

Attachment 14

Ordinance Authorizing Leases of the Project Site in Excess of 55 Years

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, ESTABLISHING PROCEDURES FOR
COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE
SECTION 37380 FOR LEASING PROPERTY FOR A
CUMULATIVE TERM IN EXCESS OF 55 YEARS IN
CONNECTION WITH THE “CITYPLACE SANTA CLARA”
PROJECT**

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, pursuant to Chapter 18.56 (Planned Development – Master Community Zoning Districts) of the Santa Clara Zoning Ordinance, the City Council has adopted a Master Community Plan (the “CityPlace MCP”) in connection with a new mixed-use development located in the City of Santa Clara, California, commonly known as the “CityPlace Santa Clara” project (such development, the “Project”);

WHEREAS, in connection with the development of the Project, the City has negotiated the terms of a Disposition and Development Agreement (the “DDA”) with Related Santa Clara LLC (the “Developer”), pursuant to which, Developer would have the right to enter into 99-year ground leases for the Project;

WHEREAS, the City believes that the Project would be highly beneficial to the City by creating a new “city center” containing significant retail facilities, office buildings, residential units, and hotel rooms that would support City’s convention center, new parks and open space and new roads and public infrastructure;

WHEREAS, a large portion of the Project would be constructed over a former landfill site (the “Landfill”), converting the Landfill to productive use, causing the modernizing of the recovery systems operated by City at the Landfill and creating a significant new tax base for City;

WHEREAS, the development of the Project presents many potential opportunities for City, including: converting the existing Landfill to more productive uses; creating a new and vibrant mixed-use City neighborhood; providing new parks, public open spaces and other community benefits; and increasing City revenues;

WHEREAS, the City, in consultation with its economic advisors, has determined that ground leases having terms of up to 99-years are required to attract the investment capital necessary to finance the required level of infrastructure investment;

WHEREAS, the DDA includes a form of ground lease for each Phase of the Project, which provides the City with an opportunity to periodically review the base rent provisions through a fair market base rent adjustment in years 45 and 70;

WHEREAS, Section 37380(a) of the California Government Code (the “Government Code”) generally authorizes California cities to lease their property for terms not exceeding 55 years; however, Section 37380(b) of the Government Code authorizes any charter city to lease property for a period not exceeding 99 years in accordance with procedures adopted by ordinance and upon satisfaction of certain conditions; and,

WHEREAS, the City Council desires to pass this Ordinance for the purpose of establishing a procedure by which leases with terms of up to 99 years that are entered into in connection with the Project and are consistent with the City Place Santa Clara Master Community Plan and DDA may be permitted under Section 37380 of the Government Code.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: Pursuant to the procedures set forth in Section 2 of this Ordinance, the City Council may enter into a lease of any City property that is subject to the CityPlace MCP for a term not

exceeding 99 years. This section is enacted pursuant to California Government Code Section 37380, which allows a charter city to establish alternative procedures thereto and thereby exempt the city from the provisions of subsections (b)(2), (b)(3) and (b)(4) thereof. Except with respect to leases in excess of 55 years, the provisions of this section shall not be deemed in any way to restrict the City's authority to enter into other forms of leases.

SECTION 2: A lease of up to 99 years of property that is subject to the CityPlace Santa Clara Master Community Plan and owned, held or controlled by the City, may be authorized by the City Council in accordance with the following procedures:

- a. The form of lease to be entered into pursuant to this section shall be in substantially the form of ground lease (for Phase 1 and Phases 2 through 7) that are attached to the DDA and the DDA has been authorized by resolution of the City Council (collectively, the "CityPlace Ground Leases").
- b. Pursuant to California Government Code Section 37380(b)(1), the CityPlace Ground Leases shall be subject to periodic review by the City and shall take into consideration the then-current market conditions. The City Council hereby establishes that the CityPlace Ground Lease provisions which will periodically be reviewed shall be those provisions specifying base rent to be paid thereunder. The periodic reviews shall occur in accordance with the schedule and procedures contained in the CityPlace Ground Leases establishing regular and periodic base rent escalations, including a market rate base rent adjustment in years 45 and 70. Such rent escalations and adjustments shall be calculated pursuant to the procedures specified in the Ground Leases, without the necessity of discretionary action by the City.

SECTION 3: Savings clause. This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Santa Clara, and this Ordinance shall not operate to repeal or affect any of such other ordinances, however, insofar as the provisions thereof might be inconsistent or in

conflict with the provisions of this Ordinance, the provisions in this Ordinance control over such conflicting provisions, if any, in such other ordinance or ordinances.

SECTION 4: Effective date. This ordinance shall take effect _____, 2016; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this ____ day of _____, 2016, by the following vote:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

ATTEST: _____
 ROD DIRIDON, JR.
 CITY CLERK
 CITY OF SANTA CLARA

Attachments incorporated by this reference:
None

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