-25-808(2).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of July, A.D. 2020.


Mayor

ATTEST:


City Clerk

