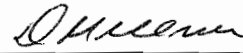


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OFFICE OF THE CITY CLERK
OAKLAND
2009 MAR 11 PM 1:53

APPROVED AS TO FORM AND LEGALITY:



Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 81884 C.M.S.

A CITY RESOLUTION APPROVING AN AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND FC UPTOWN PARCEL 4 LLC, FOR THE DEVELOPMENT OF A MIXED-USE PROJECT AT 1911 TELEGRAPH AVENUE, COMMONLY KNOWN AS THE UPTOWN PROJECT (PHASE 2), TO: (A) EXTEND THE DATE TO PURCHASE THE PROPERTY BY 36 MONTHS; AND (B) PLACE AN AMOUNT OF UP TO \$70,000 FROM THE SALES PROCEEDS IN ESCROW TO REIMBURSE FC UPTOWN PARCEL 4 LLC FOR CERTAIN HAZARDOUS MATERIALS ABATEMENT COSTS TO BE INCURRED IN DEVELOPING THE PROJECT

WHEREAS, pursuant to Resolution No. 79910 C.M.S, the City approved a Disposition and Development Agreement ("DDA") between the Redevelopment Agency of the City of Oakland (Agency) and FC Uptown Parcel 4 LLC (FC Uptown) for the development of a mixed-use project at 1911 Telegraph Avenue (Property), commonly known as the Uptown Project (Phase 2) (the "Project"); and

WHEREAS, the DDA sets forth the terms and conditions whereby FC Uptown may purchase and develop the Property; and

WHEREAS, the parties to the DDA desire to amend certain terms of the DDA including, among other things, to (1) extend the date to purchase the Project by thirty-six months until July 31, 2011; and (2) place an amount of up to \$70,000 from the sales proceeds in escrow to reimburse FC Uptown for certain hazardous materials abatement costs in to be incurred by FC Uptown in connection with the development of the Property; and

WHEREAS, the City is the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), and

WHEREAS, an Environmental Impact Report (EIR) (certified by the Planning Commission on February 18, 2004) , has been prepared for the Uptown Mixed-Use

Project, including the Property, as proposed by Forest City, and has been independently reviewed and considered by the City in evaluating the Uptown Mixed-Use Project in compliance with CEQA, The Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State EIR Guidelines"), and the City's Environmental Review Regulation; and

WHEREAS, the City, based on its review of the Planning Commission's action with respect to the Final EIR and other substantial evidence in the record, found and determined that the Final EIR for the Uptown Mixed-Use Project examined a reasonable range of alternatives, and that each alternative was rejected as feasible for various reasons; and

WHEREAS, the City adopted statements of overriding consideration specified in CEQA Guidelines §§ 15091, 15092 and 15093; and found and determined that the important benefits of the Uptown Mixed-Use Project identified in the Statement of Overriding Considerations each separately and independently outweigh the adverse environmental effects of the Uptown Mixed-Use Project; and

WHEREAS, on July 20, 2004, the City approved the Uptown Mixed-Use Project and a Notice of Determination was subsequently filed with Alameda County; and

WHEREAS, in March of 2006, the City of Oakland, as the Lead Agency for the Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), prepared Addendum #1 to the Final EIR for the Uptown Mixed-Use Project, which specifically analyzed the potential for any new and/or increased environmental impacts related to relocating a 23-story tower element from Parcel 3 to Parcel 4 (which comprises the "Property") of the Uptown Mixed-Use Project Area, and includes analysis of cultural resources, aesthetics, and transportation, among other topics; and

WHEREAS, based on the analysis contained in the Final EIR and Addendum #1, there are no changes to the project or the circumstances under which the project will be undertaken, or new information of substantial importance, as specified in CEQA and the State EIR Guidelines, including without limitation, Public Resources Code Section 21166 and State EIR Guidelines Section 15162 and 15163, that require preparation of a subsequent or supplemental EIR; and

WHEREAS, the City independently reviewed and considered the findings and conclusions of Addendum #1 to the Final EIR for the Uptown Mixed-Use Project for applicability to the proposed amendment; and

WHEREAS, the EIR and Addendum #1 reflect the City's independent judgment and analysis; 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 proposed amendment to the DDA; and

WHEREAS, notice of the amendment to the DDA 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 Agency approved the amendment to the DDA by resolution after the public hearing; now, therefore, be it

RESOLVED: That the City hereby finds and determines (1) that it has been presented and has independently reviewed and considered the information contained in the previously certified Final EIR and Addendum #1, and (2) that none of the changes to the Uptown Mixed-Use Project, or circumstances under which it will be undertaken, or new information of substantial importance require preparation of a subsequent or supplemental EIR, as specified in CEQA and the State EIR Guidelines, including without limitation, Public Resources Code Section 21166 and State EIR Guidelines Section 15162 and 15163; and be it further

RESOLVED: That the City finds and determines that this Resolution complies with CEQA and that the City Administrator or his or her designee is directed to file a Notice of Determination with the appropriate agencies within five (5) working days of this Resolution in accordance with CEQA guidelines; and be it further

RESOLVED: That the City hereby approves the amendment to the DDA including, among other things, to (1) extend the date to purchase the Project by thirty-six months until July 31, 2011; and (2) place an amount of up to \$70,000 from the sales proceeds in escrow to reimburse FC Uptown for certain hazardous materials abatement costs to be incurred by FC Uptown in connection with the development of the Property, subject to and on the terms and conditions of the DDA; and be it further

RESOLVED: That the record before the City on this matter includes the information set forth in the Public Resources Code § 21167.6(e), including, without limitation, all final staff reports and final documentation and information produced by or on behalf of the City or Agency including without limitation the Draft EIR, the Final EIR and Addendum #1 for the Uptown Mixed-Use Project and supporting final technical studies and appendices, and all related and supporting material, and all final notices relating to the Uptown Mixed-Use Project and attendant hearings and meetings; all oral and written evidence received by the City Planning Commission, the Agency and City Council during the public hearings on the Uptown Mixed-Use Project; all written evidence received by relevant City and Agency staff before and during public hearings on the Project and appeal; and all matters of common knowledge and all official enactment of the City and Agency such as the General Plan and Oakland Municipal Code, other applicable City policies and regulations and all applicable state and federal laws, rules and regulations; and be it further

RESOLVED: That any and all documents necessary to effectuate the intent of this resolution shall be reviewed and approved as to form by the City Attorney prior to execution by the City Administrator or his designee; 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 City'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.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 31 2009, 2009

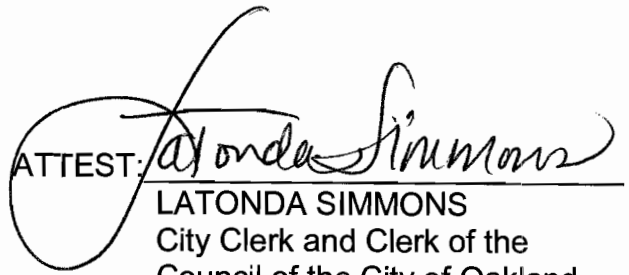
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN,
REID AND PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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