

ORIGINAL


for CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12300 C.M.S.

AN ORDINANCE AUTHORIZING A LEASE OF SPACE IN THE EASTMONT TOWN CENTER FOR A POLICE PRECINCT STATION, AUTHORIZING A SUBLEASE OF THE FACILITY TO THE OAKLAND JOINT POWERS FINANCING AUTHORITY, AUTHORIZING A SUB-SUBLEASE OF THE FACILITY AND IMPROVEMENTS FROM THE OAKLAND JOINT POWERS FINANCING AUTHORITY, AUTHORIZING A LEASE OF EQUIPMENT FOR THE FACILITY FROM THE OAKLAND JOINT POWERS FINANCING AUTHORITY, AUTHORIZING AN ESCROW AGREEMENT, AND AUTHORIZING TAX-EXEMPT LEASE FINANCING FOR PREMISES IMPROVEMENTS AND EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$11,716,155

WHEREAS, in 1996, the Police Department began implementation of community-oriented policing with the decentralization of command authority to an area or geographically based command structure in the Bureau of Field Operations and Bureau of Investigation; and

WHEREAS, a precinct police station in Area 3 (which includes the area between High Street to the San Leandro city limits and from the Estuary to Skyline Boulevard), would enhance the Department's ability to accomplish its mission to reduce crime and traffic, and quality of life offenses through the application of community-oriented policing philosophies and strategies with the goal to maintain high levels of citizen satisfaction with police services; and

WHEREAS, Eastmont Town Center Company, LLC, has proposed to develop and lease to the City a "turn-key" 64,000 square-foot police precinct station at the former Mervyn's site (Suite 275) in Eastmont Town Center, 7200 Bancroft Avenue, Oakland, California; and

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WHEREAS, the City has secured tax-exempt lease financing through Citicorp Mortgage, Inc., or an affiliated entity, to finance the "turn-key" construction of tenant improvements and the acquisition of needed equipment for the facility; and

WHEREAS, tax-exempt lease financing would result in approximately \$2.7 million in present value savings to the City over typical market rate, developer financing for the "turn-key" project, and such cost savings will result in significant public benefits and will further the public purposes of the City; and

WHEREAS, the proposed lease with Eastmont Town Center, LLC, contemplates a twenty year term with two five-year options, with the first year rent (includes a six (6) month rent abatement) to be set at \$441,600 per annum, or fifty seven and one-half cents per square foot per month, including tenant's share of common area maintenance expenses, and the second year rent to be set at ninety cents per square foot per month including common area maintenance expenses; and

WHEREAS, the rent schedule is considered to be well below current fair market value; and

WHEREAS, estimated maintenance and operating costs per annum for the facility has been determined to be \$535,000; and

WHEREAS, the total cost to operate, maintain, service debt and pay rents is estimated to not exceed \$1,746,181 for the first year of operation, and thereafter rents will be escalated on a set schedule for the next 48 months and then by the Consumer Price Index (with a cap) for the remainder of the lease term; and

WHEREAS, the use of the tax-exempt financing contemplates that the City will sublease the premises (the "Premises Lease") to the Oakland Joint Powers Financing Authority, a joint powers agency (the "Authority"), and will sub-sublease the premises along with the improvements (the "Facility Lease") back from the Authority, as well as lease the equipment (the "Equipment Lease") from the Authority; and

WHEREAS, Section 219 of the Charter authorizes the City by ordinance to acquire real property interests including leases, and to lease any City property; and

WHEREAS, the tax exempt financing contemplates that the Premises Lease, Facility Lease, and Equipment Lease will be assigned to Citicorp Mortgage Inc. or an affiliated entity, and that the proceeds of such assignment will be applied to purchase the tenant improvements and equipment; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA), the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been met, and the project and actions authorized by this Ordinance are exempt from CEQA under Sections 15061(b)(3) (general rule), 15301 (existing facilities), and 15303 (conversion) of the CEQA Guidelines;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The proposed form of Eastmont Town Center Lease, by and between the Eastmont Town Center Company, LLC, and the City, on file with the City Clerk, is hereby approved. The City Manager or his designee is hereby authorized, for and in the name and on behalf of the City, to execute and deliver the Eastmont Town Center Lease, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced *bjj* the execution thereof; provided, however, the Eastmont Town Center Lease shall provide for a twenty year term, with two five-year renewal options, with first year's rent set at \$441,600, plus the actual cost of building operating expenses, for use as a police precinct station. The City Manager or his designee is further authorized to negotiate and execute all documents and take other action as necessary for Eastmont Town Center Company, LLC, to construct the tenant improvements to the premises on a turnkey basis as necessary to operate the premises as a police precinct station (the "improvements"), and for the City to accept the improvements.

Section 2. The proposed form of Premises Lease, by and between the City and the Authority, on file with the City Clerk, is hereby approved. The City Manager or his designee is hereby authorized, for and in the name and on behalf of the City, to execute and deliver the Premises Lease, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; provided, however, that the term of the Premises Lease shall not exceed 30 years. The City Council hereby finds and determines that the sublease of the premises and improvements on a negotiated lease basis to the Authority would be in the best interests of the City for the reasons set forth in the recitals to this Ordinance.

Section 3. The proposed form of Facility Lease, by and between the Authority and the City, on file with the City Clerk, is hereby approved. The City Manager or his designee is hereby authorized, for and in the name and on behalf of the City, to execute and deliver the Facility Lease, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; provided, however, that: (i) the stated maximum interest rate for the Facility Lease shall be 8% per annum; (ii) the term of the Facility Lease shall not exceed 30 years; and (iii) the aggregate principal amount of the Facility Lease, together with the aggregate principal amount of the Equipment Lease, shall not exceed \$11,716,155.

Section 4. The proposed form of Equipment Lease, by and between the Authority and the City, on file with the City Clerk, is hereby approved. The City Manager or his designee is hereby authorized, for and in the name and on behalf of the City, to execute and deliver the Equipment Lease, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; provided, however, that: (i) the stated maximum interest rate for the Equipment Lease shall be 8% per annum; (ii) the term of

the Equipment Lease shall not exceed 15 years; and (iii) the aggregate principal amount of the Equipment Lease, together with the aggregate principal amount of the Facility Lease, shall not exceed \$1 1,716,155.

Section 5. The proposed form of Assignment Agreement by and between the Authority and Citicorp Mortgage Inc., or a related entity, on file with the City Clerk, is hereby approved.

Section 6. The proposed form of Escrow Agreement **by** and among the City, the Authority, and BNY Western Trust Company, on file with the City Clerk, is hereby approved. The City Manager or his designee is hereby authorized, for and in the name and on behalf of the City, to execute and deliver the Escrow Agreement, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. The City Manager or his designee is hereby authorized to negotiate and execute documents and take whatever action as may be required with respect to the premises, the City's financing and use thereof, the installation of the improvements, and the acquisition of equipment for the City's use in connection with the premises, consistent with this Ordinance and its basic purposes. The City Manager or his designee for unforeseen contingencies is hereby authorized to modify, to make changes to, or exceed the leased premises by up to thirty percent (30%), provided that the cost of the additional leased space is covered by appropriated funds.

Section 8. All documents shall be approved as to form and legality by the City Attorney's Office and copies shall be filed with Office of the City Clerk.

Section 9. The Council hereby finds and declares that the above recitals are true and correct and that the leases and financing authorized under this Ordinance are municipal affairs of the City, are proper public purposes, are in the public interest, convenience, and welfare, are for the common benefit of the residents of the City and will result in significant public benefits.

Section 10. This Ordinance shall take effect immediately upon its passage upon final adoption by the affirmative vote of at least six members of the Council. If this Ordinance receives upon final adoption the affirmative vote of fewer than six members of the Council, then it shall be effective upon the seventh day after final adoption; subject, however, to the Mayor's authority to suspend the taking effect of this Ordinance as provided by Section 216 of the Charter.

Introduced - 11/28/00

IN COUNCIL, OAKLAND, CALIFORNIA, **DEC - 5 2000**

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, CHANG, MILEY, NADEL, REID, SPEES, WAN and PRESIDENT DE LA FUENTE **- 8**

NOES - *None*

ABSENT -

ABSTENTION - *None*

ATTEST:



CEDA FLOYD

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

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11-28-00