

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

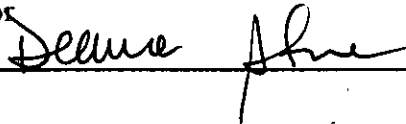
SUBJECT: 5-Acre Port Property Lease Amendment

DATE: November 8, 2013

City Administrator

Date

Approval



11-19-13

COUNCIL DISTRICT: 3

RECOMMENDATION

Staff recommends that the City Council adopt:

A Resolution Authorizing the City Administrator to Negotiate and Execute an Amendment to the 5-Acre Lease with the Port of Oakland to Amend the Use from Truck Parking and Truck Services to Contractor Laydown Uses and Extend the Term up to Forty-Eight (48) Months, Without Returning to the City Council

An Ordinance Authorizing the City Administrator to Negotiate and Execute an up to Forty-Eight (48) Month Sublease with Turner/Goodfellow Top Grade/ Flatiron, a Joint Venture of Turner Construction Company, Goodfellow Top Grade Construction, and Flatiron West, Inc., (or a Related Entity) for Contractor Laydown and Contractor Campus Uses on Approximately 5-Acres of Port-Owned Land at the Former Oakland Army Base, Without Returning to the City Council

OUTCOME

The Port and City would enter into an amendment to the Lease executed August 5, 2013 for a 5-acre portion of Port-owned property at the former Oakland Army Base expanding the use and extending the term. The City would enter into a sublease with Turner/Goodfellow Top Grade/ Flatiron, a Joint Venture ("Turner Joint Venture").

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BACKGROUND/LEGISLATIVE HISTORY

One of the elements of the Army Base Cost Sharing Agreement between the Port and City is the Port's good faith efforts to attempt to accommodate City tenants displaced by the Army Base Public Infrastructure Project's construction and development. The Port, City and Oakland Maritime Support Services (OMSS) had a number of discussions regarding leasing Port property to OMSS. OMSS proposed to lease the property for its truck parking, mini-mart, truck scale, administrative office uses including truck insurance services, occupational medical center, DMV services, physical examinations, drug testing, and fingerprinting. The Port would lease the property to the City. The City would sublease the property to OMSS. The City would be liable to the Port for OMSS' rent and curing other defaults by OMSS under the lease including environment remediation and indemnifying the Port against OMSS litigation.

On August 5, 2013, the Port and City entered into a Lease for a 5-acre portion of Port-owned property at the former Army Base for Truck Parking and Truck Services related uses. As part of the lease the Port required any potential sublessee of the City's to meet certain criteria. OMSS was unable to meet the Port's criteria and the City was unable to enter into a sublease with OMSS.

ANALYSIS

As part of the Army Base Public Infrastructure Project, the City and its design build Joint Venture contractor, Turner/Goodfellow Top Grade/Elatiron, planned to use an approximately 6-acre asphalted portion of the North Gateway for contractor laydown and contractor campus uses. Given the inability of OMSS to meet the Port's criteria, the importance to the City that its truck parking obligations be met, and its selection of OMSS as the best qualified small business to operate and fulfill the City's truck parking obligation, the City, Port, OMSS and the City's Army Base Public Infrastructure contractor, Turner Joint Venture, agreed to swap land use areas. The parties agreed the approximately 6-acres of property in the North Gateway originally slated for use by Turner Joint Venture would be used by OMSS to provide truck parking and truck services and the 5-acre Port-owned site originally slated for use by OMSS would instead be used by Turner Joint Venture for contractor laydown and a contractor campus.

Based on collaboration between the City, Port, California Capital & Investment Group (CCIG), the City's Manager, and Turner Joint Venture, on August 26, 2013 the City entered into a lease with OMSS for the asphalted 6-acre portion of the North Gateway.

Army Base Public Infrastructure Project still needs contractor laydown and contractor campus. The City staff, Port staff, CCIG and Turner Joint Venture representatives have been working together on the terms of an amendment to the Port-City 5-acre lease to extend the term from 30-months to 48-months, and to change the use from truck parking and truck services to contractor

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laydown and contractor campus uses. Additionally, City staff, CCIG and Tumer Joint Venture representatives have been working finalize the terms of a sublease for the 5-acre Port-owned property to be used by Tumer Joint Venture as the contractor laydown and contractor campus for the Army Base Public Infrastructure Project. Staff is requesting Council authorization to complete these two actions.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

This action has been coordinated with the City Attorney's Office, the Port of Oakland, California Capital & Investment Group (CCIG), Tumer Joint Venture and Oakland Maritime Support Services. This report has also been reviewed by the Budget Office.

COST SUMMARY/IMPLICATIONS

1. **COST ELEMENTS OF AGREEMENT/CONTRACT:**
Pursuant to the August 5, 2013 Port-City Lease, the City pays the Port \$24,829.20 per month for the 5-acre lease site. Pursuant to the City-OMSS Lease, OMSS pays the City \$25,822.37 per month for the 6-acre North Gateway site.
2. **SOURCE OF FUNDING:**
The OMSS Lease funds offset the contractor laydown and campus sublease.
3. **FISCAL IMPACT:**
There is no fiscal impact for the first 30 months. The OMSS Lease generates more revenue than the cost of the contractor laydown area sublease. In the event the OMSS lease terminates pursuant to its terms, the Army Base Public Infrastructure Project funds will pay for the final 18 months of the sublease cost.

FISCAL/POLICY ALIGNMENT

The proposed action aligns with the City's Army Base Infrastructure Development Project and Army Base development program.

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SUSTAINABLE OPPORTUNITIES

Economic: This proposed action does not provide any additional economic benefits or opportunities over and above those provided for in the Army Base LDDA agreements.

Environmental: This proposed action does not provide any additional environmental benefits over and above those provided for in the Army Base LDDA agreements.

Social Equity: This proposed action does not provide any additional social benefits or social equity to Oakland citizens over and above those provided for in the Army Base LDDA agreements.

For questions regarding this report, please contact John Monetta, Real Estate Agent, at (510) 238-7125.

Respectfully submitted,



Fred Blackwell
Assistant City Administrator

Reviewed by:
Doug Cole, Project Manager III
Office of Neighborhood Investment

Prepared by:
John Monetta, Project Manager I
Office of Neighborhood Investment

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CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE 5-ACRE LEASE WITH THE PORT OF OAKLAND TO AMEND THE PERMITTED USE FROM TRUCK PARKING AND TRUCK SERVICES TO CONTRACTOR LAYDOWN USES AND EXTEND THE TERM UP TO FORTY-EIGHT MONTHS, WITHOUT RETURNING TO CITY COUNCIL

WHEREAS, the City is developing its portion of the former Oakland Army Base ("Site") for, among other uses, warehouses, Port of Oakland (Port)-supporting logistics, bulk commodity services, and related maritime uses; and

WHEREAS, the City has executed a Lease Disposition and Development Agreement ("LDDA") with Prologis CCIG Oakland Global, LLC (Prologis/CCIG), to develop a large portion of the Site; and

WHEREAS, the City has executed an LDDA-related Property Management Agreement (PMA) with California Capital and Investment Group, Inc. ("Property Manager"), to manage and arrange for the construction of public infrastructure on the Site, including materials handling; and

WHEREAS, the Property Manager has hired Turner/Goodfellow Top Grade/ Flatiron ("Turner Joint Venture") as the City's Public Infrastructure Project Contractor; and

WHEREAS, in order to enable the construction of public infrastructure on the Site, it was necessary to relocate all of the City's tenants, including Oakland Maritime Support Services, Inc. (OMSS), which provides truck parking and other trucking services at the former Oakland Army Base; and

WHEREAS, in order to enable the relocation of OMSS, on August 5, 2013, the City and the Port of Oakland executed a 30-month lease for five acres of Port property on the former Oakland Army Base, specifying that the property would be used for truck parking and truck services uses ("Port-City 5-Acre Lease"), and which included certain criteria for each City sublessee; and

WHEREAS, OMSS was unable to satisfy the Port's criteria in order to take possession of the 5-acre Port-owned property; and

WHEREAS, the City, Property Manager, OMSS and Turner Joint Venture agreed the approximately 6-acres of property in the North Gateway originally slated for use by Turner Joint Venture would be used by OMSS to provide truck parking and truck services and the 5-acre Port-owned site originally slated for use by OMSS could be used by Turner Joint Venture for contractor laydown and a contractor campus; and

WHEREAS, the City intends by a concurrent Ordinance to authorize the sublease of the 5-acre Port-owned property to Turner Joint Venture; now, therefore, be it

RESOLVED, that the City Administrator is authorized to negotiate and enter into an amendment to the Port-City 5-Acre Lease for a term of up to forty-eight (48) month term with contractor laydown and contractor campus as the permitted use(s), without returning to City Council; and be it

FURTHER RESOLVED, that the City has independently reviewed and considered the environmental determination, and the City finds and determines that this action (1) implements actions previously approved by the Oakland City Council; (2) is within the scope of the already approved 2012 Army Base Project; (3) the 2012 Army Base project Initial Study/Addendum adequately describes the current action for purposes of CEQA; and (4) no further CEQA review is required pursuant to CEQA Guidelines 15164; and be it

FURTHER RESOLVED, that the amendment(s) to the Port-City 5-Acre Lease contemplated by this Resolution shall be reviewed and approved as to form and legality by the City Attorney prior to execution; and be it

FURTHER RESOLVED, that the City Administrator is further authorized to take whatever action is necessary with the respect to the Port-City 5-Acre Lease consistent with this Resolution and its basic purposes.

OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES - KALB, REID, GIBSON-MCELHANEY, SCHAAF, GALLO, BROOKS, KAPLAN, AND
CHAIRPERSON KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN UP TO FORTY-EIGHT (48) MONTH SUBLEASE WITH TURNER/GOODFELLOW TOP GRADE/FLATIRON, A JOINT VENTURE OF TURNER CONSTRUCTION COMPANY, GOODFELLOW TOP GRADE CONSTRUCTION, AND FLATIRON WEST, INC., OR A RELATED ENTITY, FOR CONTRACTOR LAYDOWN AND CONTRACTOR CAMPUS USES ON APPROXIMATELY 5-ACRES OF PORT-OWNED LAND AT THE FORMER OAKLAND ARMY BASE, WITHOUT RETURNING TO THE CITY COUNCIL

WHEREAS, the City is developing its portion of the former Oakland Army Base (“Site”) for, among other uses, warehouses, Port of Oakland (Port)-supporting logistics, bulk commodity services, and related maritime uses; and

WHEREAS, the City has executed a Lease Disposition and Development Agreement (“LDDA”) with Prologis CCIG Oakland Global, LLC (Prologis/CCIG), to develop a large portion of the Site; and

WHEREAS, the City has executed an LDDA-related Property Management Agreement (PMA) with California Capital and Investment Group, Inc. (“Property Manager”), to manage, conduct materials handling, and arrange for the construction of public infrastructure on the Site; and

WHEREAS, the City and the State of California executed a \$247 million Army Base Public Infrastructure Project grant agreement for the construction of public infrastructure on the Site; and

WHEREAS, the Property Manager has hired Turner/Goodfellow Top Grade/ Flatiron, a joint venture of Turner Construction Company, Goodfellow Top Grade Construction, and Flatiron West, Inc. (“Turner JV”), as the City’s Public Infrastructure Project Contractor; and

WHEREAS, on August 5, 2013, the City and the Port of Oakland executed a 30-month lease for a five-acre parcel on Port property (“Port-City 5-Acre Lease”), which included certain criteria for each City sublessee; and

WHEREAS, it was originally contemplated that Oakland Maritime Support Services, Inc. (OMSS) or a related entity would occupy the 5-acre Port-owned property for truck parking and truck services uses; and

WHEREAS, OMSS was unable to satisfy the Port's criteria in order to occupy the 5-acre Port-owned property; and

WHEREAS, the City, Property Manager, OMSS and Turner JV agreed the approximately 6-acres of property in the North Gateway originally slated for use by Turner JV would be used by OMSS to provide truck parking and truck services and the 5-acre Port-owned site originally slated for use by OMSS could be used by Turner JV for contractor laydown and a contractor campus; and

WHEREAS, the City intends by a concurrent Resolution to authorize the amendment of the Port-City 5-Acre Lease to extend the term to up to 48 months, and to change the permitted use to that of a contractor laydown yard and contractor campus; and

WHEREAS, staff recommends that the City Council authorize the City Administrator to negotiate and execute an up to 48-month sublease with Turner JV or a related entity, for contractor laydown and contractor campus uses on five acres of Port-owned land at the former Oakland Army Base, without returning to the City Council; now therefore

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

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. The City Council hereby authorizes the City Administrator to negotiate and execute a sublease of the parcel the City has leased from the Port by way of the Port-City 5-Acre Lease, with Turner/Goodfellow Top Grade/ Flatiron, a joint venture of Turner Construction Company, Goodfellow Top Grade Construction, and Flatiron West, Inc., or a related entity, for up to a forty-eight (48) month term for contractor laydown and contractor campus use(s), without returning to the City Council.

Section 3. This action (1) implements actions previously approved by the Oakland City Council; (2) is within the scope of the already approved 2012 Army Base Project; (3) the 2012 Army Base project Initial Study/Addendum adequately describes the current action for purposes of CEQA; and (4) no further CEQA review is required pursuant to CEQA Guidelines 15164.

Section 4. The City Administrator or her designee is hereby authorized to negotiate and execute all agreements and to take whatever other action is necessary with respect to the sublease, consistent with this Ordinance and its basic purposes.

Section 5. The City Attorney shall review and approve all documents and agreements related to this sublease as to form and legality, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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