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APPROVED AS TO FORM AND LEGALITY

FILED
OFFICE OF THE CITY CLERK
OAKLAND



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13795 C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A FOURTH AMENDMENT TO THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND OMSS, LLC, FOR DEVELOPMENT OF AN ANCILLARY MARITIME SUPPORT FACILITY FOR TRUCK PARKING AND RELATED SERVICES AT 10 BURMA ROAD AND 2307 WAKE AVENUE, TO EXTEND THE OUTSIDE CLOSING DATE BY NINE MONTHS SUBJECT TO AN EXTENSION PAYMENT OF \$37,500, WITH AN ADDITIONAL THREE MONTH ADMINISTRATIVE EXTENSION SUBJECT TO AN EXTENSION PAYMENT OF \$12,500; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, on July 30, 2014, the City of Oakland (“City”) and OMSS, LLC (“OMSS”) entered into that certain Ancillary Maritime Support Project Lease Disposition and Development Agreement (the “Original LDDA”) related to approximately 16.78 Acres of land located at 10 Burma Road and 2307 Wake Avenue (the “Property”) within the Gateway Development Area of the former Oakland Army Base for the development of an ancillary maritime support facility for truck parking and related services (the “Project”); and

WHEREAS, the Original LDDA, as amended by (1) that certain First Amendment to the Original LDDA dated August 31, 2017 (“First Amendment”), (2) that certain Second Amendment to the Original LDDA as amended by the First Amendment, dated as of May 3, 2022 (“Second Amendment”), (3) that certain Third Amendment to the Original LDDA as amended by the First Amendment and the Second Amendment, dated as of October 3, 2023 (“Third Amendment”), is referred to herein collectively, as the “LDDA”; and

WHEREAS, OMSS continues to make progress to implement the schedule of performance set forth in the LDDA, but requires additional time to fulfill its obligations under the LDDA, including submitting building, grading, public infrastructure and private infrastructure permit applications and paying permit application fees totaling more than \$500,000 for the initial improvements; and

WHEREAS, the proposed fourth amendment to the LDDA (“Fourth Amendment”) will extend the outside closing date under the LDDA by nine months (with a potential additional three-month extension) to facilitate completion by OMSS of the steps required under the LDDA to close

escrow and develop the Project contemplated under the LDDA.

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

SECTION 1. The City Council hereby authorizes the City Administrator to (a) execute a Fourth Amendment to the LDDA to extend the Outside Closing Date by nine (9) months to February 1, 2025 subject to a nonrefundable extension payment of \$37,500, with an additional three-month administrative extension subject to a nonrefundable extension payment of \$12,500; and (b) negotiate and execute such other additions, amendments or other modifications to the foregoing document 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 transaction contemplated by this Ordinance; and (c) to negotiate and execute such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to implement the LDDA and development of the Property in order to consummate the transaction in accordance with this Ordinance, or to otherwise effectuate the purpose of this Ordinance and its basic purposes.

SECTION 2. City Council hereby authorizes that the extension payments of \$37,500 and potentially \$12,500 will be accepted and appropriated to the OBRA Leasing & Utility Fund (5671), Oakland Army Base Redevelopment Organization (85244), OBRA Leasing & Utility Project (1001542), OARB Bay Bridge Gateway Program (SC07).

SECTION 3. The City Council hereby finds that this action is exempt under California Environmental Quality Act ("CEQA") Guidelines section 15063(b)(3) (common sense exemption) since the action under consideration is limited to the Fourth Amendment to the LDDA, an extension of an existing real estate contract, which has no reasonable possibility of an effect on the environment. On a separate and independent basis, the City Council hereby finds that the anticipated environmental effects of this action have been adequately evaluated by the 2002 Oakland Army Base Redevelopment Plan Environmental Impact Report ("EIR"), as amended by the 2012 Addendum (together, the "2002 EIR/2012 Addendum"). Therefore, in accordance with California Public Resources Code Section 21166 and CEQA Guidelines Section 15164, the 2002 EIR/2012 Addendum will comprise the full and complete CEQA evaluation necessary and no further CEQA evaluation will be required for this action.

SECTION 4. All agreements associated with the Property and the Project shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City and shall be placed on file with the City Clerk.

SECTION 5. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

SECTION 6. The record before this Council relating to this Ordinance, includes without limitation, the Agenda Report for this item and the attachments thereto.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of

competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

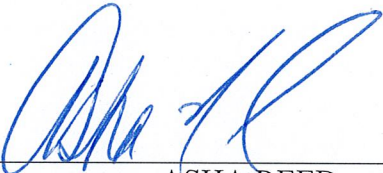
IN COUNCIL, OAKLAND, CALIFORNIA, JUN 4 2024

PASSED BY THE FOLLOWING VOTE:

AYES - ~~FIVE~~, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND PRESIDENT FORTUNATO BAS - 7

NOES - 0
ABSENT - 0
ABSTENTION - 0

1 EXCUSED: FIFE

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Introduction Date MAY 21 2024

Date of Attestation: June 13, 2024

NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A FOURTH AMENDMENT TO THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT (LDDA) BETWEEN THE CITY OF OAKLAND AND OMSS, LLC, FOR DEVELOPMENT OF AN ANCILLARY MARITIME SUPPORT FACILITY FOR TRUCK PARKING AND RELATED SERVICES AT 10 BURMA ROAD AND 2307 WAKE AVENUE, TO EXTEND THE OUTSIDE CLOSING DATE BY NINE MONTHS SUBJECT TO AN EXTENSION PAYMENT OF \$37,500, WITH AN ADDITIONAL THREE MONTH ADMINISTRATIVE EXTENSION SUBJECT TO AN EXTENSION PAYMENT OF \$12,500; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance authorizes a fourth amendment to the Ancillary Maritime Support Project Lease Disposition and Development Agreement (as amended, the "LDDA") between the City of Oakland and OMSS, LLC, for development of an ancillary maritime support facility for truck parking and related services at 10 Burma Road and 2307 Wake Avenue in the Gateway Area of the former Oakland Army Base, with an to extend the Outside Closing Date (as defined in the LDDA) by nine (9) months to February 1, 2025 subject to an extension payment of \$37,500, with an additional three (3) month administrative extension subject to an extension payment of \$12,500; and adopting California Environmental Quality Act findings.