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OAKLAND

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REVISED

Approved as to form and legality



Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 85325 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE, WITHOUT RETURNING TO THE CITY COUNCIL, A RAIL ACCESS AGREEMENT AND RELATED AGREEMENTS WITH THE PORT OF OAKLAND FOR A TERM UP TO 66 YEARS, TO ENABLE SHARED RAIL ACCESS FOR THE CITY'S DEVELOPMENT AT THE FORMER OAKLAND ARMY BASE

WHEREAS, in 2003, the U.S. Department of the Army transferred the former Oakland Army Base ("Base") to the City of Oakland ("City") and the City, in turn, then transferred a portion the Base to the Port of Oakland ("Port"); and

WHEREAS, on or about July 27, 2011, the Port, the Redevelopment Agency of the City of Oakland, and the City entered into a Cost Sharing Agreement for the Oakland Army Base (CSA) to support each agency's economic development goals for their respective portions of the former Oakland Army Base; and

WHEREAS, on or about June 19, 2012 the City and Port amended the CSA to, among other things: (1) add the City as a grant recipient of State of California Trade Corridor Improvement Funds ("TCIF") funds; (2) cooperatively allocate \$242 million in TCIF funds to develop rail, street and utility infrastructure to replace aged, obsolete and non-code complaint infrastructure at the former Oakland Army Base to facilitate development and redevelopment of an important transportation, rail and port area within the City of Oakland; (3) acknowledge that the Redevelopment Agency's interests in the former Oakland Army Base transferred to the City; (4) redefine the respective roles and responsibilities between the Port and City; and (5) include an obligation of the Port to enter into a 20-year rail access agreement with the City for the City and the City's developer(s) to access the Port's to-be-constructed Phase One rail yard; and

WHEREAS, the City and Port have executed TCIF Grant Agreements with the State of California totaling \$242 million that require matching funds totaling \$242 million; and

WHEREAS, the City has executed a 66-year Lease Disposition and Development Agreement ("LDDA") with CCIG Prologis Oakland Global, LLC for private development of the Central, East and West Gateway Areas of the City-owned portion of the Base, and a 55-year LDDA with Oakland Maritime Support Services ("OMSS") for private development of the Ancillary Maritime Services ("AMS") site within the Central and North Gateway Areas of the City-owned portions of the Base; and

WHEREAS, the City has executed an exclusive negotiating agreement with California Waste Solutions and CASS, Inc., relating to potential development of the remaining portion of the North Gateway Area of the City-owned portion of the Base not within the OMSS LDDA; and

WHEREAS, the City has caused its agent to execute a Design-Build contract for construction of infrastructure on the Base (the "City Project"), and construction of the City Project commenced in November 2013; and

WHEREAS, the City, the City Project and the City's LDDA developments will provide \$50 million of the Port's \$65 million in required TCIF matching funds; and

WHEREAS, the City's developments in the Central, East, North and West Gateway Areas, including the AMS site, will rely on rail access across the Port's Phase One rail yard to the main rail line at the Port; without this rail access, portions of the contemplated development of the City-owned portions of the Base by private developers may become infeasible; now, therefore be it

RESOLVED: that the City Administrator is authorized to negotiate and execute, without returning to City Council, a Rail Access Agreement and any related agreement with the Port of Oakland for a term up to 66-years to enable rail access to the City-owned Central, East, North and West Gateway Areas at the Base; and be it

FURTHER RESOLVED, that the City Council, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review are present. Thus, prior to approving the Rail Access Agreement, the City Council finds and determines that it can continue to rely on the previously adopted 2012 OARB Initial Study/Addendum for the reasons stated in the June 12, 2012, May 28, 2013, and December 2, 2014 City Council Agenda Reports and related attachments/exhibits. The (Final and Corrected) Standard Conditions of Approval/Mitigation Monitoring and Reporting Program, dated October 15, 2012, is also hereby reaffirmed/readopted, including the clarifying corrections discussed at the June 4, 2013 City Council hearing (Mitigation Measure 4.4-3b, West Gateway Rail and Maritime Emissions Reductions Program) and in the Agenda Report for the July 2, 2013 City Council meeting (Mitigation Measure 4.3-10, Parking Demand Study), and the revisions discussed at the July 2, 2013 City Council meeting (Mitigation Measure PO-1, Stakeholder Review of Air Quality and Trucking Plans; and be it

FURTHER RESOLVED, that the City Council finds and determines that this action complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

FURTHER RESOLVED, that the City Administrator or his or her designee is hereby authorized, without returning to City Council, to take any and all steps necessary to implement and/or effectuate this Resolution, which are consistent with the basic purpose and intent of this Resolution; provided, however, any legal agreements shall be subject to the review and approval of the Office of the City Attorney; such steps may

include, without limitation, negotiation and execution of such other additions, amendments or other modifications to the Rail Access Agreement (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) or of other documents that the City Administrator or his or her designee is hereby authorized, without returning to City Council, to take any and all steps necessary to implement and/or effectuate this Resolution, which are consistent with the basic purpose and intent of this Resolution; provided, however, any legal agreements shall be subject to the review and approval of the Office of the City Attorney; such steps may include, without limitation, negotiation and execution of such other additions, amendments or other modifications to the executed Rail Access Agreement (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) or of other documents that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions which this Resolution contemplates.

DEC 09 2014

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:


AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF, AND PRESIDENT
KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST



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