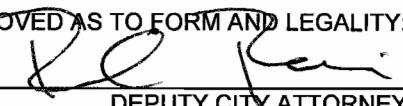


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APPROVED AS TO FORM AND LEGALITY:

BY:  DEPUTY CITY ATTORNEY

DEPUTY CITY ATTORNEY

for DIANNE WILSON

## OAKLAND CITY COUNCIL

ORDINANCE No. 13159 - C.M.S.

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**AN ORDINANCE AUTHORIZING: 1) AN AMENDMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SEARS DEVELOPMENT COMPANY TO EXTEND DEVELOPMENT DEADLINES FOR AN AUTOMOTIVE SERVICE PROJECT LOCATED AT 2000-2016 TELEGRAPH AVENUE AND 490 THOMAS L. BERKELEY WAY; AND 2) AN ASSIGNMENT OF THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT TO THE STRATEGIC URBAN DEVELOPMENT ALLIANCE, LLC, OR AN AFFILIATED ENTITY**

**WHEREAS**, on October 18, 2005, the dissolved Redevelopment Agency (Agency), pursuant to Resolution No. 2005-38 C.M.S., entered into a Lease Disposition and Development Agreement (LDDA) with Sears Development Company (Sears) for the development of a new automotive service facility (the "Project") on property located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way (the "Property"); and

**WHEREAS**, the Agency acquired other property at 1911 Telegraph from Sears for the Uptown Project, and instead of paying Sears, the parties agreed that Sears, at its option, would receive either: (1) the Property; or (2) a payment by the Agency of \$1.6 Million (representing the proportional value of the 1911 Telegraph property); and

**WHEREAS**, the Agency dissolved on February 1, 2012; and

**WHEREAS**, the Oakland Redevelopment Successor Agency ("ORSA") was established as the successor agency to the Agency pursuant to Health and Safety Code Sections 34171(j) and 34173; and

**WHEREAS**, ORSA has listed the LDDA as an enforceable obligation on its Recognized Obligation Payment Schedule and must pay Sears \$1.6 million if Sears, or a successor in interest, does not develop the Property, whether or not Sears is in default; and

**WHEREAS**, the City of Oakland (City) acquired the Property from the Agency in January of 2012; and

**WHEREAS**, Sears made good faith efforts to complete the Project by October 2010, as specified in the LDDA, but has been unable to do so because the continuation of adverse economic conditions in downtown Oakland's real estate markets has made development of the Project financially infeasible; and

**WHEREAS**, Sears has requested 1) to extend the LDDA deadlines for Project pre-development activities and completion by seventy-two (72) months, or from October 2010 to October 2016, for a payment of \$100,000 to the City, and 2) to transfer the LDDA to the Strategic Urban Development Alliance (SUDA), or an affiliated entity of SUDA; and

**WHEREAS**, SUDA is a qualified local development company that has the financial capacity to develop the Project; and

**WHEREAS**, the City, in light of the adverse economic conditions in the Central District Redevelopment Project Area that have hindered Sears' efforts to complete the Project, has agreed to extend Sears' development deadlines as set forth in the LDDA, and to transfer the LDDA to SUDA, or an affiliated entity; and

**WHEREAS**, the City of Oakland, as the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), prepared a focused Environmental Impact Report for the Uptown project, which included environmental review of the Project, analyzing the significant environmental effects and mitigation measures in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq.; and

**WHEREAS**, on February 18, 2004, the City Council in accordance with CEQA Guidelines §15090 certified that the Final Environmental Impact Report ("EIR") on the Uptown Mixed Use Project, which included the Project, has been completed in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR sections 15000, et seq.); and

**WHEREAS**, the City has reviewed and considered the environmental effects of the Project as shown in the EIR and other information in the record;

**Now, therefore, the Council of the City of Oakland does ordain as follows:**

**SECTION 1.** The City hereby finds and determines on the basis of substantial evidence in the record that the Uptown Mixed Use Project EIR fully analyzes the potential environmental effects of the Project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA, and that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Project or the

circumstances under which the Project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3).

**SECTION 2.** The City Administrator or her designee is hereby authorized to amend the LDDA to (1) extend the date for completion of Project construction by 72 months, from October 2010 to October 2016, for a payment of \$100,000, and 2) transfer the LDDA to SUDA.

**SECTION 3.** Any payments made to the City as a result of extending the development deadlines for the Project in the LDDA shall be deposited into General Purpose Fund (1010).

**SECTION 4.** The City Administrator or her designee is authorized to negotiate and execute an amendment to the LDDA and any other document necessary to extend development deadlines and transfer the LDDA to SUDA, or an affiliated entity, and take whatever action is necessary with respect to the amendment of the LDDA consistent with this Ordinance and its basic purposes.

**SECTION 5.** The amendment to the LDDA and all documents necessary to carry out this Ordinance as authorized hereunder shall be approved as to form and legality by the City Attorney and filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 21 2013, 2013


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

Introduction Date MAY 7 2013

**An Ordinance Authorizing: 1) An Amendment to a Lease Disposition and Development Agreement with Sears Development Company to Extend Development Deadlines for an Automotive Service Project located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way; and 2) an Assignment of the Lease Disposition and Development Agreement to the Strategic Urban Development Alliance, LLC, or an affiliated entity**

**Notice and Digest**

The ordinance authorizes the City of Oakland to negotiate and execute an amendment to a Lease Disposition and Development Agreement (LDDA) with Sears Development Company (Sears) to 1) extend development deadlines for the completion of an automotive service project (the "Project") located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way (the "Property") by up to 72 months, changing it from the currently stipulated date of October 2010 to October 2016, for a payment by Sears of \$100,000, and 2) an assignment of the development rights in the LDDA to a new qualified developer, the Strategic Urban Development Alliance, LLC (SUDA), or an affiliated entity to be created for the development of the Project.