

2007 SEP -6 PM 4: 07

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

RESOLUTION No. 80841 C.M.S.

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**A RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION IN THE MATTER OF *THE CITY OF OAKLAND ET AL., V. PACIFIC RENAISSANCE ASSOCIATES II, ET AL.*, AND RELATED CASES, AUTHORIZING THE NEGOTIATION AND EXECUTION OF DOCUMENTS TO EFFECTUATE THE SETTLEMENT, AND RESCINDING RESOLUTION NO. 80120 C.M.S AUTHORIZING PREVIOUS SETTLEMENT TERMS**

**WHEREAS**, the City is a party to a lawsuit, *The City of Oakland, et al. v. Pacific Renaissance Associates II, et al.* (Alameda County Case Number RG 0311924), and related cases; and

**WHEREAS**, the lawsuits concern Pacific Renaissance Plaza, a mixed-use commercial and residential complex on 9<sup>th</sup> Street between Franklin and Webster; and

**WHEREAS**, Council Resolution No. 80120 C.M.S. adopted September 19, 2006, authorized settlement of the lawsuits on certain terms; and

**WHEREAS**, the parties to the lawsuits have negotiated new terms of settlement; now, therefore, be it

**RESOLVED**: That Resolution No. 80120 C.M.S. is hereby rescinded; and be it further

**RESOLVED**: That the City Council hereby authorizes legal counsel for the City to settle the case of *The City of Oakland, et al. v. Pacific Renaissance Associates II, et al.* (Alameda County Case Number RG 03108416) and related cases, in accordance with the following terms:

- International Hotelier Management Corporation ("IHMC") to sell 50 residential units in Pacific Renaissance Plaza to the East Bay Asian Local Development Corporation or its affiliate ("EBALDC") for a price of \$4 million.
- EBALDC to resell the Pacific Renaissance Plaza units to households with incomes at or below 100% of area median income, with a preference for

households at or below 80% of area median income, subject to a right of first refusal to purchase units held by existing tenants.

- Sales to be subject to 45-year resale restrictions.
- EBALDC to grant a lifetime lease for the one remaining tenant out of the original families who resided in Pacific Renaissance Plaza.
- Net proceeds from the sale of the units to go, first, to repay EBALDC's loan obligations and to reimburse the City and the Redevelopment Agency for City/Agency litigation and transactional costs up to \$4.25 million. The lender will receive 75% of net proceeds from each sale while the City/Agency will receive 25% of net proceeds from each sale, until both obligations have been paid. Second, net proceeds will go to cover EBALDC's transactional and development costs. Third, net proceeds will go to reimburse the Redevelopment Agency and City for any remaining litigation and transactional costs, if any. Fourth, remaining net proceeds will be used to fund the development of rental housing, affordable to tenants at or below 60% of area median income for 55 years, in the Chinatown area of the City of Oakland.
- EBALDC to reimburse the City/Agency for the City/Agency costs no later than December 31, 2009.
- EBALDC to be responsible for relocating any existing tenants of the Pacific Renaissance Plaza housing units who are displaced.
- Dismissal with prejudice of the complaint and cross-complaint in the above-titled litigation and in the related case of *Yet Hom et al., v. International Hotelier Management Corp. et al.*, Alameda County Case Number RG 03108416 ("Hom Litigation").

and be it further

**RESOLVED:** That the City Council hereby authorizes the City Administrator and the City's legal counsel to negotiate and execute all agreements necessary to effectuate the settlement, including (1) a settlement and release agreement, (2) a side agreement with EBALDC and the Hom plaintiffs setting forth affordable housing terms and the terms of repayment to the Agency and City, and (3) any other agreements or documents that the City Administrator and the City's legal counsel deems necessary to effectuate the terms of the settlement consistent with the settlement terms authorized by the Council; and be it further

**RESOLVED:** That the City Council hereby authorizes the City Administrator and City legal counsel to take whatever other actions are necessary with the respect to the settlement and the transaction consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 18 2007, 2007

**PASSED BY THE FOLLOWING VOTE:**

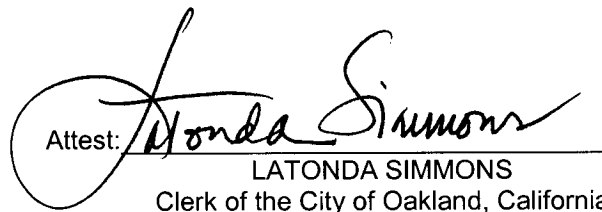
AYES- ~~Brooks, Brunner~~, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE, -6

NOES- 0

ABSENT- 0

ABSTENTION- Brooks - 1

Recused - Brunner - 1

Attest:   
LATONDA SIMMONS  
Clerk of the City of Oakland, California