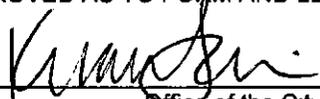


FILED
OFFICE OF THE CITY CLERK
OAKLAND

2014 NOV 25 PM 4: 11

APPROVED AS TO FORM AND LEGALITY.


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 85324 C.M.S.

INTRODUCED BY:

**CITY COUNCILMEMBER LYNETTE GIBSON McELHANEY, INTERIM CITY ADMINISTRATOR
HENRY GARDNER AND CITY ATTORNEY BARBARA PARKER**

Resolution Establishing a General Policy to Lease, Rather Than Sell, City Property

Whereas, the City of Oakland was incorporated in 1852 and has endured and prospered for more than one and one-half centuries; and

Whereas, the Charter of the City of Oakland establishes a municipal corporation to provide for the public welfare, general good and advantage of this great City and its residents; and

Whereas, the City of Oakland is a proud and progressive commonwealth, a municipal government, charged with the responsibility to protect and advance the public welfare, the general good and advantage; and

Whereas, this commonwealth has the important responsibility of securing and maintaining public assets to assure its ability to preserve the commonwealth for all Oaklanders and our posterity; and

Whereas, since its inception the City of Oakland has acquired public assets including real property and developed those assets and in some cases sold some of its assets to further the public good; and

Whereas, the City sometimes sells City-owned real property to third parties for a variety of reasons, including transfers after the City determines that the land is not needed for City purposes; and

Whereas, Section 1001 of the City Charter authorizes the City Council to establish by ordinance uniform procedures for the sale, lease, or other disposition of City property; and

Whereas, on June 27, 2013 the Oakland City Council adopted Ordinance No. 13185 C.M.S. amending the OMC to add a new chapter 2.41 entitled "Disposition of City-Owned Property for Development" to codify and govern the City's disposition of property; and

Whereas, due to development and the City's ideal location in the center of the Bay Area, its physical beauty, its diversity and its ideal climate, the value of property in the City of Oakland has continued to increase, the real property available for the City to purchase has decreased substantially and the prospects for acquiring additional assets in the future therefore have diminished; and

Whereas, the City has determined that it is in the City's best interest to retain as much City-owned property as feasible for the benefit of the public; and

Whereas, the Oakland City Council desires to preserve these precious assets which once sold can never be replaced, and will no longer be a resource for the benefit of the commonwealth, i.e., the public welfare in the future; and

Whereas, leasing City property allows the City to realize the benefits of increases in property value and to control the future use of the property after the expiration of the lease as well as provides the City greater ability to enforce City laws and policies; and

Whereas, the City will continue to comply with all legal requirements that may apply to transfers of City-owned property; and

Whereas, adopting this resolution has no current fiscal impact because adopting a general policy in and of itself has no fiscal impact; and

Whereas, the City hereby finds and determines that when the City determines it advisable or necessary to transfer City-owned property, it shall be the general policy of the City to lease rather than sell the property; and

Whereas, other public agencies, such as Bay Area Rapid Transit ("BART"), have a written transit oriented development policy that generally "favor[s] long-term ground leases, rather than the sale of property," as adopted by the BART Board on July 14, 2005; and

Whereas, the City and County of San Francisco and the Port of Oakland have a longstanding practice of entering into ground leases versus selling their property; and

Whereas, the City retains the power to make exceptions to this policy on a case-by-case basis; and

Whereas, prior to selling City property, staff shall make a recommendation to sell such property and provide the rationale for selling instead of leasing such property, and the Council shall make a finding by resolution that selling the property is in the best interests of the City; and

Whereas, the City shall continue to comply with all legal requirements that may apply to transfers of City-owned land; and

Whereas, the requirements of the California Environmental Quality Act (CEQA) of 1970, the Guidelines as prescribed by the Secretary for Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of CEQA have been satisfied, and in accordance with Sections 15061(b)(3)(general rule exemption), 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), Section 15183 (projects consistent with the General Plan), Section 15312 (Surplus Government Property Sales) and 15332 (In-fill Development) of the CEQA Guidelines, the adoption of this Ordinance is exempt from the provisions of CEQA; and

Whereas, the City Charter requires that the Council approve by ordinance any lease (longer than one year) or, a sale, if determined to be in the City's best interest, of property; now therefore be it

Resolved, that the City Council finds and determines that when the City deems it advisable or necessary to transfer City-owned property, it shall be the general policy of the City to lease rather than sell the property; and be it

Further Resolved, that exceptions to this general policy may be made on a case-by-case basis; and be it

Further Resolved, that when the City Administrator determines it is necessary or in the City's best interest to sell City property, the City Administrator shall make a recommendation to the City Council to sell such property and provide reasons to support a sale rather than a lease of the Property; and be it

Further Resolved, that after considering the City Administrator's recommendation, the City Council shall make a finding by resolution or ordinance that a sale of the property is in the best interests of the City as a condition to approving the sale.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 09 2014

PASSED BY THE FOLLOWING VOTE:

AYES- ~~GREENS~~, GALLO, GIBSON-MCELHANEY, KALB, ~~KAPLAN~~, REID, SCHAAF AND PRESIDENT KERNIGHAN - 6

NOES- 0

ABSENT- Kaplan - 1

ABSTENTION- Brooks - 1

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