


 OFFICE OF THE Agency Counsel
 OAKLAND

**REDEVELOPMENT AGENCY
 OF THE CITY OF OAKLAND**

2004 DEC 29 PM 12:49

RESOLUTION NO. 2005-0007 C.M.S.

**A RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY
 LOCATED AT 1728 SAN PABLO AVENUE FOR \$1.3 MILLION TO
 SILVER SOUND ELECTRONICS, INC., FOR REHABILITATION AS A
 RETAIL AND OFFICE 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, 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 (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 of the City of Oakland (the "Agency") is actively involved in eliminating blight and encouraging retail and office development within the Central District; and

WHEREAS, the Agency has been implementing the Uptown Redevelopment Plan to attract residential, commercial and retail developments into the Central District, and the Agency has determined that it desires to encourage new retail and commercial development by offering Agency-owned properties to developers for development and rehabilitation; and

WHEREAS, the Agency owns the building at 1728 San Pablo Avenue and known as the Cal-Art Building, more fully described in Exhibit A attached to this Resolution (the "Property"), located within the Central District; and

WHEREAS, Silver Sound Electronics, Inc., desires to purchase the Property from the Agency in order to rehabilitate and use the building as a retail and associated office project consisting of between 8,000 and 9,000 square feet of retail space and 2,000 to 3,000 square feet of associated office space (the "Project"); and

WHEREAS, staff has negotiated and proposes entering into a Disposition and Development Agreement ("DDA") with Silver Sound Electronics Inc., which sets forth the terms and conditions of the sale of the Property to Silver Sound Electronics, Inc., or its affiliate and governs the development of the Project and the use of the Property by Silver Sound Electronics, Inc., and any successors to the Property subsequent to sale through recorded covenants running with the land; and

WHEREAS, the DDA provides that the Agency will sell the Property to Silver Sound Electronics, Inc., at its fair marketed value appraisal of \$1.3 million; and

WHEREAS, the DDA requires that Silver Sound Electronics, Inc., or its affiliate construct and operate the Project consistent with the Redevelopment Plan and restricts the use of the Property to retail and commercial uses; and

WHEREAS, the DDA and the grant deed that will convey the Property to Silver Sound Electronics, Inc., or its 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, and the Project will help meet the objectives of the Central District Redevelopment Plan; and

WHEREAS, the California Community Redevelopment Law (Health and 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 a 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 contains 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 Council has 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 conveyance of the Property and the proposed use were reviewed and considered by the Agency in evaluating the zoning consistency and compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "CEQA Guidelines"), and the City's Environmental Review Regulations; and

WHEREAS, the Agency has determined that the Project involves negligible or no expansion of use, will not have a significant effect on the environment, and is therefore exempt from CEQA per Section 15301 (Existing Facilities) of the CEQA Guidelines; now, therefore, be it

RESOLVED: That the Agency hereby finds and determines that the Project will not have significant effect on the environment and is exempt from CEQA per Section 15301 (Existing Facilities) of the CEQA Guidelines; and be it further

RESOLVED: That the Agency hereby finds and determines that the sale of the Property by the Agency to Silver Sound Electronics, Inc., or its affiliate 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 retail and office space in the Central District; (2) the Project will provide necessary neighborhood-serving commercial facilities lacking in the Central District; (3) the Project, once completed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will redevelop and reuse a key underutilized site and building in the Central District; (5) the rehabilitation of the Cal-Art Building once completed will improve the environmental design within the Central District; and (6) the Project, once developed, will enhance the upcoming Forest City Redevelopment Project in the surrounding area, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, and excessive vacant lots, by enhancing the development potential and overall economic viability of neighboring properties; and be it further

RESOLVED: That the Redevelopment Agency hereby authorizes the Agency Administrator or his or her designee to sell the Property to Silver Sound

Electronics, Inc., or to an affiliated entity satisfactory to the Agency Administrator, for the purchase price of \$1.3 million, subject to the terms and conditions of the DDA; and be it further

RESOLVED: That the Agency finds and determines that the purchase price of \$1.3 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 transaction shall include the following terms and conditions:

- \$1.3 million, the purchase price, to be paid in the form of cash;
- Silver Sound Electronics, Inc., or its affiliate to be responsible for the cost of required off-site improvements in connection with the Project;
- Silver Sound Electronics Inc., or its affiliate to take the Property in its "as-is" condition;
- Silver Sound Electronics Inc., or its affiliate to comply with 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 to be 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;
- The Project to be restricted to retail and commercial office uses;
- Any other appropriate terms and conditions as the Agency Administrator or his or her designee may establish in his or her discretion or as the California Community Redevelopment Law or the Redevelopment Plan may require; and be it further

RESOLVED: That upon completion of sale of the Property, \$1.3 million will be returned to Fund 9504, Project P132780 and will be reallocated for redevelopment projects in the next budget cycle; and be it further

RESOLVED: That the Agency Administrator or his or her designee is hereby authorized to negotiate and execute a Disposition and Development Agreement with Silver Sound Electronics, Inc., or an affiliated entity or entities approved by the Agency Administrator, for the Project, and other documents with Silver Sound Electronics Inc., or its affiliate, Project funding sources, or other parties as necessary to facilitate the sale and development of the Property for the Project; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the Agency Administrator or his or her designee is directed to file a Notice of Exemption within five (5) working days of this Resolution in accordance with the 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 and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it further

RESOLVED: That the Agency hereby appoints the Agency Administrator or his or her designee as agent of the Redevelopment Agency to conduct negotiations and execute documents with respect to the sale of the Property as necessary to effectuate this transaction, and to take any other action with respect to the Property and Project consistent with this Resolution and its basic purpose.

JAN 18 2005

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- ~~BROOKS, BRUNNER~~, CHANG, NADEL, QUAN, REID, ~~WAN~~, AND
CHAIRPERSON DE LA FUENTE, Vacant-District 2 - 5

NOES- 1 - BRUNNER

ABSENT- 0

ABSTENTION- 1 - BROOKS

ATTEST: LaTonda Simmons

Interim Secretary of the Redevelopment Agency
of the City of Oakland

Exhibit A.

Property Description

(attached)

PARCEL ONE:

Lots 27 and 28 and a portion of Lot 29 and 30, "Map of The Campbell Tract," filed March 30, 1878, Map Book 2, Page 64, Alameda County Records, described as follows:

Beginning at the point of intersection of the Eastern line of San Pablo Avenue, with the Southern line of 18th Street, as said Avenue and Street are shown on said Map; running thence along said line of San Pablo Avenue Southerly 106.58 feet to the Southern line of said Lot 30; thence along the last mentioned line Easterly 60.85 feet; thence at right angles Northerly 118.00 feet to the Northern common corner of said Lots 28 and 29 on the said Southern line of 18th Street; thence along said line of 18th Street; Westerly 61.58 feet to an angle point therein; thence continuing along said line of 18th Street, 50.33 feet to the point of beginning.

PARCEL TWO:

Beginning at a point on the Eastern line of San Pablo Avenue, distant thereon North 14° 30' West 119.22 feet from the Northern line of 17th Street; and running thence along said line of San Pablo Avenue North 14° 30' West 0.55 of a foot to the Southern line of Lot 30, as said lot is shown on the "Map of The Campbell Tract, Oakland," filed March 30, 1878, in Book 2 of Maps, Page 64, in the Office of the County Recorder of Alameda County; thence along the last named line South 78° 53' East 60.82 feet to the Western line of the land secondly described in the Deed by Leslie Berger, et al, to Kahn Investment Company, et al, dated June 19, 1946, recorded July 1, 1946 under Recorder's Series TT/56009 in the Office of the County Recorder of Alameda County; thence South 11° 07' West 0.50 of a foot to a line drawn South 78° 53' East from the point of beginning; thence North 78° 53' West 60.58 feet to the point of beginning.

Assessor's Parcel No: 008-0641-011-01