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APPROVED AS TO FORM AND LEGALITY:

BY: 
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE No. 13148 - C.M.S.

AN ORDINANCE AUTHORIZING AN AMENDMENT TO A PURCHASE AND SALE AGREEMENT WITH SKS BROADWAY LLC FOR SALE OF THE PUBLIC PARKING GARAGE AT 409 – 12TH STREET TO EXTEND PURCHASE DEADLINES

WHEREAS, on October 1, 2008, the dissolved Redevelopment Agency of the City of Oakland (the "Redevelopment Agency"), pursuant to Agency Resolution No. 2006-0088 C.M.S., entered into a purchase and sale agreement ("PSA") with SKS Broadway LLC ("SKS") for the sale of the Redevelopment Agency's condominium interest in real property consisting of a public parking garage with 145 parking spaces and ramps located within portions of the ground floor and basement levels of the University of California Office of the President Building located at 1111 Franklin Street ("UCOP Garage"); and

WHEREAS, on September 6, 2007, the Redevelopment Agency, pursuant to Agency Resolution No. 2006-0088 C.M.S., entered into an amended and restated owner participation agreement ("OPA") with SKS, with regard to the development of a mixed-use office project ("Project") located at 1100 Broadway ("Property"), adjacent to the UCOP Garage, in the Central District Redevelopment Project Area; and

WHEREAS, on January 31, 2012, the Redevelopment Agency transferred the UCOP Garage to the City, subject to the PSA with SKS; and

WHEREAS, SKS's purchase of the UCOP Garage is a critical element of the Project and is dependent on SKS starting construction on the Project, since the UCOP Garage is being sold to SKS in order to satisfy the parking needs of the Project; and

WHEREAS, SKS has not be able to reach specific development milestones by the specified dates established in the OPA because of the continuation of adverse economic conditions in downtown Oakland's office market that hinder SKS's efforts to obtain the required anchor tenant(s) and debt financing for the Project; and

WHEREAS, SKS has requested to extend the current purchase closing deadline set forth in the PSA; and

WHEREAS, the City, in light of the adverse economic conditions in the Central District Redevelopment Project Area that have hindered SKS' efforts to market and construct the Project, has agreed to extend to SKS' requested changes to the purchase deadline set forth in the PSA; and

WHEREAS, the City is the Lead Agency for the 1100 Broadway Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, an Environmental Impact Report ("EIR") was certified in 1998 for the Project and two addenda were subsequently completed (in 2006 and 2008) in compliance with the California Environmental Quality Act ("CEQA"); now therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. The City hereby finds and determines: (1) that it has independently reviewed and considered the information contained in the previously certified 1998 EIR and related addenda, and the 1998 EIR and the two addenda comply with CEQA and the CEQA Guidelines' requirements for analysis of the Project's environmental effects and mitigation measures; (2) that none of the changes to the Project, or circumstances under which it will be undertaken, or new information require preparation of a subsequent or supplemental EIR; and (3) that the Mitigation Monitoring and Reporting Program for the Project is hereby (re) adopted as specified. The Environmental Review Officer shall cause to be filed a Notice of Determination.

SECTION 2. The City Administrator or her designee is hereby authorized to negotiate and execute an amendment to the PSA to (1) extend the date for closing the sale of the UCOP Garage by 24 months, from June 2013 to June 2015, while maintaining the current \$100,000 deposit in escrow, and (2) extend SKS' option to extend the new closing date by an additional 24 months to June 2017 upon forfeiting the \$100,000 deposit and making an additional deposit of \$200,000 into escrow by June 2015.

SECTION 3. Any deposits released to the City as a result of SKS' exercising its option to extend the new closing dates by an additional 24 months to June 2017, or not proceeding with the acquisition of the UCOP Garage under the provisions of the PSA, shall be deposited into the General Fund: General Purpose (1010).

SECTION 4. The City Administrator or her designee is authorized to take whatever action is necessary with respect to the amendment of the PSA consistent with this Ordinance and its basic purposes.

SECTION 5. The amendment to the PSA authorized hereunder shall be approved as to form and legality by the City Attorney and filed with the City Clerk.

SECTION 6. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 22 2013, 2012

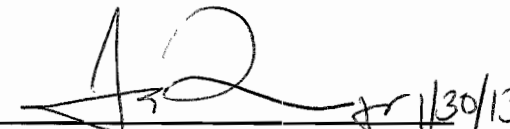
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, KALB, KAPLAN, GIBSON MCELHANEY, REID, SCHAAF AND PRESIDENT
KERNICHAN ~ 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:  1/30/13
LATONDA SIMMONS
City Clerk and Clerk of the Council,
City of Oakland

Introduction Date DEC 18 2012

An Ordinance authorizing an Amendment to a Purchase and Sale Agreement with SKS Broadway LLC for Sale of the Public Parking Garage at 409 – 12th Street to Extend Purchase Deadlines

Notice and Digest

The ordinance authorizes the City of Oakland to negotiate and execute an amendment to a Purchase and Sale Agreement with SKS Broadway LLC for the sale of the Public Parking Garage at 409 – 12th Street to (1) extend the date for closing the sale of the UCOP Garage by 24 months, from June 2013 to June 2015, while maintaining the current \$100,000 deposit in escrow, and (2) extend SKS's option to extend the new closing date by an additional 24 months to June 2017 upon making an additional deposit of \$200,000 into escrow by June 2015.