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APPROVED AS TO FORM AND LEGALITY:



Agency Counsel

REVISED

REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND

2006-0041

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**AGENCY RESOLUTION AUTHORIZING THE SALE OF REAL  
PROPERTY LOCATED ON A BLOCK BOUNDED BY TELEGRAPH  
AVENUE, WILLIAMS STREET, A NEW PUBLIC PARK AND 19<sup>TH</sup>  
STREET TO FOREST CITY RESIDENTIAL WEST, INC. FOR  
\$6,900,000 FOR A MIXED-USE 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 survey (project) area or for purposes of redevelopment to sell real property, and 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 Central District Urban Renewal Plan adopted on June 12, 1969, as subsequently amended, as well as the Five-Year Implementation Plan for the Central District (2004-2009) (together, the "Central District Redevelopment Plan" or "Redevelopment Plan"), authorizes the Redevelopment Agency to sell land in the Central District Redevelopment Project Area (the "Central District"); and

**WHEREAS**, the Redevelopment Agency ("Agency") and City of Oakland ("City") have initiated the "10K Downtown Housing Program" to attract ten thousand new residents into the Central District, and the Agency has determined that it desires to encourage new housing development in part by offering Agency-owned land to developers for the construction of new housing; and

**WHEREAS**, the Agency owns the property bounded by Telegraph Avenue, William Street, a New Public Park and 19th Street, more fully described in Exhibit A-1 and A-2 attached to this Resolution (the "Property"), which is located in the Uptown Mixed-Use Project area within the Uptown Activity Area of the Central District Redevelopment Project Area; and

**WHEREAS**, on October 18, 2005, the Agency approved Resolution 2005-61 C.M.S., authorizing the Agency Administrator to enter into an Exclusive Negotiating Agreement (ENA) with Forest City Residential West, Inc., or an affiliated entity ("Forest City"), for a term of ninety (90) days for purposes of preliminarily evaluating the feasibility of, and negotiating terms and conditions for the development of a mixed-use project including retail and housing on the Property; and

**WHEREAS**, said ENA term was extended by another 104 days for a total terms of 194 days pursuant to the Agency Resolution 2006-0 C.M.S.; and

**WHEREAS**, Forest City, or an affiliated entity, desires to purchase the Property from the Agency in order to develop a mixed-use project consisting of at least 120 units of rental or for-sale housing, along with an approximately 20,000 square-foot retail component (the "Project"); and

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

**WHEREAS**, the DDA requires that Forest City 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 Forest City, or Forest City's affiliate, adequately condition the sale of the Property on the redevelopment and use of the Property in conformity with the Central District Redevelopment Plan, and such documents prohibit discrimination in any aspect of the Project as required under the Central District Redevelopment Plan and the California Community Redevelopment Law; and

**WHEREAS**, the Project uses are in conformity with the Central District Redevelopment Plan, the Project will assist in the elimination of blight in the Central District Redevelopment Area, and the Project will help meet the objectives of the Central District Redevelopment Plan; and

**WHEREAS**, the California Community Redevelopment Law (Health & 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 contained 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 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 City, as the Lead Agency for the Uptown Mixed-Use Project, for purposes of environmental review under the CEQA, previously prepared a focused Environmental Impact Report ("EIR") for the Uptown Mixed-Use Project as proposed by Forest City, which covered the Property, analyzing the significant environmental effects and mitigation measures in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq.; and

**WHEREAS**, on February 18, 2004, the Oakland Planning Commission in accordance with CEQA Guidelines § 15090 certified that the Final EIR for the Uptown Mixed-Use Project was completed in compliance with CEQA and 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 Regulations; and

**WHEREAS**, the Agency independently reviewed and considered the information contained in the Final EIR of the Uptown-Mixed Use Project; and

**WHEREAS**, the Agency, 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 infeasible for various reasons; and

**WHEREAS**, the Agency found and determined that all adverse environmental effects of the Uptown Mixed-Use Project would be less than significant or reduced to less-than-significant levels after adoption and implementation of the mitigation measures identified in the EIR and the mitigation and monitoring program; and

**WHEREAS**, the Agency 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 unavoidable environmental effects of the Uptown Mixed-Use Project; and

**WHEREAS**, on July 20, 2004, the Agency 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, as the Lead Agency for this Project for purposes of environmental review under CEQA, prepared Addendum #1 to the Final EIR for the Uptown Mixed-Use Project; and

**WHEREAS**, Addendum #1 to the Final EIR for the Uptown Mixed-Use Project specifically analyzed the potential for any new and/or increased environmental impacts related to relocating a 23-story tower element from Parcel 3 to the Property within the Uptown Mixed-Use Project area, and also included analysis of cultural resources, aesthetics, and transportation, among other topics, and;

**WHEREAS**, Addendum #1 to the Final EIR for the Uptown Mixed-Use Project concluded that (1) the currently proposed Project fits within the development envelope previously reviewed in the Final EIR (it represents a reorganization of previously considered development on the Property); (2) existing conditions have not changed substantially since approval of the Final EIR to require any new analysis under CEQA; and (3) no new information of substantial importance has come to light that would alter the previously prepared analysis or conclusion included in the Final EIR. Therefore, preparation of a subsequent or supplemental EIR is not required, 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

**WHEREAS**, the Agency independently reviewed and considered the findings and conclusions of Addendum #1 to the Final EIR of the Uptown Mixed-Use Project for applicability to the proposed Project; now, therefore, be it

**RESOLVED**: That the Agency 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 for the Uptown Mixed-Use Project and Addendum #1, and that the EIR and Addendum #1 comply with CEQA and the CEQA Guidelines for analysis of the Project's environmental effects and mitigation measures; (2) that the mitigation measures adopted by the Agency in considering the Final EIR for the Uptown Mixed-Use Project, are hereby adopted for the Project, on the basis of substantial evidence in the record that the Final EIR for the Uptown Mixed-Use Project and Addendum #1 fully analyze the potential environmental effects of the Project and incorporate mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA; and (3) that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Project or the circumstances under which the Project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); and be it further

**RESOLVED**: That the Agency hereby finds and determines that the sale of the Property by the Agency to Forest City for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will

increase the stock of housing in the Central District, and reestablish residential areas for all economic levels within the Central District; (2) the Project will provide necessary neighborhood-serving commercial facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24-hour residential community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key vacant and underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant residential and commercial property values in the surrounding areas, 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; and be it further

**RESOLVED:** That the Agency hereby authorizes the Agency Administrator or her designee to sell the Property to Forest City, or an affiliated entity, for the purchase price of \$6.9 million, subject to and on the terms and conditions of the DDA; and be it further

**RESOLVED:** That the Agency finds and determines that the purchase price of \$6.9 million equals or exceeds 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 Agency may pay for its share of closing costs related to the transfer of the Property from the sales proceeds of \$6.9 million generated by the transaction; and

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

- The purchase price on \$6.9 million is to be paid in the form of cash at the close of escrow;
- Forest City or Forest City's affiliate to purchase the Property in its "as-is" condition;
- Forest City or Forest City's affiliate to comply with the provisions of the Central District Redevelopment Plan and nondiscrimination provisions of redevelopment law;
- The Plans and Specifications for the Project to be reviewed and approved by the Agency;
- Transfer of the Property 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;
- Project to be restricted to residential, retail and parking uses;
- Project to include at least 20,000 square feet of retail use;
- Any other appropriate terms and conditions as the Agency Administrator or his or her designee may establish in her or her discretion or as the California Community Redevelopment Law or the Redevelopment Plan may require;

and be it further

**RESOLVED:** That the land sale proceeds after deduction of the Agency's share of closing costs shall be deposited into the Agency's Unrestricted Land Sale Proceeds fund (Fund 9553) Capital Improvement Project – Economic Development Organization (#94800), Agency Revenue Account (#48111); and be it further

**RESOLVED:** That the Agency hereby authorizes the Agency Administrator or her designee to negotiate and execute a DDA for the Project with Forest City, or an affiliated entity; and be it further

**RESOLVED:** That: (1) Agency staff and Forest City, in their reasonable good-faith business judgment based on market conditions, shall increase the number of residential units as much as possible in the Project; and (2) Agency staff will report back to the Agency's Governing Body regarding the foregoing determination and the final number of residential units that have been included in the Project; 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 Agency Counsel prior to execution by the Agency Administrator or her designee, and copies will be placed on file with the Agency Secretary; and be it further

**RESOLVED:** That the Agency 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 record before the Agency 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 and the Final EIR 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 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 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 the Agency 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 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 & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, **MAY 16 2006**, 2006

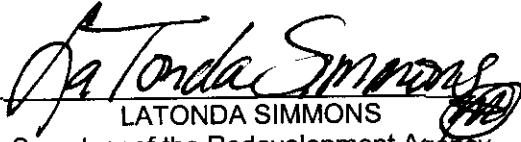
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS , BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND CHAIRPERSON DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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

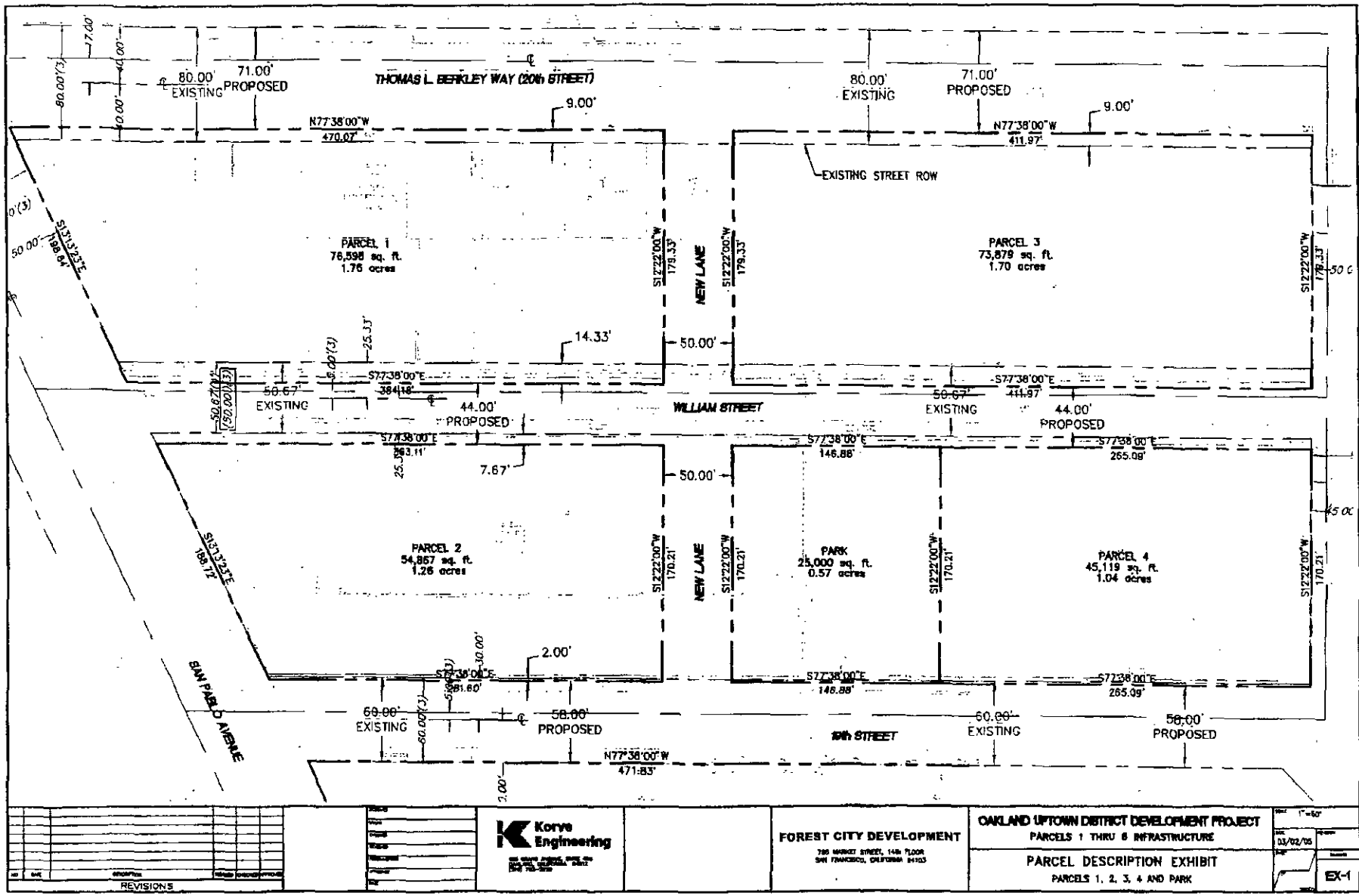
**EXHIBIT A-1**

**LEGAL DESCRIPTION OF THE PROPERTY**

**BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF TELEGRAPH AVENUE WITH THE SOUTHERLY LINE OF WILLIAM STREET; THENCE SOUTHERLY ALONG SAID LINE OF TELEGRAPH AVENUE SOUTH 12 DEGREES 22 MINUTES WEST, 170.21 FEET TO THE NORTHERLY LINE OF 19<sup>TH</sup> STREET; THENCE WESTERLY ALONG SAID LINE OF 19<sup>TH</sup> STREET, NORTH 77 DEGRESS 38 MINUTES WEST, 265.09 FEET; THENCE NORTH 12° 22' EAST, 170.21 FEET TO THE SOUTHERLY LINE OF WILLIAMS STREET; TEHNCE EASTERLY ALONG SAID LINE OF WILLIAM STREET SOUTH 77 DEGREES 38 MINUTES EAST, 265.09 FEET TO THE POINT OF BEGINNING.**

**CONTAINING 1.04 ACRES MORE OR LESS**





NO.	DATE	DESCRIPTION	BY	CHECKED


**Korve Engineering**

300 MARKET STREET, 14th FLOOR  
SAN FRANCISCO, CALIFORNIA 94103

**FOREST CITY DEVELOPMENT**

300 MARKET STREET, 14th FLOOR  
SAN FRANCISCO, CALIFORNIA 94103

**OAKLAND UPTOWN DISTRICT DEVELOPMENT PROJECT**

PARCELS 1 THRU 6 INFRASTRUCTURE

**PARCEL DESCRIPTION EXHIBIT**

PARCELS 1, 2, 3, 4 AND PARK

DATE: 03/02/05

SCALE: 1"=50'

EX-1

ATTACHMENT A-2