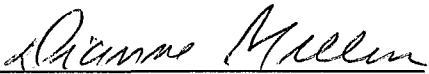


FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY:

2010 OCT 13 PM 2:13


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 86484 C.M.S.

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO EXECUTE A CONSENT TO THE CONVEYANCE BY MACARTHUR TRANSIT COMMUNITY PARTNERS, LLC ("MTCP") TO HINES, OR ONE OF ITS AFFILIATES, OF PARCELS A AND C-1 OF MACARTHUR STATION FOR DEVELOPMENT OF TWO RENTAL RESIDENTIAL/RETAIL BUILDINGS, PURSUANT TO THE TERMS OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND MTCP AND RELYING ON THE PREVIOUSLY CERTIFIED 2008 ENVIRONMENTAL IMPACT REPORT AND 2015 CEQA ADDENDUM PER CEQA GUIDELINES SECTIONS 15162-15164, 15183, 15183.3, 15168 AND 15180, AND SEPARATELY AND INDEPENDENTLY FINDING THE CONVEYANCE IS NOT A "PROJECT" UNDER CEQA

WHEREAS, on June 4, 2008, the City of Oakland Planning Commission (the "Commission") certified the MacArthur Transit Village Environmental Impact Report ("EIR") and recommended approval of MacArthur Station Planned Unit Development ("PUD"); and

WHEREAS, on July 1, 2008, pursuant to Resolution No. 81422 C.M.S., the Oakland City Council ("City Council") approved the MacArthur Station PUD; and

WHEREAS, pursuant to Ordinance No. 12959 C.M.S., dated July 21, 2009, the City Council adopted a Development Agreement ("DA") by and between City of Oakland ("City") and MTCP Regarding the Property and Project Known as "MacArthur Transit Village;" and

WHEREAS, the DA and the Oakland Planning Code require City Council consent to the transfer of development rights to "Non-Exempt Transferees," as defined in the DA; and

WHEREAS, on July 29, 2010, MTCP and San Francisco Bay Area Rapid Transit ("BART") entered into a Purchase and Lease Option Agreement for the sale or lease of BART-owned Property, including a portion of Parcel A and Parcel C-1, both of which are identified in Exhibit A attached hereto and located on the former BART parking lot; and

WHEREAS, MTCP separately acquired other properties along Telegraph Avenue that constitute the remaining portion of Parcel A; and

WHEREAS, MTCP submitted a request to convey its option to purchase BART's portion of Parcel A and Parcel C-1, and MTCP's portion of Parcel A to a different developer; and

WHEREAS, MTCP identified Hines, or one of its affiliates, as the new developer of Parcels A and C-1, and staff has determined that the joint venture has the financial capacity and development experience to deliver the proposed development on Parcels A and C-1; and

WHEREAS, MTCP desires to assign certain of its rights, interests and obligations relating to Parcels A and C-1 under the DA, to the proposed new developer and the City desires to consent to and approve of such assignment; and

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

RESOLVED: That, pursuant to the DA, the City consents to the partial assignment and assumption of the DA relating to Parcels A and C-1 and the transfer and assignment of development rights under the DA for Parcels A and C-1 to Hines, or an affiliate; provided that, for a proposed transfer to a Hines' affiliate, Hines provides the City with its organizational documents sufficient for the City to confirm the affiliate's status; and be it further

RESOLVED: That, pursuant to the DA, the City Administrator or designee is hereby authorized to execute a written consent to the partial assignment and assumption of the DA relating to Parcels A and C-1 and the transfer and assignment of development rights under the DA for Parcels A and C-1 to Hines, or an affiliate; and be it further

RESOLVED: That the City Council finds and determines, after its independent review and consideration, that this action complies with CEQA because the conveyance is not a project under CEQA, and separately and independently the City Council is relying on the previously Certified 2008 EIR and the 2015 CEQA Addendum per CEQA Guidelines Sections 15162-15164, 15180, 15183, 15183.3 and 15168, and that none of the circumstances that require a supplemental or subsequent EIR have occurred; and be it further

RESOLVED: That the City Administrator or designee shall cause to be filed with the County of Alameda a Notice of Determination and/or Exemption for this action; and be it further

RESOLVED: That the City Administrator is further authorized to take whatever action is necessary with respect to the consent to the transfer and assignment of

development rights under the DA consistent with this Resolution and its basic purposes; and be it further

RESOLVED: That all documents necessary to effect the consent to the partial assignment and assumption of the DA related to Parcels A and C-1 and the assignment and transfer of the development rights under the DA with regards to Parcels A and C-1 pursuant to this Resolution shall be reviewed and approved by the City Attorney, and copies shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 29 2016, 2016

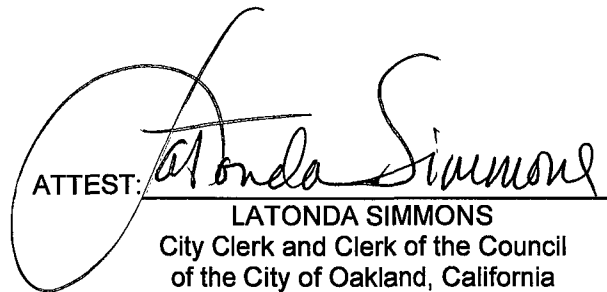
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON McELHANEY →

NOES- ∅

ABSENT- ∅

ABSTENTION- ∅

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California