

Meeting Date: 11/19/19 (8)

ORDINANCE NO.10632 (N.S.)

AN ORDINANCE AUTHORIZING A GROUND LEASE AGREEMENT BY AND BETWEEN THE COUNTY OF SAN DIEGO AND KETTNER JOINT VENTURE, LLC OR ITS AFFILIATE FOR LEASE AND DEVELOPMENT OF THE REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF KETTNER BOULEVARD AND WEST BEECH STREET IN THE CITY OF SAN DIEGO

WHEREAS, the County of San Diego (“County”) is the owner of real property consisting of approximately 1.207 acres located at the northwest corner of Kettner Boulevard and West Beech Street, San Diego, California (Assessor’s Parcel Numbers 533-322-11; 533-322-12; and 533-322-13) (“Property”), and further described as:

LOTS 1 THRU 12, INCLUSIVE, IN BLOCK 28 OF MIDDLETOWN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE PARTITION MAP THEREOF MADE BY J.E. JACKSON ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO. EXCEPTING THEREFROM THAT PORTION THEREOF INCLUDED WITHIN THE RIGHT OF WAY OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, FORMERLY THE CALIFORNIA SOUTHERN RAILWAY COMPANY.

WHEREAS, the County is authorized to lease the Property for cultural, residential, commercial, or industrial uses or development pursuant to the applicable laws of the State of California, including California Government Code sections 25515 through 25515.5; and

WHEREAS, a Ground Lease Agreement (“Ground Lease”) has been negotiated with Kettner Joint Venture, LLC (“Developer”) providing for the lease and development of a portion of the Property designated as Assessor’s Parcel Numbers 533-322-12 and 533-322-13 (“Ground Lease Property”) with a mixed-use development, including market-rate and affordable housing, commercial space, and parking (“Project”); and

WHEREAS, the Ground Lease provides for conveyance of leasehold interests in the Lease Property to affiliates of Developer under two separate ground leases for terms of 99 years upon satisfaction of conditions specified in the Ground Lease, and development of the Property with the Project under those separate ground leases; and

WHEREAS, the Ground Lease provides for conveyance of easements for the term of the Ground Lease in the portion of the Property designated as Assessor’s Parcel Number 533-322-11, which is currently developed with a County-owned parking garage, to affiliates of Developer under the “Declaration of Covenants, Conditions, and Restrictions Providing for Reciprocal Easements” attached to the Ground Lease; and

WHEREAS, the Ground Lease also includes a County of San Diego Memorandum of Restrictive Covenants and Regulatory Agreement (“Regulatory Agreement”), to be executed and

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recorded against the leasehold interest in a portion of the Property upon satisfaction of conditions set forth in the Ground Lease, specifying affordable housing use requirements; and

WHEREAS, the Ground Lease will result in economic benefits to the County through rent payments and production of affordable housing units; and

WHEREAS, the public benefit of the Ground Lease is expected to be greater than the public benefit which would result from the sale of the Property, and a reasonable expectation exists that the future public need justifies retention of the fee ownership of the Property, because retained ownership will allow direct monitoring and enforcement of the Ground Lease requirements by the County, will provide revenue to the County during the Ground Lease term through rent payments, and will allow the County to control future use of the Property following expiration or termination of the Ground Lease; and

WHEREAS, the Chief Administrative Officer has recommended that the County execute the Ground Lease with Developer or its affiliate; and

WHEREAS, California Government Code section 25515.2 subsection (a) requires that an agreement for lease of property to be entered into under California Government Code sections 25515 through 25515.5 must be authorized by ordinance; and

WHEREAS, pursuant to California Government Code section 25515.2 subsection (b), notice of the time and place of a public hearing concerning the adoption of this ordinance was published on November 4, 2019 and November 11, 2019; and

WHEREAS, pursuant to California Government Code section 25515.2 subsection (b), the Board of Supervisors held a public hearing regarding adoption of this ordinance on November 19, 2019.

NOW THEREFORE, the Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board finds the foregoing recitals are true and correct.

Section 2. The Board finds that the Ground Lease will provide economic benefit to the County and help meet the housing needs of the County.

Section 3. The Board finds that the public benefit of the lease of the Property under the Ground Lease is expected to be greater than the public benefit that would result from the sale of the Property, and that a reasonable expectation exists that the future public need justifies retention of the fee ownership of the Property.

Section 4. The Board authorizes the Director, Department of General Services to execute the Ground Lease with the Developer or its affiliate, and to execute the attachments to the Ground Lease and any other documents necessary to implement the Ground Lease, the attachments to the Ground Lease, and this ordinance.

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Section 5. The Board authorizes the Agency Director, Health and Human Services Agency, or designee, to execute the Regulatory Agreement and any amendment to the Regulatory Agreement.

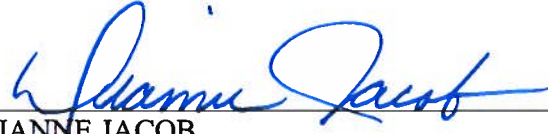
Section 6. The Board authorizes the Director, Department of General Services, or designee, and the Agency Director, Health and Human Services Agency, or designee, to perform any actions in furtherance or implementation of this ordinance, the Ground Lease, and the attachments to the Ground Lease, including, without limitation, approval and execution of amendments to the Ground Lease and its attachments as authorized under the Ground Lease.

Section 7. This ordinance shall be effective in accordance with California Government Code section 25123.

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL

By: Nathan Slegers, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 19<sup>th</sup> day of November, 2019.



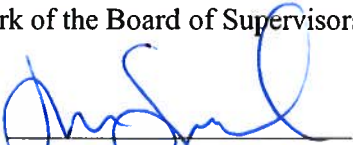
DIANNE JACOB  
Chairwoman, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ATTEST my hand and the seal of the Board of Supervisors this 19<sup>th</sup> day of November, 2019.

ANDREW POTTER  
Clerk of the Board of Supervisors

By   
Joana Santiago, Deputy



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