

2005 SEP 23 PM 6:18

**CITY OF OAKLAND AND
OAKLAND REDEVELOPMENT AGENCY
AGENDA REPORT**

TO: Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: October 11, 2005

RE: **RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT, FOR A TERM OF 90 DAYS FROM COUNCIL ACTION, BETWEEN THE OAKLAND REDEVELOPMENT AGENCY AND FOREST CITY RESIDENTIAL WEST, INC. OR A RELATED ENTITY, TO DEVELOP A MARKET RATE, MIXED-USE PROJECT CONSISTING OF HOUSING AND RETAIL ON A PARCEL BOUNDED BY WILLIAM STREET IN THE NORTH, TELEGRAPH AVENUE ON THE EAST, 19TH STREET ON THE SOUTH AND A NEW PUBLIC PARK ON THE WEST**

SUMMARY

Staff of the Community and Economic Development Agency ("CEDA") is recommending authorization of an Exclusive Negotiating Agreement ("ENA") between the Oakland Redevelopment Agency (ORA) and Forest City Residential West, or a related entity ("Forest City"), for the development of a market-rate, mixed-use project consisting of housing and retail on a property bounded by William Street in the north, Telegraph Avenue on the east, 19th Street on the south and a new public park in the west (the "Parcel"), as shown on Exhibit A. The ENA period would run for a period of 90 days from Council Approval. Staff is recommending that the ENA period commence at the time of Council Approval, rather than at signing of the document, to avoid any delays prior to signing that would create an unduly long period of negotiations inconsistent with the Council's time limit intent.

Item: _____
Community and Economic Development Committee
October 11, 2005

Pursuant to Resolution No. 2004-38 C.M.S., the Agency previously authorized the Agency Administrator to enter into a Lease Disposition and Development Agreement (“the “LDDA”) with Forest City for the development of 700 units of rental housing (the “Uptown Project”), of which 20 percent have to be affordable to households earning no more than 50 percent of the area’s median income (“AMI”). Forest City was going to develop the Uptown Project in 2 phases, with 590 units in the first phase and 110 units in the second Phase. Phase 2 of the project was going to be built on the Parcel.

During the design of the first phase of the Uptown Project, Forest City was able to place additional rental units into first phase of the development. Forest City will construct 665 units of rental housing in the first phase, rather than the original 590 units that were contemplated when the LDDA was authorized last year. As a result, only 35 units remain to be built to meet the 700 unit minimum requirement approved by the Council in its initial approval of the LDDA terms. Rather than construct 35 residential rental units on the Parcel, Forest City has made a proposal to develop at least 100 units of unsubsidized market-rate housing on the Parcel. The housing proposed for the Parcel would be sold as condominiums, with retail on the first floor. Accordingly, Forest City is not seeking any financial assistance for the development of the Parcel.

FISCAL IMPACT

Authorization of the ENA will not commit any expenditure of funds by the Redevelopment Agency. If the project is developed as a market rate development, then there will be a savings to the Agency of up to \$5,866,000, which would have been otherwise allocated to Phase II in the form of site assembly costs, direct gap financing and rebate of net available increment.

BACKGROUND

On July 20, 2004, the Agency approved Resolution No. 2004-38 C.M.S., and the City approved Resolution No. 78728 C.M.S., authorizing the Agency Administrator and the City Administrator to enter into a LDDA, Ground Lease and related documents with Uptown Partners, LLC, predecessor to FC Oakland, a single purpose entity Forest City formed to develop the Project. The LDDA was executed on October 14, 2004.

On June 21, 2005, the Agency approved Resolution No. 2005-33 C.M.S., and the City approved Resolution No. 79313 C.M.S., authorizing the Agency Administrator and the City Administrator to execute certain amendments to the LDDA, Ground Lease and related documents, increasing the property acquisition ceiling from \$14,195,000 to \$16,995,000, and increasing the Agency contribution towards hazardous materials abatement from \$2,585,600 to \$4,085,600.

PROJECT DESCRIPTION

Forest City proposes to develop a market rate residential development with at least 100 units on the Parcel. The Agency would sell the Parcel to Forest City at full market value based on a new appraisal. Forest City proposes to partner with another development company to build for-sale condominium housing and first floor retail. This modification to the development strategy for the second phase of the Uptown Project will reduce the Agency's overall subsidy for the Uptown Project by \$5,866,000 as follows:

1. There will be no rebate of project-generated net available tax increment for the project to be developed on the Parcel, resulting in a savings of approximately \$650,000, which was the amount of net available increment that would have been rebated to Forest City if they had proceeded with the Uptown Project as originally proposed. The Agency will receive the full tax increment generated by a new development on the Parcel.
2. The Agency's direct gap financing assistance will be reduced by approximately \$746,000, which was the amount of gap financing that was committed to the 35 units of housing that will not be developed as part of the Uptown Project as it is now conceptualized.
3. The Agency will sell the Parcel at fair market value rather than contribute the land as required by the approval of the LDDA. The savings will be \$4,470,000, which is the proportionate share of the purchase price which the Agency has allocated for its cost of site assembly.

The total subsidy and public infrastructure contribution by the City/Agency for Uptown Project, exclusive of the Parcel, will be as follows:

Direct Gap Financing	\$12,920,000
Net Available Tax Increment Rebate	11,495,000
Public Park	1,000,000
Off-site Improvements	5,700,000
Hazardous Materials Abatement	4,086,000
Land Assembly	19,300,000
Total	\$54,501,000

During the recommended ENA period Forest City will perform the following tasks:

1. Recruit a partner for development of the project that is experienced in residential condominium development.
2. Provide conceptual plans for at least 100 residential condominiums and first floor retail sufficient for inclusion in a Disposition and Development Agreement ("DDA"), as determined by the Agency staff.

3. Fund an appraisal of the subject property.
4. Provide a tentative schedule for purchase and development of the Parcel.

Forest City has expressed an interest in purchasing the Parcel as soon as possible. Under the business terms for the Uptown Project, Forest City had an option to purchase the land. While that option is not operative because the LDDA is currently being amended and restated, Forest City would like to pursue the purchase option envisioned in the original business terms.

Sale of property to an entity which does not specialize in development of for-sale housing, and requiring partnering with an experienced firm is an approach used recently on the City-Owned T-12 site. On that project, the Council approved sale to Shorenstein at full market value provided they partner with a developer experienced in housing development. The proposed Forest City ENA follows this approach.

Coordination with the Uptown Project

Environmental remediation and construction of 19th and Williams Streets improvements along the Parcel will occur with the development of the Uptown Project. Any Forest City expenditures for these items attributable to the Parcel would be reimbursed to Forest City via an adjustment to the purchase price. The street improvements and remediation will add value to the Parcel, which will be reflected in the appraisal and sale price of the site.

KEY ISSUES AND IMPACTS

The proposed ENA will allow the Agency to reduce the financial assistance provided to the Uptown Project, and recover land assembly cost by selling the Parcel at fair market value. The Agency will also benefit by obtaining a new stream of income from the tax increment associated with development of the Parcel. The Agency Board would retain control over selection of the developer of the for-sale housing through provisions in the DDA.

SUSTAINABLE OPPORTUNITIES

The ENA allows the Agency an opportunity to negotiate sustainable features that could be incorporated into the new project. Such features would be identified in the DDA that--pending successful ENA negotiations --would follow after the ENA period. The DDA would be subject to Agency review and approval prior to execution.

Economic

There are no economic opportunities that apply to the proposed action to execute an ENA. However, if the project proceeds, this redevelopment infill project will take an underutilized and contaminated site and transform it into an economically productive use by building a large housing project that includes a retail component. The development

Item: _____

of the Parcel will contribute to the revitalization of vacant retail sites and stimulate job creation through increased demand for local services and shopping opportunities.

Environmental

There are no sustainable environmental opportunities that apply to this particular action. Sustainable issues would be addressed as part of any DDA resulting from negotiations during the ENA period. Moreover, by developing in already built-up areas, this project would reduce the pressure to construct on agricultural and other undeveloped land, and thereby contribute to the prevention of urban sprawl.

The location of the Parcel in proximity to major public transportation nodes will likely encourage project residents and retail customers to use BART and AC Transit.

Social Equity

There are no social equity opportunities that apply to this particular action. Social equity issues would be addressed as part of any DDA resulting from negotiations during the ENA period. If the project proceeds as a market rate transaction, Forest City will not be required to comply with the City's contracting programs, including the Small/Local Business Construction Program, the Small/Local Business Professional Services Program (L/SLBE) and the Local Employment Program. Forest City would also not be subject to Prevailing Wages and the Living Wage Ordinance.

DISABILITY AND SENIOR CITIZEN ACCESS

This report does not include the approval of any specific projects or programs. Disability and senior access issues will be addressed when specific development plans are submitted to the City by the developer for review and approval.

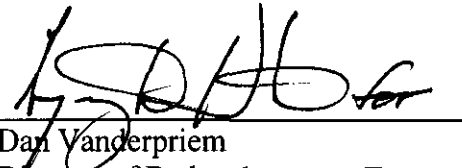
RECOMMENDATION AND RATIONALE

Staff is recommending authorization for the Agency Administrator to negotiate and enter into an ENA for development of market rate housing and retail that would reduce the subsidy to the Uptown Project, provide more housing units in the Uptown Area, and create a stream of income for the Agency through the receipt of tax increment.

ACTION REQUESTED OF THE AGENCY

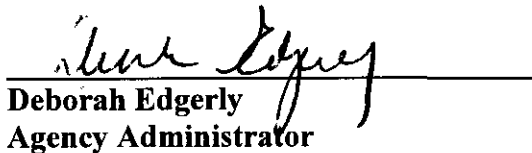
Staff recommends that the Agency adopt a resolution authorizing the Agency Administrator to negotiate and enter into an Exclusive Negotiating Agreement between the Oakland Redevelopment Agency and Developer for a period of 90 days from the date of Council authorization.

Respectfully submitted,



Dan Vanderprie
Director of Redevelopment, Economic
Development, Housing and Community
Development

**APPROVED AND FORWARDED TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE**



Deborah Edgerly
Agency Administrator

Attachments:

1. Map
2. Summary of ENA Provisions

Exhibit B

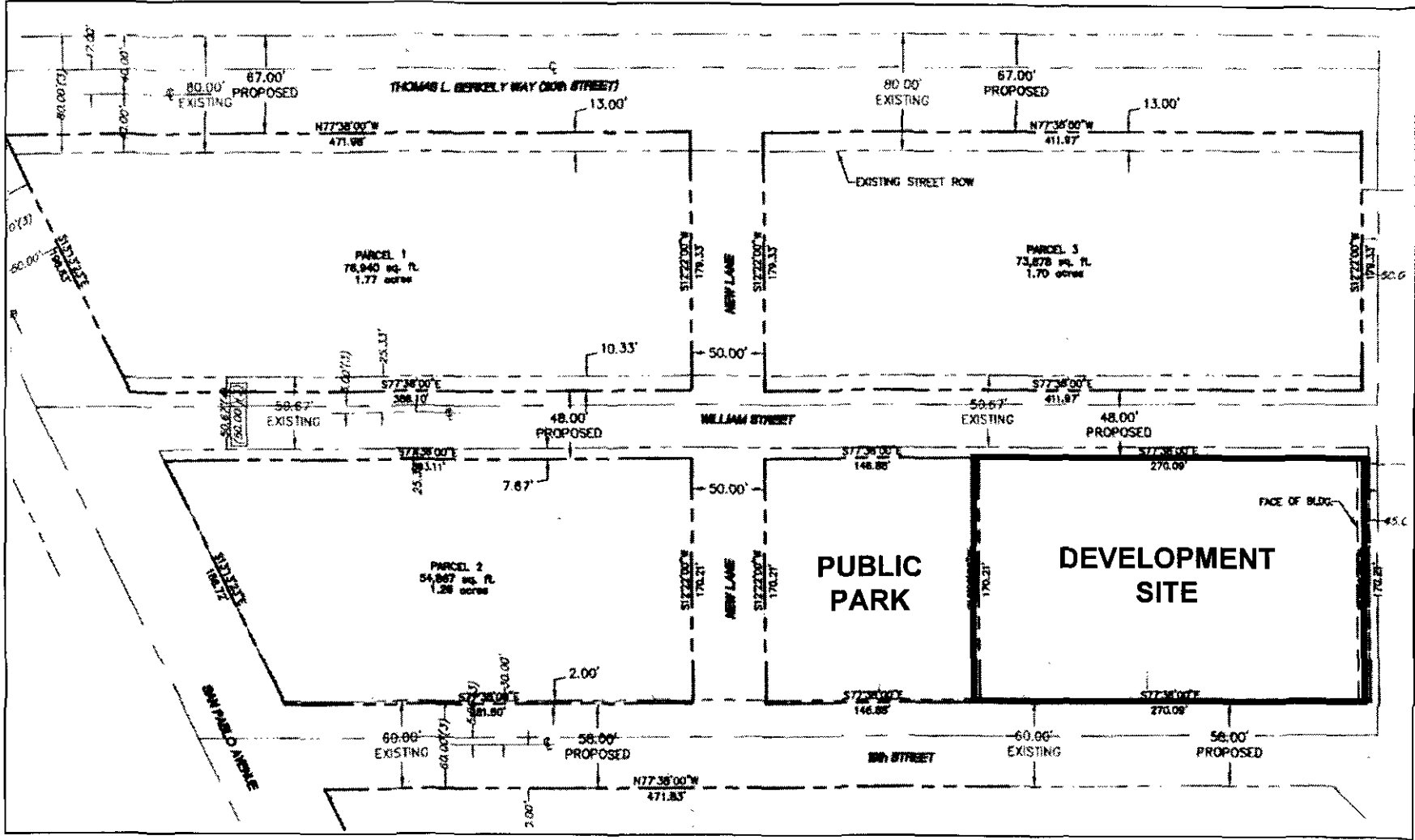
ENA Terms and Performance Schedule

During the recommended ENA period Forest City will perform the following tasks:

1. Recruit a partner for development of the project that is experienced in residential condominium development
2. Provide conceptual plans for at least 100 residential condominiums and first floor retail sufficient for inclusion in a Disposition and Development Agreement, as determined by the Agency staff
3. Fund an appraisal of the subject property
4. Provide a tentative schedule for purchase and development of the property.
5. Negotiate the terms of a Disposition and Development Agreement
6. Analyze the financial feasibility of the Project

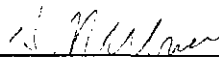
EXHIBIT A

SITE PLAN



2005 SEP 29 PM 6:18

APPROVED AS TO FORM AND LEGALITY:



Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT, FOR A TERM OF 90 DAYS FROM COUNCIL ACTION, BETWEEN THE OAKLAND REDEVELOPMENT AGENCY AND FOREST CITY RESIDENTIAL WEST, INC. OR A RELATED ENTITY, TO DEVELOP A MARKET RATE, MIXED-USE PROJECT CONSISTING OF HOUSING AND RETAIL ON A PARCEL BOUNDED BY WILLIAM STREET IN THE NORTH, TELEGRAPH AVENUE ON THE EAST, 19TH STREET ON THE SOUTH AND A NEW PUBLIC PARK ON THE WEST

WHEREAS, the City of Oakland ("City"), the Redevelopment Agency of the City of Oakland ("Agency") and FC Oakland, Inc., an affiliate of Forest City Residential West, Inc., or other affiliate(s) of Forest City Residential West, Inc., ("FC") are parties to a Lease Disposition and Development Agreement ("LDDA") which contemplates that FC will develop approximately one and a half blocks of land bounded by Thomas L. Berkley Way (formerly 20th) on the north, Telegraph Avenue on the east, 19th St. on the south, and San Pablo Avenue on the west (the "Uptown Project Area") in the Uptown Activity Area of the Central District Urban Renewal Area commonly referred to as the Project Area; and

WHEREAS, the LDDA sets forth the terms and conditions whereby FC may lease and develop the various parcels within the Uptown Project, including a form of a ground lease that will be entered into by the parties (the "Ground Lease"); and

WHEREAS, pursuant to the terms of the LDDA, FC intends to redevelop the Project Area corresponding to Parcels 1, 2, 3 and the Public Park Parcel into a mixed-income housing project and related uses and a public park, as required by the LDDA (the "Project"); and

WHEREAS, pursuant to Resolution No. 2004-38, the Agency's governing body authorized the Agency, if necessary, to enter into a second LDDA for a parcel bounded by William Street in the north, Telegraph Avenue on the east, 19th Street on the south and a new public park in the west (the "Parcel"), as shown on Exhibit A.

WHEREAS, Forest City has proposed to acquire the Parcel at fair market value from the Agency for the purpose of developing a market-rate, mixed-use project consisting of housing and retail; and

WHEREAS, the Agency and Forest City, as the prospective developer, wish to enter into a period of preliminary study and negotiations over the project proposal, understanding that this does not constitute a binding commitment on the part of the Agency to any project or developer for the property; now therefore be it

RESOLVED: That the Agency Administrator or her designee is authorized to negotiate and enter into an Exclusive Negotiating Agreement with Forest City for purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for the development of a mixed-use project including retail and housing in the Uptown Area; and be it further

RESOLVED: That the exclusive negotiating period will be for 90 days, commencing on the date that the Agency's governing body approves the proposed Exclusive Negotiating Agreement ("ENA"); and be it further

RESOLVED: That the ENA shall be reviewed and approved as to form and legality by Agency Counsel prior to execution; and be it further

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it further

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

RESOLVED: That the Agency Administrator or her designee is further authorized to take whatever action is necessary with respect to the Exclusive Negotiating Agreement and the project consistent with this Resolution and its basic purposes:

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

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

EXHIBIT A

SITE PLAN

