

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2006 APR 11 PM 1:21

APPROVED AS TO FORM AND LEGALITY:



Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 79910 C.M.S.

**RESOLUTION APPROVING THE SALE OF REAL PROPERTY
LOCATED ON A BLOCK BOUNDED BY TELEGRAPH AVENUE,
WILLIAMS STREET, A NEW PUBLIC PARK AND 19TH STREET TO
FOREST CITY RESIDENTIAL WEST, INC. FOR \$6,900,000 FOR A
MIXED-USE 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

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, 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, 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, Agency 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 Central District Urban Renewal 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, 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 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 is the Lead 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 City independently reviewed and considered the information contained in the Final EIR of the Uptown-Mixed Use Project; 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 infeasible 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 unavoidable 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, 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 (which is identified as Parcel 4 in the Addendum #1) 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 City 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; and

WHEREAS, the Final EIR of the Uptown Mixed-Use Project and Addendum #1 reflect the City's independent judgment and analysis; 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 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 City 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 City 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 City 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 City's employment and contracting programs do not apply; and be it further

RESOLVED: That the City hereby approves the sale of the Property by the Agency 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 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, and copies will be placed on file with the City Clerk; 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 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 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 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 & 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 COUNCIL, OAKLAND, CALIFORNIA, MAY 16 2006, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

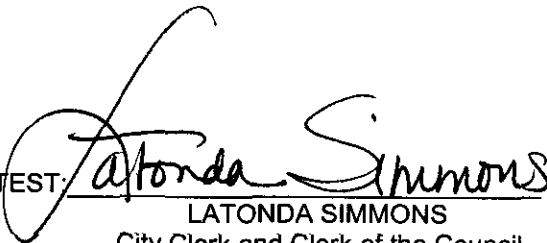
ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

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 19TH STREET; THENCE WESTERLY ALONG SAID LINE OF 19TH STREET, NORTH 77 DEGREE 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

