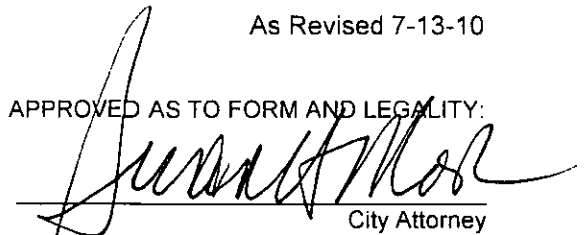


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As Revised 7-13-10

APPROVED AS TO FORM AND LEGALITY:


City Attorney

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AN AGENCY RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A GROUND LEASE WITH SAN JOSE ARENA MANAGEMENT, LIMITED LIABILITY CORPORATION FOR UP TO 39 MONTHS TO IMPROVE THE AGENCY'S REAL PROPERTY AT 1800 SAN PABLO AVENUE, AND OPERATE A PARKING LOT TO SUPPORT THE OPERATION OF THE OAKLAND ICE CENTER

WHEREAS, the Redevelopment Agency ("Agency") owns property located at 1800 San Pablo Avenue ("Property") in the Uptown Activity Area of the Central District Redevelopment Project Area; and

WHEREAS, the Property consists of a surface parking lot; and

WHEREAS, San Jose Arena Management, LLC (SJAM), the current management company of the Agency-owned Oakland Ice Center (OIC), which is located across the street from the Property, has proposed to enter into a ground lease ("Ground Lease") with the Agency for the Property for up to thirty-nine (39) months, make certain repairs and improvements to the Property and operate a surface parking lot in order to provide off-street parking for patrons of the OIC and other businesses in the area during the Ground Lease term (the "Project"); and

WHEREAS, SJAM will use its own capital for implementation of the Project, and will receive repayment from the net revenues generated by the Parking Operation on the Property; and

WHEREAS, the Agency will receive 50 percent of all net revenues from the parking operations once SJAM has fully recovered its initial capital investment plus interest thereon; 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 for applicability to the proposed 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 concluded that (1) the reconfigured Uptown Mixed-Use 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; (2) that the mitigation measures and conditions of approval adopted by the Agency in considering the Final EIR for the Uptown Mixed-Use Project, are hereby adopted for the Project, as well as additional standard conditions of approval (as adopted by the Oakland City Council on June 14, 2005 by Resolution No. 2005-0359 C.M.S. and Resolution No. 2005-0359-1 C.M.S., and included as Exhibit A to this resolution) that have been determined to apply to this project. To the extent that any such standard condition of approval is inconsistent with other terms and conditions imposed on the project through the Uptown Mixed Use Project EIR and/or project approvals, the standard condition of approval shall apply unless a more specific or more effective condition or mitigation has been applied to the Uptown Mixed Use Project EIR; 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 for the Uptown Mixed-Use 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 finds and determines that this Resolution complies with CEQA and 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 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, 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 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 Redevelopment Agency hereby authorizes the Agency Administrator or his designee to negotiate and execute a Ground Lease with SJAM to make certain improvements and repairs to, and operate the surface parking lot for a term of up to thirty-nine (39) months under the following terms and conditions:

1. SJAM shall pay a \$1,000 annual Ground Lease payment to the Agency.
2. SJAM shall be responsible for paying the entire cost for the Project.
3. SJAM shall retain all net operating revenue from the Project until it has fully recovered its investment to repair and improve the parking lot in the Project in the maximum amount of \$370,000 ("Investment").
4. Agency and SJAM shall equally share all net operating revenue from the Project after SJAM has fully recovered its Investment.
5. If Agency must terminate the Ground Lease prior to the end of the 39-month term, then the Agency will reimburse SJAM for the amount of the Investment that has not been recovered from net revenue from the operation of the parking lot in the Project and the \$78,000 annual contribution from Oakland Ice Center gross revenue currently being paid to the owner of the Rotunda garage.
6. The amount of Agency reimbursement shall be the lesser of a) one thirty-sixth (1/36th) of the Investment, plus accrued interest at a rate not to exceed ten (10) percent per annum, for each month, or daily fraction thereof, that the Ground Lease is terminated early, or b) the remaining balance on the debt SJAM entered into to finance the Investment that is outstanding at the time of early termination of the Ground Lease. However, under no circumstances, shall the Agency be obligated to reimburse SJAM more than \$370,000.

and be it further

RESOLVED: That the Agency Administrator is hereby authorized to take any other action with respect thereto consistent with this Resolution and its basic purpose; and be it further

RESOLVED: That the Agency's share of net revenue from operation of the parking lot be deposited into Fund 9553 - Unrestricted Land Sale Proceeds, Organization 94800 - Capital Improvement Project – Economic Development; 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 be it

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, _____, 2010

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

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