

J. Hillman

City Attorney

2016 JUN 17 AM 9:29 OAKLAND CITY COUNCIL

ORDINANCE NO. 13376 C.M.S.

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT (LDDA) WITH OMSS, LLC, TO DELETE THE CITY'S OBLIGATION TO CLEAR AND ROUGH GRADE A PORTION OF THE OMSS DEVELOPMENT SITE AT THE FORMER OAKLAND ARMY BASE

WHEREAS, on July 31, 2013, the City and OMSS, LLC executed a Lease Disposition and Development Agreement ("LDDA") regarding approximately 16.7-acres of City-owned land located at the former Oakland Army Base ("Base"); and

WHEREAS, as a condition of OMSS ground leasing the property, the LDDA requires the City to clear and rough grade the entire 16.7 acre OMSS LDDA site as a part of the City's construction of public improvements at the Base (the "Public Improvements Project"); and

WHEREAS, based on a request from OMSS to occupy on a short-term basis a portion of its OMSS LDDA Premises prior to the City's completion of the Public Improvements Project, and before OMSS exercises its long-term ground lease rights under the OMSS LDDA, the City and OMSS entered into a short term lease for an approximately 5-acre portion of the OMSS LDDA Premises ("Temporary OMSS Lease Site"); and

WHEREAS, the City anticipated completing that portion of the Public Improvements Project that included clearing and rough grading the entire OMSS LDDA Premises in July 2016; and

WHEREAS, because OMSS has elected to occupy the 5-acre Temporary OMSS Lease Site, the City cannot complete the clearing and rough grading of the Temporary OMSS Lease Site, and needs to amend the OMSS LDDA to delete the City's obligation to clear and rough grade that portion of the OMSS LDDA site;

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

Section 1. The City Administrator is authorized to negotiate and execute an amendment to the OMSS LDDA to memorialize: 1) OMSS requested, and received on April 8, 2016, a short term lease to occupy the 5-acre Temporary OMSS Lease Site prior to the City's completion of the Public Improvements Project, 2) OMSS' occupancy prevents the City's Public Improvements Project from clearing and rough grading the Temporary OMSS Lease Site as previously required by the OMSS LDDA, 3) the City's obligation to clear and rough grade the Temporary OMSS Lease Site is terminated, and 4) OMSS accepts the Temporary OMSS Lease Site in its as-is physical condition.

Section 2. The City has independently reviewed and considered the environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines.

Section 3. The City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

Section 4. The amendment to the OMSS LDDA shall be reviewed and approved as to form and legality by the City Attorney prior to execution.

Section 5. The City Administrator is further authorized to take whatever action is necessary with the respect to the amendment to the OMSS LDDA consistent with this Ordinance and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, July 19, 2016

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

Introduction Date

Council

JUL 05 2016

DATE OF ATTESTATION: July 27, 2016

NOTICE AND DIGEST

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH OMSS, LLC, TO DELETE THE CITY'S OBLIGATION TO CLEAR AND ROUGH GRADE A PORTION OF THE OMSS DEVELOPMENT SITE AT THE FORMER OAKLAND ARMY BASE

This ordinance authorizes the City Administrator to negotiate and execute an amendment to the OMSS, LLC Lease Disposition and Development Agreement (LDDA) to delete the City's obligation to clear and rough grade a portion of the OMSS Development Site at the former Oakland Army Base.