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OFFICE OF THE CITY CLERK
OAKLAND

2015 APR 29 PM 1:02

APPROVED AS TO FORM AND LEGALITY


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 13312 C.M.S.

AN ORDINANCE AMENDING ORDINANCE NO. 13114 C.M.S., AUTHORIZING THE DISPOSITION OF PROPERTY AT FOOTHILL BOULEVARD AND SEMINARY AVENUE TO SUNFIELD DEVELOPMENT, LLC, FOR DEVELOPMENT AS A RETAIL CENTER, TO CHANGE THE DISPOSITION FROM A SALE TO A LONG-TERM GROUND LEASE WITH AN OPTION TO PURCHASE, AND TO RESCIND THE ALLOCATION OF \$150,000 FOR A DEVELOPER REMEDIATION ALLOWANCE AND ALLOCATE \$75,000 TO CITY REMEDIATION COSTS

WHEREAS, the City owns a property consisting of previously eleven, contiguous but separate vacant parcels of land located at the southwest corner of Foothill Boulevard and Seminary Avenue (the "Property"), consisting of 1.69 acres, as more particularly described in the staff report accompanying this Ordinance; and

WHEREAS, Ordinance No. 13114 C.M.S., enacted on May 15, 2012, authorized City staff to negotiate and enter into a Disposition and Development Agreement ("DDA") with Sunfield Development, LLC, (the "Developer") to sell the Property for the development of Seminary Point, a neighborhood commercial retail shopping center, for a purchase price of \$6,000, and to allocate a \$150,000 allowance to the Developer for environmental remediation of the Property; and

WHEREAS, the City Council wishes to change the method of conveyance from a sale of the Property to a long-term ground lease of the Property, with a lease term of 66 years and with an option to purchase, under a Lease Disposition and Development Agreement ("LDDA"); and

WHEREAS, since the City has spent approximately \$75,000 of the \$150,000 allowance demolishing the last remaining structure on the Property, and will be addressing the environmental remediation of the Property itself with the remaining \$75,000, the City wishes to rescind the allocation of the \$150,000 environmental remediation allowance to the Developer and instead reallocate the remaining \$75,000 to cover City remediation costs; and

WHEREAS, the LDDA will set forth the terms and conditions under which the City will lease the Property to the Developer with an option to purchase, and by which the Developer will construct the project on the Property; and

WHEREAS, given the financial feasibility of the proposed project and the need to make the project work, the lease of the Property to the Developer will be for 66 years and will provide revenue to the City starting in year eight; and

WHEREAS, California Government Code Section 52201 requires that before any property returned to a city per a long range property management plan pursuant to California Health and Safety Code Section 34191.5 is sold or leased for economic development purposes, the sale or lease must first be approved by the legislative body, i.e., the City Council, by resolution after public hearing; and

WHEREAS, a public hearing of the City Council was held to hear public comments on the lease of the Property for the project; and

WHEREAS, notice of the lease of the Property and the public hearing was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

WHEREAS, as required by state law, the City has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contains a copy of the proposed lease of the Property and a summary of the cost of the agreement to the City, the estimated fair market value of the Property at its highest and best use permitted under the general plan or zoning, the estimated value of the Property determined at the use and with the conditions, covenants, and development costs required by the lease, with an explanation of the reasons for the difference between the two values, and an explanation of why the lease of the Property and development of the project will assist in the creation of economic opportunity, with supporting facts and material; and

WHEREAS, the City Council previously found and determined that the conveyance of the Property and the project are exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the CEQA regulations (in-fill exemption); now, therefore

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

SECTION 1. The City Council hereby amends Ordinance No. 13114 C.M.S. to change the method of the conveyance of the Property to Sunfield Development, LLC, or an affiliated entity approved by the City Administrator, from a sale to a long-term ground lease with an option to purchase. The lease shall provide that the Developer shall pay the City a monthly rent of \$1,000 starting in year eight, with increases during the term. The schedule of rent payments under the ground lease would be as follows:

Ground Lease			
Years	Per Month	Yearly	Years
Year 8 to 20	\$ 1,000	\$ 12,000	\$ 156,000
Year 21 to 30	\$ 5,000	\$ 60,000	\$ 600,000
Year 31 to 40	\$ 7,500	\$ 90,000	\$ 900,000
Year 41 to 50	\$ 10,000	\$ 120,000	\$ 1,200,000
Year 51 to 60	\$ 12,500	\$ 150,000	\$ 1,500,000
Year 61 to 66	\$ 14,500	\$ 174,000	\$ 1,044,000
Total Lease payments to City			\$ 5,400,000

The Developer shall have an option to purchase the Property on or before year 21 with restrictions that apply in perpetuity and specify certain retail and commercial uses only, for the Property's current appraised fair market value of \$2.4 million; and an option to purchase the Property without restrictions for the Property's current appraised fair market value of \$2.4 million as the base value with an escalator at an annual compounded interest rate of two percent.

SECTION 2. The City Council hereby authorizes the City Administrator or his or her designee to negotiate and execute a Lease Disposition and Development Agreement with Sunfield Development, LLC, or an affiliated entity approved by the City Administrator, for the lease and development of the Property consistent with the terms of Ordinance No. 13144 C.M.S as amended by this Ordinance, with options to purchase as described above, as well as negotiate and execute a ground lease and any other agreements or documents as necessary to lease the Property to the Developer upon the satisfaction of any preconveyance conditions imposed by the City Administrator or his or her designee.

SECTION 3. The City Council hereby finds and determines that the lease of the Property for the project will assist in the creation of economic opportunity in Oakland by:

- creating and expanding new jobs, including approximately 54 permanent jobs, which is at least one full-time equivalent permanent job for every \$35,000 in City investment; and
- increasing property tax revenue to all taxing entities by at least 15% of total property tax when compared to the year prior to the City's acquisition of the Property.

SECTION 4. The City Council hereby further finds and determines that the consideration for the lease of the Property is not less than the fair reuse value of the Property at the use and with the covenants and conditions and development costs authorized by the lease, and that it is in the best interest of the City to convey the Property by lease to the Developer at its fair reuse value given the need to redevelop the Property for the benefit of the community.

SECTION 5. The City Council hereby further amends Ordinance No. 13114 C.M.S. to rescind the allocation of up to \$150,000 for an environmental remediation allowance to the Developer; and since the City has spent \$75,000 of the \$150,000 allowance, hereby allocates \$75,000 from Fund 5643, Org. 94899, Account 54930, Project C412710, and Program SC18 for City costs in remediating the Property.

SECTION 6. All agreements associated with the conveyance of the Property for the project shall be reviewed and approved as to form and legality by the Office of the City Attorney prior to execution by the City, and shall be placed on file with the City Clerk.

SECTION 7. The City Council hereby finds and determines that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 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 involve new significant 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 defined in CEQA Guidelines Section 15162(a)(3).

SECTION 8. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 9. The City Council hereby authorizes the City Administrator or his or her designees to take whatever action is necessary with respect to the lease of the Property for the project consistent with this Ordinance and its basic purposes.

SECTION 10. 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.

JUN 02, 2015

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2015

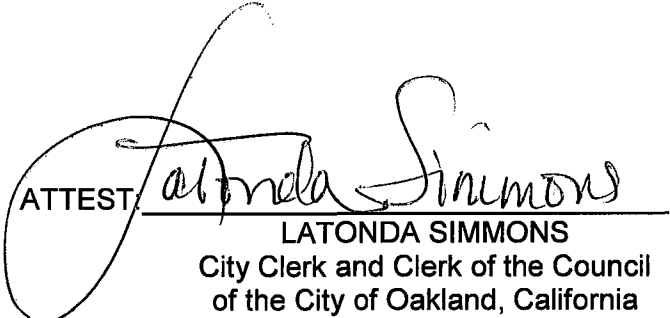
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,
and PRESIDENT GIBSON MCELHANEY - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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

Introduction Date

MAY 19 2015

Date of Attestation June 3, 2015

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NOTICE AND DIGEST

This Ordinance amends Ordinance No. 13144 C.M.S, which authorized the sale of City-owned real property located at Foothill Boulevard and Seminary Avenue to Sunfield Development, LLC, for development of a neighborhood commercial retail center, to change the method of conveyance from a sale to a long-term ground lease. This Ordinance authorizes the City Administrator to negotiate and enter into a Lease Disposition and Development Agreement with Sunfield Development, LLC, for this transaction, and makes associated findings with respect to the California Environmental Quality Act (CEQA) and other matters. The Ordinance also rescinds a previous allocation of \$150,000 for a developer remediation allowance, and allocates \$75,000 to cover City environmental remediation costs.

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