

**REDEVELOPMENT AGENCY OF THE
CITY OF OAKLAND**
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 MAR 11 PM 6:30

TO: Office of the Agency Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: March 23, 2010

RE: **Agency Resolution Authorizing Amendments to the Owner Participation Agreement for the 1100 Broadway Redevelopment Project and the Purchase and Sale Agreement for the UCOP Garage with SKS Broadway, LLC, to Extend Development and Purchase Deadlines**

SUMMARY

This report requests that the Redevelopment Agency approve a resolution authorizing 1) another amendment to the Amended and Restated Owner Participation Agreement (“OPA”) between the Agency and SKS Broadway, LLC (“SKS”) related to development of the real property located at 1100 Broadway, and 2) an amendment to the purchase and sale agreement (“PSA”) between the Agency and SKS for 145 Agency-owned spaces in the University of California Office of the President (“UCOP”) garage located at 409 – 12th Street (“UCOP Parking”). The amendment to the OPA will extend up to five years the deadlines for SKS to complete a number of activities, including commencement of construction, connected with its development of an office tower on the vacant parcel at 1100 Broadway and related renovation of the historic Key System Building on the corner of 11th Street and Broadway (“Project”). The amendment to the PSA will extend up to five years the deadline for SKS to purchase the UCOP Parking, which is adjacent to the 1100 Broadway site and will support development of the Project.

FISCAL IMPACT

Approval of the proposed resolutions extending performance deadlines in the OPA and the PSA will delay for up to four to five years the dates on which the City or Agency would begin receiving tax increment and other benefits from the Project, and approximately \$5.87 million to \$6.1 million of net proceeds from sale of the UCOP Parking. The Agency would immediately receive a \$100,000 deposit now in escrow for SKS’s purchase of the UCOP Parking, another \$100,000 deposit in June 2012, and potentially a third deposit of \$200,000 in June 2013 if SKS were to request and be granted an optional extension.

The Agency would receive net sales proceeds of approximately \$5,865,642 from sale of the UCOP Parking on June 25, 2013, the proposed extended closing deadline. This amount is net of one-half of the City’s 1.5 percent real estate transfer tax (\$44,325), the Agency’s only significant sales expense. If the sale of the UCOP Parking were to close on the optional extended deadline of June 25, 2014, then the Agency’s net sales proceeds would be approximately \$6,084,510 after

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payment of the Agency's \$45,979 share of transfer tax. The increased net sales proceeds realized if the sale occurs on the optional one-year extended closing date is the result of a provision in the PSA that increases the original sales price of \$4,350,000 by five percent annually from May 31, 2006, until the date that the purchase of the UCOP Parking closes calculated on a daily basis.

Under the terms of the proposed deadline extension, the Agency would immediately receive \$100,000 now on deposit for purchase of the UCOP Parking that is currently in escrow. This deposit would not apply to the purchase price. As an incentive to SKS to commence construction of the Project, SKS will be required to deposit another \$100,000 into escrow for purchase of the UCOP Parking by June 25, 2012. This deposit would apply to the purchase price if closing occurs by the June 25, 2013, initial extended deadline, or be retained by the Agency if SKS opts to exercise an optional one-year extension of the purchase closing deadline. An optional extension of the purchase closing deadline until June 25, 2014 would require SKS to deposit another \$200,000 into escrow by June 25, 2013. This additional deposit would apply to the purchase price if the closing occurs by the June 25, 2014, extended deadline.

If SKS 1) fails to commence construction of the Project by the initial June 25, 2013 extended deadline, and does not request an optional one-year extension to June 25, 2014, or 2) fails to commence construction of the Project by the optional one-year extended deadline, then the Agency will be entitled to draw against a letter of credit securing the \$440,000 of liquidated damages specified in the current OPA.

All of the purchase deposits that apply to the purchase price of the UCOP Parking and all sales net proceeds received by the Agency for the UCOP Parking shall be deposited into Central District Operations Fund (9510) to be subsequently used to develop and construct replacement parking in the Central District. The \$100,000 purchase deposit currently in escrow and any subsequent purchase deposits that are released to the Agency as liquidated damages shall also be deposited in Fund 9510 to help replenish that fund, which has become seriously depleted in recent months. Similarly, the \$440,000 of liquidated damages the Agency might receive upon SKS's default under the amended OPA would also be deposited in Fund 9510 to help replenish that fund.

If transferred to SKS and placed on the tax roll by June 25, 2013, the UCOP Parking would be expected to generate approximately \$334,119 in net tax increment revenue to the Agency (after deducting all pass-through amounts to other taxing agencies and set-asides), approximately \$47,246 as the City's share of the pass-through increment, and approximately \$169,707 of set-aside for the Low and Moderate Income Housing Fund through the expiration of the Central District tax increment authority in 2022 (See *Attachment A*). The Agency would also receive approximately \$8,037,743 of cumulative net tax increment from the new Project through 2022 assuming the Project was completed in April 2015. Receipt of another \$4,082,559 of cumulative Low and Moderate Income Housing Funds and \$1,136,585 of cumulative City pass-through is also projected through 2022 (See *Attachment B*).

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The Agency would earn approximately \$147,000 of interest income per year as long as the estimated proceeds from a June, 2013 sale of the UCOP Parking remained unspent by the Agency on a new replacement garage. This \$147,000 of interest income assumes a conservative 2.5 percent interest rate and should offset the loss of net revenue to the Agency from the UCOP Parking after its sale. In the fiscal year ended June 30, 2009, the UCOP Parking generated only \$100,071 of net revenue for the Agency.

BACKGROUND

OPA

The Agency entered into a basic OPA with East End Oakland I, LLC ("East End") in November 2004 pursuant to Agency Resolution No. 2004-30 C.M.S. as a condition of East End's acquisition of the Property from Amin-Broadway LLC. Amin-Broadway had acquired the Property from the Agency in April 2000 under a disposition and development agreement ("DDA") for development of a hotel, but defaulted on the DDA in 2002. The basic OPA provided minimal Agency approval of the scope or pace of development of the Property. It did however, contain a provision for payment of \$400,000 of liquidated damages to the Agency if East End failed to commence construction on a project by November 8, 2007, or complete a project on the Property. The basic OPA did not specify any benchmarks that would constitute diligent pursuit of a project to completion. In October 2006, East End subsequently agreed to release all of the \$400,000 in liquidated damages to the Agency in exchange for the Agency agreeing to consider extending Project development deadlines in an amended OPA and selling the UCOP Parking as described below.

On December 5, 2006, the Redevelopment Agency approved Resolution No. 2006-0088 C.M.S. authorizing an amendment expanding the terms of the basic OPA with East End Oakland I, LLC for development of the Property. The expanded OPA 1) imposed more specific development parameters for the Property; 2) provided for the Agency's review and approval of Project plans and specifications; 3) required regular maintenance of the Property prior to development; 4) provided for \$440,000 in liquidated damages to the Agency, secured by an irrevocable letter of credit, if East End or its approved assignee failed to complete development of the Project; 5) created an enhanced definition of commencement of Project construction that insured a substantial investment in the Project; 6) authorized the Agency Administrator to negotiate and then extend for up to one-year the construction commencement and other Project development deadlines to be negotiated in the amended OPA; and 7) authorized East End's assignment of its rights under the amended OPA to SKS upon sale of the Property to SKS. As anticipated, East End sold the Property to SKS in February 2007, and the Agency negotiated and executed an Amended and Restated OPA with SKS in September 2007.

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Sale of UCOP Parking

Besides amending the OPA, Agency Resolution No. 2006-0088 C.M.S. also authorized the sale of the UCOP Parking. This resolution authorized the sale to East End Oakland I, LLC, but anticipated and authorized East End's transfer of its purchase rights to SKS Investments, LLC. The Agency paid \$2,419,000 for the UCOP Parking pursuant to the terms of a 1996 Disposition and Development Agreement between the Agency and Oakland Developments, LLC for development of the UCOP building ("UCOP DDA"). The Agency purchased the UCOP Parking with the intent of eventually selling it to a future developer of the Property. During the spring of 2005, East End approached the Agency about purchasing the UCOP Parking to enhance the development feasibility of the Project and eliminate East End's need to build parking within the Project. Specifically, elimination of parking in the Project would allow for greater retail use of the ground floor and potentially part of the second floor space. East End also indicated that the removal of parking in the Project would facilitate the restoration and integration of the Key System Building into the new office tower in the Project.

Resolution No. 2006-2008 C.M.S. authorized an initial sales price of \$4.35 million for the UCOP Parking, based on a conservative estimate of the cost to construct a replacement garage of similar size and type. The resolution also provided for annual increases in the sales price equal to the greater of five percent or the Bay Area increase in the McGraw-Hill Construction Cost Index from August 2006 to August 2008. The increase in the purchase price is calculated from May 31, 2006 until close of escrow for the UCOP Parking. Based upon this formula, the sales price for the UCOP Parking as of the writing of this report was \$5,175,296, and would increase to \$5,909,967 if the purchase closed on June 25, 2013, the proposed extended deadline, or \$6,130,296 if the purchase closed on the optional June 25, 2014 deadline. The extended purchase closing deadlines are tied as before to the commencement of construction of the Project as defined in the OPA. Also unchanged is the requirement that SKS continue to operate the UCOP Parking for public parking until it completes construction of the Project.

KEY ISSUES AND IMPACTS

In September 2008, the Agency Administrator extended various development milestone deadlines from one to six months pursuant to authorizing resolutions, when it became apparent that SKS would not be able to meet those deadlines due to delays resulting from the Agency-endorsed redesign of the Project tower. In July 2009, SKS formally requested further extensions of those development deadlines up to the maximum 12 months allowed under Resolution No. 2006-0088 C.M.S. These extensions were necessary because the continuing economic recession was making it virtually impossible for SKS to secure the anchor tenant and financing commitments required to move the Project forward. SKS advised that it would subsequently request longer and more realistic extensions that would require Council approval. Agency staff declined to grant the inadequate extensions approvable by the Agency Administrator and instead

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began negotiating with SKS on the terms of the longer more realistic extensions SKS formally requested in early August 2009.

The following table shows the original, Agency Administrator-approved, and currently proposed development milestone deadlines for the Project and purchase of the UCOP Parking:

OPA Milestones	Original OPA Dates	Currently Extended OPA Dates	Proposed New OPA Dates	Proposed New OPA Dates after Optional Extensions
Submission of Schematic Design Plans	2/29/08	6/25/08	Completed	N/A
Submission of Final Construction Plans	4/28/09	8/11/09 ^a	12/10/12	12/10/13
Submission of Final Construction Contract	10/31/08	4/06/09	2/04/13	2/04/14
Submission of Final Plan for Project Financing	11/28/08	5/03/09	2/04/13	2/04/14
Construction Commencement	4/30/09	10/23/09	6/25/13	6/25/14
Construction Completion	4/29/11	6/02/11	4/27/15	4/27/16
PSA Milestone		Currently Extended PSA Closing Date	Proposed New PSA Closing Date	Proposed New PSA Closing Date after Optional Extension
Closing Date	4/30/09	10/23/09	6/25/13	6/25/14

a – The OPA provides that the final construction plans are due 12 months following Agency approval of the schematic design plans. On 8/11/08, the Agency approved schematic design plans submitted by SKS in June 2008, therefore final construction plans were due 8/11/09 under the currently extended deadline in the OPA.

The key issue is whether to declare SKS in default for failing to meet the recently expired development milestone deadlines for submission of final construction plans, project financing, and commencement of construction. While SKS is technically in default under the OPA, that

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default is clearly the result of SKS's decision to redesign the Project to markedly improve its quality and impact, and, more importantly, the lingering effects of the national recession that continue to adversely affect local and regional commercial real estate markets. The default provisions of the OPA were designed to penalize SKS if it made insufficient efforts to develop the Property according to OPA parameters and timelines. This is clearly not the case, and staff is strongly recommending against declaring SKS in default and drawing against the letter of credit securing the \$440,000 of liquidated damages.

A lesser issue is the disposition of the \$100,000 deposit currently in escrow for purchase of the UCOP Parking, and the requirement for additional deposits to extend the original October 23, 2009, PSA deadline for SKS's purchase of the garage. The PSA provides that this deposit shall be released to the Agency as liquidated damages if escrow did not close by October 23, 2009. The PSA also provides that the closing deadline could be extended up to one year by the Agency Administrator consistent with any allowable extension of the Project commencement date specified in the amended OPA. The PSA conditions such extension of the closing deadline upon the release of the current \$100,000 deposit to the Agency, and at the Agency Administrator's discretion SKS's deposit of a second \$100,000 deposit into escrow.

Staff requested and SKS agreed to release the existing initial \$100,000 deposit to the Agency in compliance with the terms of the PSA. This \$100,000 deposit would not apply to the eventual purchase price of the UCOP Parking. Because of SKS's good faith and diligent efforts to develop the Project despite unfavorable economic conditions, and staff's desire to incentivize SKS to complete the Project sooner, staff is recommending that the second \$100,000 purchase deposit contemplated in the OPA be postponed until no later than June 25, 2012. If SKS commences Project construction by June 25, 2013 and closes purchase of the UCOP Parking by that date, then the second deposit would fully apply to the purchase price. If SKS fails to commence construction or purchase the UCOP Parking by June 25, 2013, then the Agency would be entitled to the second deposit.

Furthermore, if SKS desired to request an optional extension of the construction commencement deadline to June 25, 2014, then the Agency would likewise receive the second \$100,000 deposit, and SKS would be required to make a third deposit of \$200,000 to receive that optional extension. Similarly, if SKS commenced construction and purchased the UCOP Parking by June 25, 2014, then the third deposit would apply fully to the purchase price. In any event, if SKS fails to pay either of the purchase deposits when due, or to commence or complete the Project by the required deadlines, then the Agency would still have the right to draw against the letter of credit securing the \$440,000 of liquidated damages.

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PROJECT DESCRIPTION

Project Progress to Date

After acquiring the Property from East End in early 2007, SKS began the process to dramatically increase the size and quality of the new 11-story 189,000 sq. ft. office tower for the Project that East End had obtained entitlements for in the fall of 2006. While the 11-story tower met the minimum OPA size requirements, SKS and its equity partner, Prudential Life Insurance, concluded that it would be preferable to develop a larger building that would have a larger impact on Oakland's downtown. Consequently, SKS directed its architect to design a 20-story office tower with 310,285 sq. ft. of office and 9,810 sq. ft. of ground floor retail space. The Project includes rehabilitation of the 8-story historic Key System Building according to Secretary of the Interior and City design review criteria. The renovated Key System Building will connect with the lower floors of the new office tower.

In the spring of 2008, SKS received City planning commission approval for this larger building. Besides having improved and higher quality architectural features, the redesigned building incorporates a number of innovative "green" building components that have earned it a pre-certified LEED platinum designation. Design development drawings were completed in late 2008, and SKS continues to aggressively search for an anchor tenant for the Project that will permit development to move forward. A rendering of the Project, floor plans, and other facts and details for the Project can be found at www.1100Broadway.com. SKS and its leasing agent, Colliers International, are also marketing the Project to smaller Bay Area firms that should be attracted to the Project's central location and amenities.

Developer Qualifications

SKS is a 17-year old real estate development and investment firm located in San Francisco. The company and its principals have broad expertise in land development, entitlement, and construction, and the redevelopment of existing property and the repositioning of underperforming existing property. Most of SKS's work has been in San Francisco, particularly in the South of Market area. During the past ten years, SKS has acquired, market re-positioned, substantially upgraded, and sold six commercial properties in the South of Market and Mission/Potrero Hill districts totaling 725,000 square feet. It also developed 260,000 square feet of Class A office space on the entire block bounded by 16th, 17th, Rhode Island, and Kansas Streets in the Potrero Hill district. SKS is currently developing a 450,000 square-foot life science, office and retail complex at 16th and Illinois Streets in Mission Bay, San Francisco's burgeoning life science and commercial district.

SKS has been implementing green building practices in each of its developments for over a decade. For example, all of SKS's projects, whether new construction or adaptive reuse, have been designed to maximize daylight, optimize energy performance and use recycled building

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material as much as possible. SKS is an active member of the United States Green Building Council (USGBC) and the San Francisco Planning + Urban Research Association's (SPUR) sustainable development initiative. SKS continues to play a very active role in the overall marketing and improvement of downtown Oakland. SKS staff are key members of various downtown business associations and work closely and regularly with City staff in trying to promote retail and office development.

SUSTAINABLE OPPORTUNITIES

Development of the Project and sale of the UCOP Parking as proposed is expected to create the following sustainable opportunities:

Economic: Eventual development of the Project with the assistance of SKS's purchase of the UCOP Parking will add approximately 310,000 sq. ft. of office space and almost 10,000 sq. ft. of retail space to a longstanding vacant and blighted property downtown. Based upon the Small Business Administration's rule of thumb of one office worker per 250 sq. ft. of space, the Project might support up to 1,200 office workers. Another 22 or more retail workers might be supported based upon a 450 sq. ft. per employee rule of thumb.

Environmental: SKS has designed a particularly green Project that has been pre-certified as LEED platinum. Green building features include solar panels, a high efficiency HVAC system with raised floor air distribution, a green roof with rainwater collection, filtration and reuse system.

Social Equity: Completion of the Project and addition of the UCOP Parking to the tax roll is projected to generate approximately \$4,252,266 of cumulative Low and Moderate Income Housing Set-Aside funds before expiration of the Central District's tax increment authority in 2022. It is likely that a number of the potential jobs would be available to low and moderate income individuals.

DISABILITY AND SENIOR CITIZEN ACCESS

The Project will comply with all applicable local, state and federal regulations including those pertaining to disabled and senior citizen access, including American with Disabilities Act and Title 24 regulations.

RECOMMENDATION(S) AND RATIONALE

It is recommended that the Redevelopment Agency authorize the Agency Administrator to further amend the OPA and the PSA with SKS to extend Project development and UCOP Parking purchase deadlines as outlined in this report and related resolution.

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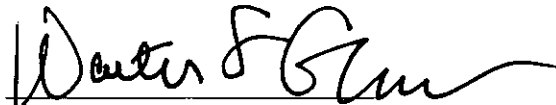
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Extension of the OPA deadlines will maintain that agreement in force and continue to provide the Agency with valuable development controls and protections to ensure that the Project remains consistent and supportive of the Agency's Downtown development strategy, and is completed in a timely manner. Because of the lingering economic recession SKS has been unable to obtain leasing commitments for the Project sufficient to obtain the financing necessary to continue development of the Project beyond the currently completed design and entitlement stage.


ACTION REQUESTED OF THE AGENCY

The Agency is requested to approve the attached resolution authorizing the Agency Administrator to negotiate and execute amendments to the OPA and the PSA that will extend deadlines for development of the Project and purchase of the UCOP Parking.

Respectfully submitted,



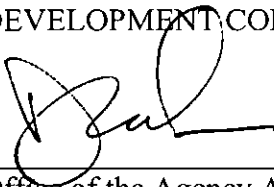
Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by: 
Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Jens Hillmer
Economic Development Coordinator

Prepared by:
John Quintal
Economic Development Analyst

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:



Office of the Agency Administrator

Attachment A

**UCOP GARAGE
TAX INCREMENT ANALYSIS
\$5,910,000 ESTIMATED PURCHASE PRICE ON JUNE 25, 2013**

Year	Project Assessed Value	Applicable Tax Rate	Tax Increment	Pass Through 20%	City Portion 20% Pass Through	ERAF 5.78%	Housing Set-a-side 25%	Net Tax Increment
2013-14	\$5,910,000	1.1775%	\$69,590	-\$13,918	-\$4,843	-\$4,022	-\$17,398	\$34,252
2014-15	\$6,028,200	1.1775%	\$70,982	-\$14,196	-\$4,940	-\$4,103	-\$17,746	\$34,937
2015-16	\$6,148,764	1.1775%	\$72,402	-\$14,480	-\$5,039	-\$4,185	-\$18,100	\$35,636
2016-17	\$6,271,739	1.1775%	\$73,850	-\$14,770	-\$5,140	-\$4,269	-\$18,462	\$36,349
2017-18	\$6,397,174	1.1775%	\$75,327	-\$15,065	-\$5,243	-\$4,354	-\$18,832	\$37,076
2018-19	\$6,525,118	1.1775%	\$76,833	-\$15,367	-\$5,348	-\$4,441	-\$19,208	\$37,817
2019-20	\$6,655,620	1.1775%	\$78,370	-\$15,674	-\$5,455	-\$4,530	-\$19,592	\$38,574
2020-21	\$6,788,732	1.1775%	\$79,937	-\$15,987	-\$5,564	-\$4,620	-\$19,984	\$39,345
2021-22	\$6,924,507	1.1775%	\$81,536	-\$16,307	-\$5,675	-\$4,713	-\$20,384	\$40,132

Total Pass-Throughs to Other Taxing Entities
City's Total Portion of Pass-Through (34.8%)
NPV of City Portion

\$135,765

\$47,246
\$37,330

Total for the Agency's Low- & Moderate-Income Housing Set-A-Side
NPV of Total Low- & Mod Housing Set-A-Side Discounted at 4.85%

\$169,707
\$134,087

Cummulative Tax Increment to Agency FY2013-22 Net of Pass-Throughs, Set-a-sides, Etc.
NPV of Total Agency Increment Discounted at 4.85%

\$334,119
\$263,991

Note - It is assumed that the sale of the UCOP garage will occur on the initial extended deadline of June 25, 2013, and is included on the 2013-14 tax roll.

Attachment B

**1100 BROADWAY - KEY SYSTEM BUILDING PROJECT
TAX INCREMENT ANALYSIS
\$200 MILLION PROJECT VALUE**

Year	Project Assessed Value	Applicable Tax Rate	Tax Increment	Pass Through 20%	City Portion of 20% Pass Through	ERAF 5.78%	Housing Set-a-side 25%	Net Tax Increment
2015-16	\$200,000,000	1.1775%	\$1,177,500	-\$235,500	-\$81,954	-\$68,060	-\$294,375	\$579,566
2016-17	\$204,000,000	1.1775%	\$2,402,100	-\$480,420	-\$167,186	-\$138,841	-\$600,525	\$1,182,314
2017-18	\$208,080,000	1.1775%	\$2,450,142	-\$490,028	-\$170,530	-\$141,618	-\$612,536	\$1,205,960
2018-19	\$212,241,600	1.1775%	\$2,499,145	-\$499,829	-\$173,940	-\$144,451	-\$624,786	\$1,230,079
2019-20	\$216,486,432	1.1775%	\$2,549,128	-\$509,826	-\$177,419	-\$147,340	-\$637,282	\$1,254,681
2020-21	\$220,816,161	1.1775%	\$2,600,110	-\$520,022	-\$180,968	-\$150,286	-\$650,028	\$1,279,774
2021-22	\$225,232,484	1.1775%	\$2,652,112	-\$530,422	-\$184,587	-\$153,292	-\$663,028	\$1,305,370

Total Pass-Throughs to Other Taxing Entities
City's Total Portion of Pass-Through (34.8%)
NPV of City Portion

\$3,266,047

\$1,136,585
\$930,821

Total for the Agency's Low- & Moderate-Income Housing Set-A-Side
NPV of Total Low- & Mod Housing Set-A-Side Discounted at 4.85%

\$4,082,559
\$3,343,467

Cummulative Tax Increment to Agency FY2008-22 Net of Pass-Throughs, Set-a-sides, Etc.
NPV of Total Agency Increment Discounted at 4.85%


\$8,037,743
\$6,582,618

Note: - Project is assumed to be completed in Spring of 2015 approximately midway through the 2014-15 property tax year, and so only generate approximately 50% of annual tax increment for that tax year.

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OAKLAND

2010 MAR 11 PM 6:30

APPROVED AS TO FORM AND LEGALITY:



AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION NO. _____ C.M.S.

AGENCY RESOLUTION AUTHORIZING AMENDMENTS TO THE OWNER PARTICIPATION AGREEMENT FOR THE 1100 BROADWAY REDEVELOPMENT PROJECT AND THE PURCHASE AND SALE AGREEMENT FOR THE UCOP GARAGE WITH SKS BROADWAY, LLC, TO EXTEND DEVELOPMENT AND PURCHASE DEADLINES

WHEREAS, on September 6, 2007, the Redevelopment Agency entered into an amended and restated owner participation agreement (“OPA”) with SKS Broadway, LLC (“SKS”) (successor in interest to East End Oakland I, LLC), pursuant to Agency Resolution No. 2006-0088 C.M.S., with regards to the redevelopment (the “Project”) of SKS’s real property located on the east side of Broadway between 11th and 12th Streets (the “Property”) in the Central District Redevelopment Project Area; and

WHEREAS, the OPA establishes various parameters for the Project, provides the Agency certain approval rights regarding the Project, and requires SKS to accomplish a number of specific development milestones by specific deadline dates; and

WHEREAS, SKS has made good faith efforts to reach those specific development milestones by the specified dates, but has been unable to do so because of 1) delays resulting from a decision to redesign and increase the size and quality of the new office tower that is the key component of the Project, and 2) the continuation of adverse economic conditions that oppose SKS’s efforts to obtain the required anchor tenant(s) and debt financing for the Project; and

WHEREAS, on October 1, 2008, the Agency entered into a purchase and sale agreement (“PSA”) with SKS pursuant to Agency Resolution No. 2006-0088 C.M.S. for SKS’s purchase of the Agency’s condominium interest in real property consisting of a public parking garage with 145 parking spaces and ramps located within portions of the ground floor and basement levels of the UCOP Building located at 1111 Franklin Street (“UCOP Parking”); and

WHEREAS, the PSA provides that SKS must close the purchase of the UCOP Parking by October 23, 2009, but not until construction has commenced on the Project as defined in the OPA; and

WHEREAS, the PSA provides for a minimum five percent annual increase in the original \$4.35 million purchase price for the UCOP Parking, prorated daily from May 31, 2006; and

WHEREAS, the PSA purchase price increase provision insures that even if the purchase closing occurs several years after the original deadline, the Agency will still receive the same relative replacement cost value for the UCOP Parking that it would have received if the purchase closing had occurred by the original deadline; and

WHEREAS, purchase of the UCOP Parking by SKS is a critical element of the Project; and

WHEREAS, SKS has requested to extend the deadlines for Project construction commencement and completion as defined in the OPA, and extend the purchase closing deadline set forth in the PSA; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA"), the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied for the Project; and

WHEREAS, none of the circumstances necessitating additional CEQA review of the Project are present; and

WHEREAS, the Agency has held a noticed public hearing on these proposed amendments; now, therefore, be it

RESOLVED: That Agency Resolution No. 2006-0088 C.M.S. is hereby amended to authorize the Agency Administrator to 1) extend the deadline for Project construction commencement until June 25, 2013, 2) extend the deadline for Project completion until April 27, 2015, and 3) extend the deadlines for submission of final construction plans, the construction contract, and Project financing to the Agency until such dates as deemed appropriate and reasonable by the Agency Administrator or his designee such that SKS is able to meet the commencement and completion deadlines above; and be it

FURTHER RESOLVED: That Agency Resolution No. 2006-0088 C.M.S. is hereby further amended to authorize the Agency Administrator to extend the deadline for parking purchase closing until June 25, 2013; and be it

FURTHER RESOLVED: The Agency's extensions of the Project commencement and completion deadlines and the parking purchase closing deadline as provided above shall be conditioned upon: 1) the release of the \$100,000 deposit currently in escrow for SKS's purchase

of the UCOP Parking, which shall not be credited against the purchase price, and 2) SKS's deposit of a second \$100,000 into escrow by June 25, 2012, which shall fully apply to the purchase price if the purchase closing occurs by June 25, 2013; and be it

FURTHER RESOLVED: That the Agency Administrator is further authorized to grant SKS an optional one-year extension of the Project commencement and completion deadlines and the parking purchase closing deadline, provided that SKS makes a third deposit in the amount of \$200,000 into escrow, which shall fully apply to the purchase price if the purchase closing occurs by June 25, 2014; and be it

FURTHER RESOLVED: That any proceeds from the sale of the UCOP Parking to SKS shall be deposited into the Central District Operations Fund (9510) for subsequent appropriation for use in the development and construction of replacement parking in the Central District; and be it

FURTHER RESOLVED: That any deposit funds released to the Agency and any liquidated damages that the Agency receives as a result of SKS's default under the provisions of the OPA shall be deposited into the Central District Operations Fund (9510); and be it

FURTHER RESOLVED: That the Agency Administrator or his designee is authorized to negotiate and execute amendments to the OPA and the PSA and take whatever action is necessary with respect to the amendments of the OPA and the PSA consistent with this Resolution and its basic purposes; and be it

FURTHER RESOLVED: That the amendments to the OPA and the PSA authorized hereunder shall be approved as to form and legality by Agency Counsel and filed with the Agency Secretary.

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
Secretary of the Redevelopment Agency
of the City of Oakland