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APPROVED AS TO FORM AND LEGALITY

  
OFFICE OF THE CITY ATTORNEY

## OAKLAND CITY COUNCIL

ORDINANCE NO 13211 C M S

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**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE PUBLIC UTILITY EASEMENTS AND UTILITY EASEMENTS WITH COMCAST, EAST BAY MUNICIPAL UTILITY DISTRICT, U.S. DEPARTMENT OF THE NAVY, SAN FRANCISCO PUBLIC UTILITIES COMMISSION (OR RELATED ENTITY), PORT OF OAKLAND, CALTRANS AND TO-BE-DETERMINED TELECOMMUNICATIONS PROVIDERS TO FACILITATE THE ARMY BASE PUBLIC INFRASTRUCTURE PROJECT ON THE FORMER OAKLAND ARMY BASE**

**WHEREAS**, the City of Oakland owns certain property located at the Gateway Industrial Park area (formerly Oakland Army Base), delineated within the parcel map boundary lines shown on Parcel Map No 10095, recorded on August 13, 2013, in the Official Records of the Alameda County Recorder's Office as Document No 2013277934 at Book 324 of Parcel Maps at Pages 6-15, and

**WHEREAS**, the City, California Capital and Investment Group and Turner Top Grade Flatiron are entering into an agreement to develop \$247 million Public Infrastructure Project to construct new streets, utilities, rail lines and equipment and development ground pads at the Gateway Industrial Park area, and

**WHEREAS**, the City desires to negotiate and execute public utility easements and utility easements with Comcast, East Bay Municipal Utility District, U S Department of the Navy, San Francisco Public Utilities Commission (or related entity), Port of Oakland, Caltrans and to-be-determined telecommunications providers to facilitate the Public Infrastructure Project and construction and operation of utility systems at the Gateway Industrial Park area, now therefore,

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

Section 1. The City Council hereby 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 or her designee, without returning to the Council, to negotiate and execute public utility easements and utility easements with Comcast, East Bay Municipal Utility District, U S Department of the Navy, San Francisco Public Utilities Commission (or related entity), Port of Oakland, Caltrans and to-be-determined telecommunications providers ("Utility Providers") in favor of either the City or the Utility Providers to facilitate the Army Base Public Infrastructure Project.

**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) is adequately described in the 2002 Oakland Army Base Redevelopment Plan Environmental Impact Report and the 2012 Army Base project Initial Study/Addendum, and (4) does not require further CEQA review, as none of the circumstances necessitating further CEQA review are present This action is also exempted from CEQA requirements pursuant to CEQA Guidelines sections 15301 (existing facilities), 15268(b) (ministerial projects), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment), each as a separate and independent basis

**Section 4** The City Council hereby authorizes the City Administrator or her designee, without returning to Council, to negotiate and execute all agreements and to take whatever other action is necessary with respect to the Public Infrastructure Project public utility easements and utility easements consistent with this Ordinance and its basic purposes

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

**Section 6** 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, which shall remain in full force and effect The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that one or more other sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional

Section 7 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, JAN 21 2014

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

Introduction Date  
JAN 07 2014

DATE OF ATTESTATION 1/22/14

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**NOTICE AND DIGEST**

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE PUBLIC UTILITY EASEMENTS WITH COMCAST, EAST BAY MUNICIPAL UTILITY DISTRICT, U.S. DEPARTMENT OF THE NAVY, SAN FRANCISCO PUBLIC UTILITIES COMMISSION (OR RELATED ENTITY), PORT OF OAKLAND, CALTRANS AND TO-BE-DETERMINED TELECOMMUNICATIONS PROVIDERS TO FACILITATE THE ARMY BASE PUBLIC INFRASTRUCTURE PROJECT ON THE FORMER OAKLAND ARMY BASE**

This ordinance authorizes the City Administrator to negotiate and execute public utility easements and utility easements in favor of Comcast, East Bay Municipal Utility District, US Navy, San Francisco Public Utility Commission (or Related Entity), Port of Oakland, Caltrans and to be determined telecommunications providers to facilitate the Army Base Public Infrastructure Project