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OFFICE OF THE CITY CLERK
OAKLAND

2017 AUG 29 PM 2:59

APPROVED AS TO FORM AND LEGALITY:



Agency Counsel

OAKLAND REDEVELOPMENT SUCCESSOR AGENCY

Resolution No. 2017-2017 006

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE OWNER PARTICIPATION AGREEMENT ("OPA") BETWEEN THE OAKLAND REDEVELOPMENT SUCCESSOR AGENCY AND BXP MACARTHUR LLC, A DELAWARE LIMITED LIABILITY COMPANY, OR AN AFFILIATED ENTITY, TO EXTEND THE OPA DATE FOR COMPLETION OF PROJECT CONSTRUCTION FROM 24 MONTHS TO 36 MONTHS FOLLOWING COMMENCEMENT OF PROJECT CONSTRUCTION, RELYING ON THE 2008 MACARTHUR STATION PROJECT ENVIRONMENTAL IMPACT REPORT AND ADDENDA, AND OTHER DOCUMENTS, FINDING THAT NO ADDITIONAL ENVIRONMENTAL REVIEW IS NEEDED PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15162-15164, 15168, 15180, 15183, 15183.3 AND 15061, AND ADOPTING RELATED CEQA FINDINGS

WHEREAS, the Oakland Redevelopment Successor Agency's (ORSA), predecessor in interest to the Oakland Redevelopment Agency, entered into that certain Owner Participation Agreement (OPA) with MacArthur Transit Community Partners (MTCP) dated February 24, 2010, as amended by a First Amendment to the OPA dated March 2, 2011, and as further amended by a Second Amendment to the OPA dated December 1, 2016, and as further amended by a Third Amendment to the OPA dated June 29, 2017, for the phased development of the MacArthur BART Station Project; and

WHEREAS, on March 21, 2017, ORSA approved Resolution No. 2017-002 C.M.S., consenting to the partial assignment of the OPA between ORSA and MTCP to BXP MacArthur LLC (BP Mac) for development of Parcel B at the MacArthur BART Station; and

WHEREAS, the terms of the OPA require BP Mac to complete project construction on Parcel B within 24 months from the date of construction commencement; and

WHEREAS, BP Mac has requested that the construction completion deadline be extended by 12 months or from 24 to 36 months because they are planning to build a high-rise 24-story residential tower with over 400 units and up to 13,000 square feet of

retail space (the "Project"), which requires more time to build than the smaller low-rise project originally anticipated for Parcel B; and

WHEREAS, ORSA desires to grant BP Mac, or an affiliate, an extension of 12 months, or from 24 to 36 months, to complete construction of the Project on Parcel B;

Now therefore be it

RESOLVED: That ORSA, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before ORSA, that none of the circumstances necessitating further CEQA review are present for the reasons stated in the February 1, 2017 Planning Commission Report and Attachments (Planning Commission Report), the February 28, 2017 Community and Economic Development Committee Agenda Report and Attachments (City Council Report), the March 14, 2017 Community and Economic Development Committee Agenda Report and the September 12, 2017 Community and Economic Development Report, all hereby incorporated by reference as if fully set forth herein. ORSA also adopts the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program contained in the Planning Commission Report and City Council Report, hereby incorporated by reference as if fully set forth herein; and be it further

RESOLVED: That ORSA finds and determines that this action complies with CEQA, adopts the CEQA findings contained in the Planning Commission Report, the City Council Report and the September 12, 2017 Community and Economic Development Committee Agenda Report (all hereby incorporated by reference as if fully set forth herein), and directs that the Agency Administrator or designee shall cause to be filed with the appropriate entities a Notice of Determination and/or Exemption for this action; and be it further

RESOLVED: That the OPA with BP Mac, or an affiliate, be amended to extend the performance deadline for the completion of construction on Parcel B by 12 months or from 24 months to 36 months following commencement of construction of the Project on Parcel B; and be it further

RESOLVED: That the Successor Agency Administrator or designee is further authorized to take whatever action is necessary to negotiate and execute an amendment to the OPA and any other document necessary to extend the development completion deadline; and be it further

RESOLVED: That the record before ORSA relating to this Resolution includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;

3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City, including all CEQA-related materials;

4. all oral and written evidence received by the City staff, Planning Commission, and ORSA before and during the public hearings on the application; and

5. all matters of common knowledge and all official enactments and acts of ORSA, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) the Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, 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 ORSA's decision is based are respectively: (a) the Planning and Building Department, Planning Bureau, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (b) the Office of the ORSA Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it further

RESOLVED: That all documents necessary to effect the OPA amendment made pursuant to this Resolution shall be reviewed and approved by the City Attorney, and copies shall be placed on file with the ORSA Clerk.

OCT 03 2017

ORSA, OAKLAND, CALIFORNIA, _____, 2017

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON McELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID *8*

NOES- *0*

ABSENT- *0*

ABSTENTION- *0*

ATTEST:

[Signature]

LATONDA SIMMONS
Agency Clerk and Clerk of the Council
of the City of Oakland, California