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**Title:** Staff Report for the Resolution Amending the Two Agreements Approved by the City Council on April 1, 2013 with the San Leandro Chamber of Commerce: 1) a Property Exchange and Indemnity Agreement with One and Only Right of First Offer for the City’s Office Space Located at 120 Estudillo Avenue in the New Downtown Garage in Exchange for the Chamber’s Parcel at 262 Davis Street and 2) a Reciprocal Easement Agreement and Declaration of Covenants, Conditions, and Restrictions for the Office Space to Include as Party to the Agreement the Parking Authority of the City of San Leandro and Authorizing the City Manager, acting as the Executive Director of the Parking Authority of the City of San Leandro, to Execute Same

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**SUMMARY AND RECOMMENDATIONS**

Staff recommends that the City Council, acting as the Board of the Parking Authority of the City of San Leandro, authorize the City Manager, acting as the Executive Director of the Parking Authority of the City of San Leandro (Parking Authority) to execute an amendment to two agreements entered into with the San Leandro Chamber of Commerce (Chamber) to add the Parking Authority as a party to the agreements. The first is a property exchange agreement of the Chamber’s property at 262 Davis Street (APN: 075-0001-008-02) and the new office parcel created at 120 Estudillo Avenue (the new downtown parking garage). The second is an easement agreement and covenants, conditions, and restrictions (CC&Rs) that will address the respective roles and responsibilities of the City and the Chamber of Commerce concerning the management of the 120 Estudillo Avenue office space within the Downtown Parking Garage (Garage). The amendment will add the Parking Authority as a party to the agreements because it is the co-owner with the City of San Leandro (City) of the Parcels at 120-

122 Estudillo Avenue.

## BACKGROUND

In July 2005, the former Redevelopment Agency (Agency) began discussions with the Chamber regarding Agency acquisition of 262 Davis Street (Chamber Property) in San Leandro. The Chamber Property was identified as a priority because of its location in the downtown area, adjacent to other Agency-owned property. The Property and the adjoining parcels were the focus of a specific planning effort to redevelop the entire block and create Town Hall Square. Preliminary design schematics were for a mixed use development (retail on the ground floor and residential above) including the closure of Hays Street.

The Chamber was open to selling the Chamber Property, subject to specific criteria. The main criterion for the Chamber was the ability to relocate to another downtown location without significantly increasing costs.

The Agency's and the Chamber's negotiations culminated in a Lease with Option to Purchase Agreement dated September 2, 2008. Following are the major deal points of that agreement:

- The Agency would lease, with an option to purchase, the Chamber Property for a period of up to three (3) years at \$2,900 per month.
- The Agency agreed to build the Chamber a 2,000 square foot Class B office condominium on the ground level of 120 Estudillo Avenue in the new parking garage that was to be built. The City, as owner of the garage, would charge no condominium association fees. Three parking spaces in the garage would be made available to the Chamber at no charge. The office space would have separate utilities, such as water, electricity, gas, communications, and sewer. The Chamber would be responsible for user fees and the maintenance and repair of all utilities.
- The Chamber agreed to allow the Agency to demolish the office building on the Chamber Property for temporary parking. The Agency paid all costs associated with the demolition.
- The Chamber elected to receive \$10,000 in lieu of making any and all relocation claims and receiving payment for any and all such benefits to which the Chamber may have been entitled when it relocated its offices from 262 Davis Street.
- Upon issuance of an occupancy permit, a concurrent escrow closing would occur to exchange the Chamber Property for the Agency office condominium in the garage. The Agency agreed to pay the Chamber an additional \$10,000 to cover costs associated with the relocation and re-establishment of its offices at the garage.
- The 2008 agreement was for a term of three years, with a two (2) year option to extend should the City not complete the garage within three years.

When the 2008 agreement was reached, it was envisioned that the Chamber of Commerce would have an office condominium within the garage structure. As the garage was built, staff determined that rather than a condominium, a Vertical Parcel Map splitting off the Chamber's office from the remainder of the parking structure with a reciprocal easement agreement between the two parties to

address utilities, parking, and access would be a less cumbersome approach. No association would need to be formed nor assessments levied and funded. The City's property and the Chamber's office space would be identified as separate lots on the Parcel Map. The Chamber agreed to this approach.

The Reciprocal Easement Agreement and Declaration of Covenants, Conditions, and Restrictions outlines all of the rights and responsibilities of the City and the Chamber as it relates to the Office Parcel, including details about use, maintenance, and access. Included in the terms of use are allowances and restrictions concerning signage, accommodating repairs or improvements to each parcel, and the proper use of the parcels and easement areas. Each party is expected to maintain its parcel and to adhere to certain standards, including those for cleanliness, storage, and exterior appearance. The City grants the Chamber easements for access to all public areas within the Garage and to the Chamber's Waste Disposal Room, Mechanical Equipment Area, and Parking spaces. Each party is granted Utility and Service Easements for the respective Utility Facilities.

The elimination of redevelopment agencies by the State impacted the ability of the City/Agency to exchange the property under the 2008 Lease with Option to Purchase Agreement. The new property exchange agreement allowed for that property exchange as envisioned. It includes the main provisions of the 2008 agreement. The Property Exchange and Indemnity Agreement with One and Only Right of First Offer transfers ownership of the Chamber Property at 262 Davis Street to the City and in exchange transfers ownership of the Office Parcel at the garage to the Chamber. The agreement is an even exchange, meaning that no money is being exchanged, just the real property. The Chamber will be paid the \$10,000 promised in the 2008 agreement for its relocation costs to the Garage. The agreement also gives the City the right to make one offer for the parcel if the Chamber desires to sell it. If the Chamber refuses to accept the City's offer, this right is extinguished. It is the Chamber's desire to move into the space as soon as possible after the Parcel Map is approved by Council, which occurred on April 15, 2013.

### **Analysis**

The Parking Authority of the City of San Leandro was established by City Council action on July 31, 1972. On June 20, 1997, the Parking Authority became owner of a portion of the parcels upon which the Downtown Parking Garage was recently constructed. The Parking Authority is a separate entity from the City, and therefore must be included in the transactions involving the property. This action will add the Parking Authority as a party to the two agreements with the Chamber.

### **Current Agency Policies**

The Transit Oriented Development Strategy adopted by the City Council in September 2007 identified development of Town Hall Square into a mixed use development as a priority.

### **Previous Actions**

- On September 2, 2008, by Resolution No. 2008-023 RDA, the Agency approved the Lease with Option to Purchase Agreement
- On April 1, 2013, by Resolution No. 2013-045, the City Council approved 1) the property exchange agreement and 2) the easement agreement and covenants, conditions, and restrictions (CC&Rs) between the City and the Chamber

### **Environmental Review**

Acquisition of the Chamber property is exempt from CEQA pursuant to Section 15061(b)(3), which applies to “projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” The potential development of the site was covered under the Downtown San Leandro TOD Strategy at the Program EIR level. Specific development applications for the site will be reviewed in the future to determine if the Program EIR adequately addressed those potential impacts.

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