

RESOLUTION 2020-103
OF THE COUNCIL OF THE CITY OF FORT COLLINS
DETERMINING FAIR VALUE FOR THE PROPERTY INTERESTS AT 143 EAST
REMINGTON STREET TO BE EXCHANGED BY ENTITIES AFFILIATED WITH THE
DOWNTOWN DEVELOPMENT AUTHORITY AND HOUSING CATALYST 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 81-129 (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 Ordinance No. 71-99, 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-eight 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 FC DDA, LLC, 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 (the "Lease"), 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 DDA Resolution 2020-03 making findings and determinations that the lease of a portion of the 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, at its regular meeting on July 21, 2020, the City Council adopted Resolution 2020-061 making such findings and determinations regarding the property at 140 East Oak Street; and

WHEREAS, Housing Catalyst has an option through December 30, 2020, to purchase a parcel of property at 143 Remington Street (the "Remington Property"); and

WHEREAS, if Housing Catalyst purchases the Remington Property, it proposes transferring ownership of it to FC DDA, LLC, to become part of the Property to be used for the Project; and

WHEREAS, in exchange for the Remington Property, FC DDA, LLC, would transfer ownership of one ground floor commercial condominium unit in the Project (the "Condominium Unit") to Housing Catalyst, after the Building is completed, and lease the Remington Property to

Oak 140, LLLP, a Housing Catalyst-controlled entity, on the same Lease terms and conditions as for the rest of the Building (the “Property Exchange”); and

WHEREAS, the Building, if built on the existing DDA Property alone, would need to be six stories in height in order for the Project to be financially viable, and would contain seventy-eight affordable housing units and fifty-seven on-site parking spaces; and

WHEREAS, during the Project planning and entitlement phases, neighbors and other community members, including members of the City’s Landmark Preservation Committee, raised concerns about the compatibility of a six-story building with the surrounding area, particularly as it related to the Remington Property, which contains a small one-story building built along the property line; and

WHEREAS, incorporating the Remington Property into the Project would allow for a reduction in Building height from six stories to five stories, and would increase the number of affordable housing units by one and on-site parking spaces by nine; and

WHEREAS, the purchase price for the Remington Property is \$1,325,000, and the estimated current fair market value of the Condominium Unit is \$783,000; and

WHEREAS, upon expiration of the Lease, FC DDA, LLC will own the Condominium Unit; and

WHEREAS, at its regular meeting on November 12, 2020, the DDA Board adopted DDA Resolution 2020-10 making findings and determinations that the Property Exchange 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 Property Exchange would improve the Project in ways that enhance the primary purposes, objectives and priorities of the DDA under its Plan of Development, including, but not limited to:

1. To increase, equal to the need, the net supply of parking spaces within the DDA District;
2. To increase the total housing supply within the DDA District;
3. To improve the visual attractiveness of the DDA District; and
4. To encourage all planning to be compatible with its surroundings; and

WHEREAS, the DDA Board further found that, given the estimated fair market values of the Condominium Unit and the Remington Property, and considering the fact that FC DDA, LLC, will own the Condominium Unit upon expiration of the Lease, the Property Exchange approximates a fair market value exchange; 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 proposed Property Exchange as described herein, constitutes "fair value" for the property interests the DDA would convey, and the DDA Board is requesting that City Council make such a determination; and

WHEREAS, the City Council supports the DDA's goals of increasing the supply of housing and parking within the DDA District and making such housing compatible with its surroundings; and

WHEREAS, the City Council finds that the facts, findings and determinations made in Resolution 2020-061 are relevant to the Property Exchange, and such Resolution is hereby incorporated by referenced into this Resolution.

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 Housing Catalyst's conveyance of the Remington Property to FC DDA, LLC, a DDA-controlled entity, in exchange for conveyance by FC DDA, LLC, of the Condominium Unit to Housing Catalyst, and the lease of the Remington Property to Oak 140, LLLP, a Housing Catalyst-controlled entity, for use in connection with the Project. all subject to the terms and conditions described in this Resolution, 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 17th day of November, A.D. 2020.


Mayor

ATTEST:


City Clerk

