

DRAFT

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE FORGIVENESS OF OUTSTANDING AND FUTURE RENT BALANCES IN AN AMOUNT OF UP TO \$40,000 FOR SEMINARY POINT, LLC, PURSUANT TO A GROUND LEASE WITH THE CITY, CONTINGENT ON THE SALE OR TRANSFER OF THE PROPERTY TO A QUALIFIED PURCHASER; AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City of Oakland ("City") owns 1.69 acres of land on the corner of Foothill Boulevard and Seminary Avenue (the "Property"); and

WHEREAS, on June 2, 2015, the City Council approved Ordinance No. 13114 C.M.S., adopted on May 15, 2012 and Ordinance No. 13312 C.M.S., adopted on June 2, 2015, authorizing a Lease Disposition and Development Agreement and a Ground Lease with Seminary Point, LLC, an affiliate of Sunfield Development, LLC, for the development of Seminary Point, a neighborhood commercial retail shopping center on the Property (the "Project"); and

WHEREAS, the City and Seminary Point, LLC, entered into that certain Foothill & Seminary Ground Lease with Options to Purchase dated as of December 28, 2016 (the "Lease"); and

WHEREAS, since the Covid-19 pandemic, the Project has had persistent financial challenges, occupancy issues, and high security and maintenance costs, and Seminary Point, LLC, has been unable to pay rent pursuant to the Lease; and

WHEREAS, the City has been informed that McCormick 101 LLC, the senior lender ("Senior Lender"), has placed the Project in forbearance until April 1, 2027, and

WHEREAS, the City and the Senior Lender would like Seminary Point, LLC, to sell the leasehold interest in the Lease to a qualified purchaser that can invest in and revitalize the Project to support long term economic and community- -serving outcomes on this key site in the Foothill/Seminary corridor; and

WHEREAS, it is in the best interest of the City to forgive an existing outstanding rent balance of Twenty-Nine Thousand Dollars (\$29,000), and future rents in an amount up to Eleven Thousand Dollars (\$11,000), as of the date of, and contingent upon a sale or transfer, to facilitate such a sale or transfer of the leasehold interest in the Project to a qualified purchaser; and

WHEREAS, rent forgiveness is exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15061(b)(3) (general rule); now, therefore, be it

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

SECTION 1. The City Council hereby finds that, in order to facilitate a sale of the leasehold interest in the Project to a qualified purchaser, it is in the best interests of the City to forgive, contingent upon such sale, an outstanding rent balance of Twenty-Nine Thousand Dollars (\$29,000), and future rents owed as of the date of sale to a qualified purchaser of the leasehold interest in an amount not to exceed Eleven Thousand Dollars (\$11,000).

SECTION 2. The City Council hereby authorizes the City Administrator to negotiate and execute a rent forgiveness agreement or similar document with Seminary Point, LLC.

SECTION 3. Appropriate due diligence, in accordance with current City policies and practices, shall be performed prior to the approval of any prospective purchaser and forgiveness of rent, and the City Administrator shall retain discretion to carry out such actions.

SECTION 4. The City Council hereby authorizes the City Administrator to negotiate and execute (a) such other additions, amendments or other modifications to the foregoing documents that the City Administrator, in consultation with the City Attorney’s Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance, and (b) such other documents as necessary or appropriate, in consultation with the City Attorney’s Office, to facilitate and consummate the transactions consistent with this Ordinance and its basic purpose.

SECTION 5. All documents shall be reviewed and approved as to form and legality by the City Attorney’s Office prior to execution.

SECTION 6. The City finds and determines, after independent review and consideration, that this action complies with CEQA because these actions on the part of the City are exempt under CEQA Guidelines Section 15061(b)(3) (general rule).

SECTION 7. The recitals contained in this Ordinance are true and correct and are an integral part of the Council’s decision.

SECTION 8. Severability. 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 of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each

section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 9. Effective Date. 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,

PASSED BY THE FOLLOWING VOTE:

AYES – BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of
the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE FORGIVENESS OF OUTSTANDING AND FUTURE RENT BALANCES IN AN AMOUNT OF UP TO \$40,000 FOR SEMINARY POINT, LLC, PURSUANT TO A GROUND LEASE WITH THE CITY, CONTINGENT ON THE SALE OR TRANSFER OF THE PROPERTY TO A QUALIFIED PURCHASER; AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This is an Ordinance (a) authorizing the forgiveness of the outstanding rent balance of Twenty-Nine Thousand Dollars (\$29,000) and future rent up to Eleven Thousand Dollars (\$11,000) for Seminary Point, LLC, pursuant to a ground lease with the City, as of the date of, and contingent on, the sale or transfer of the leasehold interest in the property to a qualified purchaser and (b) making California Environmental Quality Act findings.