

INTRODUCED BY COUNCILMEMBER _____



 City Attorney

ORDINANCE NO. 12613 C.M.S.
AN ORDINANCE OF THE CITY OF OAKLAND APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND JACK LONDON SQUARE PARTNERS, LLC, AND CEP-JLS I LLC, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE DEVELOPMENT AGREEMENT ON BEHALF OF THE CITY

WHEREAS, in November, 2002, the project applicants filed an environmental review application for a mixed use project that would intensify the retail, dining, entertainment and office uses in a nine block area bounded roughly by Castro Street, Alice Street, the Embarcadero and the Estuary with an additional site bounded by Alice, Harrison, Second and Third Streets; and

WHEREAS, on February 13, 2003, in accordance with the California Environmental Quality Act ("CEQA"), City staff issued a Notice of Preparation ("NOP") to prepare an Environmental Impact Report ("EIR") for the land use entitlements, including the requested Planned Unit Development ("PUD") permit, Zoning Boundary Line Adjustment ("ZBA"), Development Agreement, Major Conditional Use Permit and Major Variance for the proposed redevelopment of the Jack London Square area; and

WHEREAS, on May 12, 2003, City staff reissued the NOP, along with a revised Initial Study that reflected a decision to consider recreation and public services in the EIR; and

WHEREAS, as a part of the proposed development, the project applicant requested that the City of Oakland enter into a development agreement with the applicant in order to regulate the large-scale development project and to provide both the City and the project sponsor with assurances that the project could be successfully and completely built out over time; and

WHEREAS, on September 8, a Draft EIR ("DEIR"), State Clearinghouse No. 2003022086, was released by the City for a 46-day public review and comment period and on October 1, 2003, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DEIR; and

WHEREAS, on February 13, 2004, a document entitled "Jack London Square Final Environmental Impact Report" ("FEIR") was released, which included and analyzed a revised version of the proposed project (the "Revised Project"); and

WHEREAS, on February 25, 2004 and March 17, 2004, the Planning Commission conducted public hearings, took testimony and determined that the EIR (consisting of the DEIR, Responses to Comments and other information presented in the FEIR) was adequate for certification and for decision-making on the requested land use entitlements for the Revised Project; and

WHEREAS, on March 17, 2004, the Planning Commission certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings, granted a PUD permit, approved a Preliminary Development Plan for all nine sites and Final Development Plans for eight of the nine sites within the Revised Project, approved Design Review, approved a Major Conditional Use Permit and a Major Variance, recommended that the City Council grant the proposed ZBA and approve the proposed Development Agreement, and adopted accompanying Conditions of Approval; and

WHEREAS, the Planning Commission found that the Development Agreement contains all information required by State Law and by the Oakland Municipal Code, including all information referenced in chapter 17.138; and

WHEREAS, the Planning Commission further found that the Revised Project is consistent with the General Plan (including the Estuary Policy Plan) and all applicable planning and zoning enactments as set forth specifically in Exhibit D entitled "General Findings and incorporated by this reference;" and

WHEREAS, the Planning Commission further found that the Revised Project is extensive in scope and therefore is likely to be constructed over a significant period of time, with several different development phases proposed, and thus the Development Agreement is desirable in order to facilitate the successful implementation and provide assurances to both the City and the project sponsor concerning a unified set of development standards, requirements and expectations; and

WHEREAS, the Planning Commission further found that the Revised Project will improve the open space areas within the project boundaries, as discussed in the "Public Uses" section of the Preliminary Development Plan for the Revised Project; and

WHEREAS, the Planning Commission further found that the Revised Project will have substantial economic benefits to the City because, as a regional commercial and entertainment destination, it will generate significant income from visitors, neighbors and tenants alike; and

WHEREAS, the Planning Commission further found that the Revised Project is likely to generate thousands of permanent and construction jobs; and

WHEREAS, the Planning Commission further found that the Revised Project will be a catalyst for the establishment of more mixed uses throughout the Jack London Square District, will aid in other long term investment in the area and will accelerate revitalization of the Broadway corridor; and

WHEREAS, the Planning Commission further found that Site G of the Revised Project is located within the Central District Urban Renewal Plan area and therefore will generate tax increment revenue to assist with redevelopment projects in the area; and

WHEREAS, the Planning Commission further found that the project sponsor will comply with the small business utilization guidelines of the Port of Oakland, which are meant to help promote small businesses within the Revised Project; and

WHEREAS, the Planning Commission further found that construction of the Revised Project will strengthen the Jack London District an attractive, clean, and safe world-class waterfront destination that will enhance the image of Oakland; and

WHEREAS, the Planning Commission further found that the California Harvest Hall expected to be located on Site F1 would be a permanent showcase of the food, wine and agricultural industries of California and thus attract customers and visitors from the entire region and beyond; and

WHEREAS, the Planning Commission further found that the project sponsor plans to conduct historical walking tours featuring Heinold's First and Last Chance Saloon and Jack London's cabin to highlight Jack London and his association with the waterfront, as well as other historical features of Jack London Square and the waterfront, such as the Potomac; and

WHEREAS, the Planning Commission further found that the Revised Project includes a sustainable development strategy through state-of-the-art energy efficiency features, use renewable resources and products with low Volatile Organic Compound (VOC) content, and an extensive reuse/recycling program in both the construction and operation phases of the project; and

WHEREAS, the Planning Commission further found that the Revised Project, as an urban infill mixed-use project, will encourage the use of public/alternative transportation and will not contribute to the negative impact of urban sprawl such as air pollution and traffic congestion; and

WHEREAS, the Planning Commission further found that by creating a convincing example of large-scale retail success in the City, the Revised Project will act as a catalyst for retail in Downtown and beyond; and

WHEREAS, the City Council affirms and adopts the Planning Commission findings cited above, and additionally finds that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the Development Agreement; and

WHEREAS, the notice required by Oakland Municipal Code section 17.138.030 has been given.

THE CITY COUNCIL OF THE CITY OF OAKLAND ORDAINS AS FOLLOWS:

Section I: The City Council hereby approves the Development Agreement substantially in the form attached hereto as Exhibit E, subject to such minor and clarifying changes consistent with the terms thereof as may be approved by the City Attorney prior to execution thereof.

Section II: This ordinance, including the Development Agreement approval described in Section I above, is based in part on the findings set forth above, and the CEQA Findings and Statement of Overriding Considerations Related to Approval of the Jack London Square Project, Mitigation

Monitoring and Reporting Program, Conditions of Approval and the General Findings Related to Approval of the Jack London Square Project attached as Exhibits A-D and incorporated by this reference.

Section III: The City Manager is hereby authorized and directed to perform all acts to be performed by the City in the administration of the Development Agreement pursuant to the terms of the Development Agreement, including but not limited to conducting annual review of compliance as specified in Article VI thereof. The City Manager is further authorized and directed to perform all other acts, enter into all other agreements and execute all other documents necessary or convenient to carry out the purposes of this Ordinance and the Development Agreement.

Section IV: Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws and regulations.

Section V: If any provisions of this ordinance or application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of provisions to the other persons or circumstances shall not be affected thereby.

Section VI: If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

Section VII: If any provision of the Development Agreement that this Ordinance approves or application of the Development Agreement to any person or circumstances is held invalid, the remainder of the Development Agreement and the application of provisions to other persons or circumstances shall not be affected thereby.

Section VIII: This Ordinance shall not be codified in the Oakland Municipal Code.

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IN COUNCIL, OAKLAND, CALIFORNIA, JUL 6 2004

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN
AND PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

Introduction Date:

JUN 15 2004

ATTEST 
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

NOTICE AND DIGEST

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By this ordinance, the Oakland City Council authorizes the execution of a 15 year Development Agreement between the City of Oakland and the Jack London Square Partners. LLC and CEP-JLS I, LLC, the project sponsors of the Jack London Development Project, setting forth obligations and responsibilities of both the City and the project sponsor. Provisions of the agreement include the provision of a minimum development project within specific time periods, procedures for future design review of buildings and other features, and other review of affiliate and non-affiliate transfers.