

OAKLAND CITY COUNCIL


City Attorney

RESOLUTION No. 83498 C.M.S.

Introduced by Councilmember _____

RESOLUTION CONSENTING TO A NON-AFFILIATE TRANSFER OF SITE C (LOCATED AT 10 CLAY STREET) RELATING TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND, JACK LONDON SQUARE PARTNERS LLC, AND CEP-JLS I LLC, DATED JULY 6, 2004 (DA) TO 10 CLAY STREET LLC PURSUANT TO THE DEVELOPMENT AGREEMENT AND PLANNING CODE SECTION 17.138.080 (DEVELOPMENT AGREEMENT PROCEDURE)

WHEREAS, the City of Oakland Planning Commission certified the Jack London Square Redevelopment Environmental Impact Report (EIR) on March 17, 2004; and

WHEREAS, the City of Oakland Planning Commission, on March 17, 2004, recommended approval of the Jack London District Preliminary Development Plan; Final Development Plans for Sites C, D, Pavilion 2, 66 Franklin, F1, F2, F3 and G; Major Variance for Fast Food Restaurant Commercial Activities; Major Conditional Use Permit for the hotel use on Site F-3, the two pedestrian bridges and a reduction in parking due to the shared parking provisions; Development Agreement; and Re-zoning for the Project on Site G (M-20 to C-45) and Sites F-2 and F-3 (R-80 to C-45); and

WHEREAS, the Oakland City Council, on June 15, 2004, approved the Jack London District: Preliminary Development Plan; Final Development Plans for Sites C, D, Pavilion 2, 66 Franklin, F1, F2, F3 and G; Major Variance for Fast Food Restaurant Commercial Activities; and Major Conditional Use Permit for the hotel use on Site F-3, the two pedestrian bridges and a reduction in parking due to the shared parking provisions; and

WHEREAS, the Oakland City Council, on July 6, 2004, adopted the “Development Agreement Between the City of Oakland, Jack London Square Partners LLC, and CEP-JLS I LLC (the developer)” (DA) (Ordinance No. 12613 CMS) and Re-zoned the Project on Site G (M-20 to C-45) and Sites F-2 and F-3 (R-80 to C-45) (Ordinance No. 12612 CMS);; and

WHEREAS, the DA and Planning Code require City Council consent to Non-Affiliate transfers of interest, as defined in the DA; and

WHEREAS, Ellis Partners, on behalf of the developer, submitted a letter to the City of Oakland on June 10, 2011, requesting consent to a Non-Affiliate transfer of interest in Jack London District Site C; and

WHEREAS, under the California Environmental Quality Act (CEQA) Guidelines Section

15162, no subsequent environmental review is required unless the project has changed substantially, the circumstances under which the project would occur have changed substantially, or new information demonstrates that any potential environmental impacts would be substantially more severe than previously demonstrated; and

WHEREAS, In reviewing the currently proposed transfer of interests, staff has determined that none of the circumstances necessitating further environmental review under CEQA Guidelines Section 15162 are present. The reasons for this determination include, among others, the following: (1) the currently proposed transfer of interest does not affect development envelope previously reviewed in the EIR and is not a change in the project that involves any new significant effects or a substantial increase in the severity of previously identified significant effects; (2) circumstances under which the project is undertaken have not occurred that will involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (3) no new information has come to light that would involve new or substantially more severe effects or feasible alternatives or mitigation measures; and

WHEREAS, the matter came before the Community & Economic Development Committee on July 12, 2011, which recommended approval of the Project; and

WHEREAS, the matter came before the City Council at a duly noticed public hearing on July 19, 2011; now, therefore be it

RESOLVED: That the City Council, having independently heard, considered and weighed all the evidence in the record and being fully informed of the Applications and the Planning Commission's decision on the Project, hereby finds that, in accordance with CEQA Section 15162, none of the circumstances requiring preparation of a subsequent or supplemental EIR are present and consents to the transfer of interest from the Developer to the Transferee; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator to provide written consent to the proposed transfer and take such other steps as may be necessary and appropriate for the transfer to be completed; and be it

FURTHER RESOLVED: That the decision is based, in part, on the July 12, 2011 CEDC Report and 2004 certified EIR, which are all hereby incorporated by reference as if fully set forth herein, and be it

FURTHER RESOLVED: That the City Council independently finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

FURTHER RESOLVED: That the record before this Council relating to the Project Applications includes, without limitation, the following:

1. the Project Applications, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the EIR and supporting technical

- studies, all related and/or supporting materials, and all notices relating to the Project Applications and attendant hearings;
4. all oral and written evidence received by the City staff, the Planning commission, and the city Council before and during the public hearings on the Project Applications; and
 5. all matters of common knowledge and all official enactments and acts of the city, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; 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 Council's decision is based are respectively; (a) Community and Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, California, and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 19 2011, 20

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT

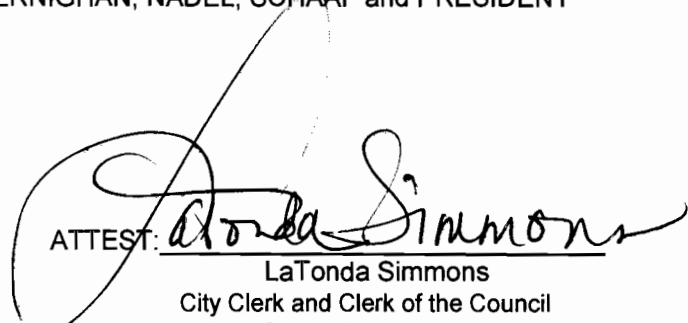
REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



LaTonda Simmons

City Clerk and Clerk of the Council
of the City of Oakland, California