

REVISED
Approved as to Form and Legality
07/11/07
[Signature]
ORA Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND
2007-0013
RESOLUTION No. _____ C.M.S.

A RESOLUTION, PURSUANT TO SECTION 4.9.2 AND 11.2 OF THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE OAKLAND REDEVELOPMENT AGENCY AND OAKLAND GARDEN HOTEL LLC, AUTHORIZING THE AGENCY ADMINISTRATOR TO APPROVE THE TRANSFER OF OWNERSHIP OF THE OAKLAND GARDEN HOTEL TO THE CIM GROUP

WHEREAS, Oakland Redevelopment Agency (the "Agency") Resolution No. 99-32 C.M.S., authorized a disposition and development agreement ("DDA") with Oakland Garden Hotel, LLC ("OGH"), which provided for OGH to acquire a 37,342 site located on the northeast corner of 9th Street and Broadway, Oakland ("Property"), to build a 160 room hotel with ground floor retail ("Project"), and the DDA was executed in July 1999; and

WHEREAS, Section 4.9.2 of the DDA requires prior written consent from the Agency before any transfer of the Property, for the first seven years of operations; and

WHEREAS, Section 11.2 requires prior written consent from the Agency for the operator, if the buyer is not a qualified hotel operator, for the first seven years of operations; and

WHEREAS, the Project, currently known as the Marriott Courtyard, was completed in March 2002, fewer than seven years ago; and

WHEREAS, OGH is proposing to sell the Property to the CIM Group, Inc., ("CIM"); and

WHEREAS, CIM is a major commercial property owner and developer with nationwide real estate holdings; and

WHEREAS, CIM appears to have the real estate management capacity to own the Property; and

WHEREAS, CIM is proposing to contract with either Crestline Hotels and Resorts ("Crestline"), Dow Hotels ("Dow"), Interstate Hotels and Resorts ("Interstate"), Sunstone Hotel Properties ("Sunstone"), or White Lodging Services ("White") to manage the Property; and

WHEREAS, Crestline, Dow, Interstate, Sunstone and White all appear to be experienced operators of similar hotel facilities and appear to have the capacity to operate the Property; and

WHEREAS, Marriott International's approval of the operator will be required in order for CIM to obtain approval of a new franchise agreement; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA"), the CEQA guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now therefore be it

RESOLVED: That the Agency approves the transfer of the Property to CIM and the selection of Crestline, Dow, Interstate, Sunstone or White as the hotel operator, subject to Marriott and Agency Administrator approval following due diligence reviews of submittals, and the maintenance of the superior lien position of the DDA; and be it

FURTHER RESOLVED: That a Certificate of Completion for the Oakland Garden Hotel (Courtyard Marriott) shall not be issued until Oakland Garden Hotel LLC pays the City the \$132,204.70 penalty for non-compliance with the Agency's contracts compliance programs during the construction of the Oakland Garden Hotel; or alternatively, places the funds in escrow. If placed in escrow, the funds shall be released to Oakland Garden Hotel LLC upon close of the Pacific Renaissance Settlement; provided that if the settlement is not consummated, the funds shall be released to the Agency; and be it

FURTHER RESOLVED: That the Agency Administrator or her designee is authorized to conduct all negotiations, review and approve all submissions, execute all agreements and take whatever action is necessary with respect to the Property,

the Project and the DDA consistent with this Resolution and its basic purposes; and be it

FURTHER RESOLVED: That the Agency has independently reviewed and considered this environmental determination and the Agency finds and determines, based on the information in the staff report accompanying this resolution, that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA pursuant to Sections 15301 (existing facilities) of the CEQA guidelines; and be it

FURTHER RESOLVED: That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this Project; and be it

FURTHER RESOLVED: That all documents shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution, and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, MAR 6 2007, 2007

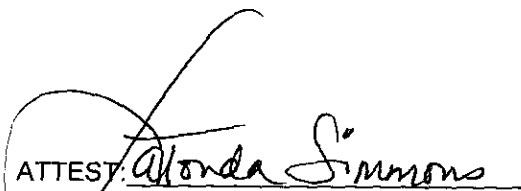
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND CHAIRPERSON DE LA FUENTE, - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland