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APPROVED AS TO FORM AND LEGALITY:

  
Agency Counsel

**REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND**  
RESOLUTION NO. 2006-0072 C.M.S.

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**A RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY LOCATED AT 3860 MARTIN LUTHER KING, JR. WAY TO COTTER AND COYLE, LLC, FOR \$1,060,000, FOR THE DEVELOPMENT OF A 34-UNIT CONDOMINIUM PROJECT, AND AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE PROJECT**

**WHEREAS**, the California Community Redevelopment Law, Health and Safety Code Section 33430, authorizes a redevelopment agency within a project area or for purposes of redevelopment to sell real property, Section 33432 requires that any sale of real property by a redevelopment agency in a project area must be conditioned on redevelopment and use of the property in conformity with the redevelopment plan, and Section 33439 provides that a redevelopment agency must retain controls and establish restrictions or covenants running with the land for property sold for private use as provided in the redevelopment plan; and

**WHEREAS**, the Broadway/MacArthur/San Pablo Redevelopment Plan, adopted on July 25, 2000 (Ordinance No. 12269 C.M.S.) and the updated Five-Year Implementation Plan (1999-2004) was adopted on December 7, 2004 (Resolution No. 2004-66 C.M.S.) (together, the "Redevelopment Plan"), authorize the Redevelopment Agency to sell land in the Project Area; and

**WHEREAS**, the City of Oakland and the Redevelopment Agency are working to redevelop the area surrounding the MacArthur BART Station to transit-supportive uses including multi-family housing; and

**WHEREAS**, the Agency owns real property at 3860 Martin Luther King, Jr. Way (APN 012-0968-030-01), more fully described in Exhibit A attached to this Resolution (the "Property"); and

**WHEREAS**, the Property is located in the Broadway/MacArthur/San Pablo Redevelopment Project Area and is directly adjacent to the MacArthur BART Station; and

**WHEREAS**, the Agency purchased the property from the City of Oakland in June 2002 (Resolution No. 02-44 C.M.S.) in exchange for a promissory note for \$257,000, the appraised value of the property at that time; and

**WHEREAS**, the City of Oakland originally purchased the property in 1989 using Community Development Block Grant (CDBG) funds and as a result any proceeds the City receives from the sale of the Property are considered CDBG program income; and

**WHEREAS**, Cotter and Coyle, LLC, desires to purchase the Property from the Agency in order to develop a 34-unit condominium project with approximately 1,200 square feet of retail space (the "Project"); and

**WHEREAS**, the market value of the Property in an as-is condition has been appraised at \$1,060,000; and

**WHEREAS**, staff has negotiated and proposes entering into a Disposition and Development Agreement ("DDA") with Cotter and Coyle, LLC, which sets forth the terms and conditions of the sale of the Property to Cotter and Coyle, LLC, and governs the development of the Project and the use of the Property by Cotter and Coyle, LLC, and any successors to the Property subsequent to sale through recorded covenants running with the land; and

**WHEREAS**, the DDA requires that Cotter and Coyle, LLC, construct and operate the Project consistent with the Redevelopment Plan and restricts the use of the Property to housing and commercial uses; and

**WHEREAS**, the DDA and the grant deed that will convey the Property to Cotter and Coyle, LLC, adequately condition the sale of the Property on the redevelopment and use of the Property in conformity with the Redevelopment Plan, and such documents prohibit discrimination in any aspect of the Project as required under the Redevelopment Plan and the California Community Redevelopment Law; and

**WHEREAS**, the Project uses are in conformity with the Redevelopment Plan, the Project will assist in the elimination of blight in the Broadway/MacArthur/San Pablo Redevelopment Area, and the Project will help meet the objectives of the Redevelopment Plan; and

**WHEREAS**, the California Community Redevelopment Law (Health and Safety Code Section 33433) requires that before any property of a redevelopment agency that is acquired in whole or in part with tax increment moneys is sold for development pursuant to a redevelopment plan, the sale must first be approved by the legislative body, i.e., the City Council, by resolution after public hearing; and

**WHEREAS**, as required by the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contains a copy of the draft DDA and a summary of the cost of the agreement to the Agency, the estimated fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, and an explanation of why the sale of the Property and development of the Project will assist in the elimination of blight, with supporting facts and material; and

**WHEREAS**, a joint public hearing between the Agency and the City Council of the City of Oakland was held to hear public comments on the sale of the Property for the Project; and

**WHEREAS**, notice of the sale of the Property and the public hearing was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

**WHEREAS**, the City Council has approved the sale of the Property by resolution after the public hearing; and

**WHEREAS**, the Agency is a Responsible Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

**WHEREAS**, the Project has completed the required environmental review and has been determined to be compliant with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State CEQA Guidelines"), and the City's Environmental Review Regulations; and

**WHEREAS**, on September 20, 2006, the Planning Commission determined that the Project is categorically exempt from CEQA pursuant to Section 15332 of the State CEQA Guidelines (In-Fill Development Projects); now therefore be it

**RESOLVED:** That the Agency hereby finds and determines that the sale of the Property by the Agency to Cotter and Coyle, LLC, for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Broadway/MacArthur/San Pablo Redevelopment Project Area, conforms to the Broadway/MacArthur/San Pablo Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that:

1. The Project will redevelop a vacant site adjacent to the MacArthur BART Station, which will contribute to the Agency's goals to concentrate infill development on underutilized properties within the Broadway/MacArthur/San Pablo redevelopment project area;

2. The Project will increase the stock of ownership housing in the Broadway/MacArthur/San Pablo redevelopment project area;
3. The Project, once developed, will enhance depreciated and stagnant residential and commercial property values on the west side of the MacArthur BART Station, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, excessive vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties;
4. The Project, once developed, will create permanent jobs in the redevelopment project area through the provision of commercial space in the project;
5. The Project will improve environmental design within the Broadway/MacArthur/San Pablo redevelopment project area through the use of green building techniques and by following smart-growth development principals (locating high-density housing adjacent to public transportation);

and be it further

**RESOLVED:** That the Redevelopment Agency hereby authorizes the Agency Administrator or his or her designee to sell the Property to Cotter and Coyle, LLC, or an affiliated entity or entities approved by the Agency Administrator, for the purchase price of \$1,060,000, subject to the terms and conditions of the DDA; and be it further

**RESOLVED:** That the Agency finds and determines that the purchase price of \$1,060,000 is equal to the fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, that there are no Agency or City subsidies to the developer in this transaction, and that therefore the Agency's employment and contracting programs do not apply; and be it further

**RESOLVED:** That the transaction shall include the following terms and conditions:

- Cotter and Coyle, LLC, to purchase the site for \$1,060,000, the appraised fair market value of the Property;
- Cotter and Coyle, LLC, to be responsible for the cost of required off-site improvements in connection with the Project;
- Cotter and Coyle, LLC, to take the Property in its "as-is" condition;
- Cotter and Coyle, LLC, to comply with provisions of the Broadway/MacArthur/ San Pablo Redevelopment Plan and nondiscrimination provisions of redevelopment law;

- The plans and specifications for the Project are to be reviewed and approved by the Agency;
- Transfer of the Property to be restricted prior to Project completion;
- Project commencement and completion dates to be set in the DDA as negotiated by the Agency Administrator;
- No required application of the Agency's employment and contracting programs (prevailing wage, local employment, local/small local business enterprise contracting, apprenticeship, living wage, or first-source hiring) to the Project;
- The Project to be restricted to residential, parking, and commercial uses; and
- Any other appropriate terms and conditions as the Agency Administrator or her designee may establish in his or her discretion or as the California Community Redevelopment Law or the Redevelopment Plan may require;

and be it further

**RESOLVED:** That \$257,000 of the land sale proceeds will be used to repay the Agency's promissory note to the City and will be deposited in and appropriated to the CDBG Fund (2108), Housing Development Organization (88929), Vacant Housing Project (G06750); and be it further

**RESOLVED:** That the remaining \$803,000 in land sale proceeds, minus any closing costs, will be deposited in the Broadway/MacArthur/San Pablo Capital Fund (9530), Redevelopment Projects Organization (88669), Sale of Land Account (48111); and be it further

**RESOLVED:** That the Agency Administrator or his or her designee is hereby authorized to negotiate and execute the Disposition and Development Agreement with Cotter and Coyle, LLC, or an affiliated entity or entities approved by the Agency Administrator, for the Project, as well as negotiate and execute other documents necessary to facilitate the sale and development of the Property for the Project; and be it further

**RESOLVED:** That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; 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 and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250

Frank H. Ogawa Plaza, 3rd Floor, Oakland and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it further

**RESOLVED:** That the Agency hereby appoints the Agency Administrator or her designee as agent of the Redevelopment Agency to conduct negotiations and execute documents with respect to the sale of the Property as necessary to effectuate this transaction, and to take any other action with respect to the Property and Project consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, OCT 31 2006, 2006

**PASSED BY THE FOLLOWING VOTE:**

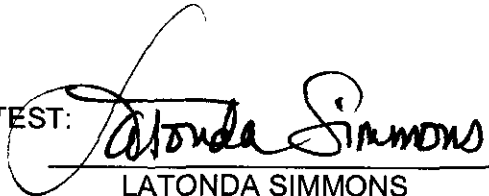
AYES- ~~BROOKS~~, BRUNNER, ~~CHANG~~, KERNIGHAN, NADEL, QUAN, ~~TRAVIS~~,  
AND CHAIRPERSON DE LA FUENTE - 5

NOES- 0

ABSENT- Reid - 1

ABSTENTION- 0

Excused - Brooks, Chang - 2

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

**EXHIBIT A****PROPERTY DESCRIPTION, 3860 MARTIN LUTHER KING, JR. WAY**

The land referred to in this Report is situated in the State of California, County of Alameda, City of Oakland as is described as follows:

**PARCEL ONE:**

Commencing at a point on the eastern line of Martin Luther King, Jr. Way (formerly Grove Street), distant thereon forty (40) feet northerly from the point of intersection thereof with the northern line of Apgar Street, running thence at right angles easterly one hundred (100) feet; thence northerly and parallel with Martin Luther King, Jr. Way (formerly Grove Street) sixty-four and 39/100 (64.39) feet; thence westerly in a direct line one hundred and 52/100 (100.52) feet to a point on the eastern line of Martin Luther King, Jr. Way (formerly Grove Street) distant thereon seventy (70) feet northerly from the point of commencement; and thence southerly along said last named line seventy (70) feet to the point of commencement.

Being a portion of Plot No. 37 as per Kellersberger's Map of Ranchos of Vincente and Domingo Peralta on file in the office of the County Recorder of the County of Alameda.

Assessors Parcel No. 012-0968-030-01

**PARCEL TWO:**

Beginning at the point of intersection of the eastern line of Martin Luther King, Jr. Way (formerly Grove Street) with the northern boundary line of plot numbered 37 as shown upon the map hereinafter referred to; and running thence southerly along said line of Martin Luther King, Jr. Way (formerly Grove Street) sixty-seven (67) feet; thence easterly parallel with the northern boundary line of said plot numbered 37 one hundred twenty-five (125) feet; thence northerly parallel with said line of Martin Luther King, Jr. Way (formerly Grove Street) sixty-seven (67) feet to the northern boundary line of said plot numbered 37; and thence westerly along said line of plot numbered 37 one hundred twenty five (125) feet to the point of beginning.

Being a portion of Plot No. 37 as per Kellersberger's Map of Ranchos of Vincente and Domingo Peralta on file in the office of the County Recorder of the County of Alameda.

Assessors Parcel No. 012-0968-030-01