

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 JUN 10 PM 4: 38

APPROVED AS TO FORM AND LEGALITY:



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A COOPERATION AGREEMENT WITH THE REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND, AND THE COALITION FOR WORKFORCE HOUSING RELATING TO THE DEVELOPMENT OF A ONE HUNDRED PERCENT (100%) AFFORDABLE HOUSING PROJECT ON A PARCEL LOCATED IMMEDIATELY BEHIND THE FOX THEATER BETWEEN 18TH AND 19TH STREETS IN THE UPTOWN ACTIVITY AREA OF THE CENTRAL DISTRICT REDEVELOPMENT PROJECT AREA

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 or lease real property, Section 33432 requires that any sale or lease 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 or leased 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 (1999-2004) (together, the "Central District Redevelopment Plan" or "Redevelopment Plan"), authorizes the Redevelopment Agency to sell or lease land in the Central District Redevelopment Project Area (the "Central District"); and

WHEREAS, the Agency and the 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 housing; and

WHEREAS, the Redevelopment Plan authorizes the Agency to pursue redevelopment, including increased housing opportunities to address the need for additional housing and retail in the Uptown Retail and Entertainment Area ("Uptown Activity Area"); and

WHEREAS, there exists within the Uptown Activity Area approximately two blocks of land bounded by Thomas L. Berkley Way (formerly 20th) on the north, Telegraph Avenue on the east,

19th St. on the south, and San Pablo Avenue on the west, collectively referred to as the "Project Area", or the "Property" as identified on Exhibit A-1 attached to this Resolution; and

WHEREAS, there exists within the Uptown Activity Area approximately one half block of land bounded by 19th Street in the north, the back of the Fox Theater (on Telegraph Avenue) on the east, 18th Street on the south, and San Pablo Avenue on the west, referred to as the Fox Block Property, as identified on Exhibit A-2 attached to this Resolution; and

WHEREAS, the City, the Agency and Uptown Partners, LLC, a California limited liability company ("Uptown Partners") previously evaluated the design and financial feasibility of a proposed mixed-use residential and retail project in the Project Area; and

WHEREAS, Agency and City staff and Uptown Partners have negotiated the terms of a Lease Disposition and Development Agreement ("LDDA") and its exhibits, including two ground leases (one for each of two development phases; herein "Ground Leases") which sets forth the terms and conditions of the lease of the Property for the Project (as defined in the LDDA) to Uptown Partners, and governs the development of the Project and the use of the Property by Uptown Partners and any successors to the Property subsequent to the lease; and

WHEREAS, the Coalition for Workforce Housing ("Coalition"), an unincorporated association of affordable housing advocacy organizations, expressed concerns about certain aspects of the Project, yet remained supportive of the development of affordable housing in the Project; and

WHEREAS, the Project, as initially negotiated by Uptown Partners and the Agency, had included the development of the Agency-owned Parcel Six, as defined in the LDDA, an approximately 37,000 square foot lot, located between 18th and 19th Streets and between the Fox Theatre and San Pablo Avenue; and

WHEREAS, the City, the Agency and the Coalition have negotiated the terms of a Cooperation Agreement in which the Coalition agrees not to institute litigation against the Project on the terms and conditions set forth in the Cooperation Agreement; and

WHEREAS, the Cooperation Agreement, among other things, provides for the Agency to remove Parcel Six from the Project, for development in the future by another developer as a 100% affordable housing project, all on the terms set forth in the Cooperation Agreement, and for the City to help facilitate the development on the terms and conditions set forth therein; and

WHEREAS, it is in the best interests of the City to execute the Cooperation Agreement with the Coalition so that the Coalition will not commence litigation to stop the Project, and so that the City can assist in increasing the number of new affordable housing units in the Central District; and

WHEREAS, the City is not required to provide any funds or financial assistance under the Cooperation Agreement; and

WHEREAS, the City Council and the Agency have approved the development and lease of the Property under the LDDA and the Ground Leases by resolutions after the public hearing; and

WHEREAS, the City of Oakland, as the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), has prepared a focused Environmental Impact Report analyzing the significant environmental effects and mitigation measures associated with the Project (including the Parcel Six project) in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq.; and under the California Environmental Quality Act of 1970

WHEREAS, the Oakland Planning Commission on February 18, 2004, in accordance with CEQA Guidelines § 15090 certified that the Final Environmental Impact Report ("EIR") on the Project has been completed in compliance with CEQA, 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 EIR was presented to the City Council, as the decision making body of the lead agency, and the City Council reviewed and considered the information contained in the final EIR prior to approving the Project; and

WHEREAS, the EIR reflects the City's independent judgment and analysis; and

WHEREAS, the City based on its review of the Planning Commission actions with respect to the EIR and other substantial evidence in the record, hereby makes the findings and statement of overriding considerations specified in CEQA Guidelines §§ 15091, 15092 and 15093, as more fully set forth in Exhibit B to this Resolution; 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 EIR prior to approving the Project, and that the EIR is adequate for use by the City for its approval of the Project; (2) that all adverse environmental effects of the Project, except as described in the EIR and/or Exhibit B, would be less than significant or reduced to less-than-significant levels after implementation of the mitigation measures identified in the EIR and the Mitigation Monitoring Program; and (3) that it adopts that Statement of Overriding Considerations set forth in Exhibit B to this Resolution and finds and determines that the important benefits of the Project identified in that Statement of Overriding Considerations each separately and independently outweigh the adverse unavoidable environmental effects of the Project; and be it further

RESOLVED: That the City hereby adopts mitigation measures identified in the EIR, as they may have been revised by the Agency, as set forth in the Mitigation Monitoring and Reporting Program ("MMRP") attached as Exhibit C to this Resolution, which is incorporated by this reference, and directs the Agency Administrator to ensure that these are duly and diligently implemented and enforced; and be it further

RESOLVED: That the City Administrator or her designee is hereby authorized to negotiate and execute: (1) the Cooperation Agreement with the Agency and the Coalition; (2) such other additions, amendments or other modifications to the Cooperation Agreement (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the City

do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions which the Cooperation Agreement contemplates to be conclusively evidenced by the execution and delivery by the City Administrator of the Cooperation Agreement, and any such amendments thereto; and (3) such other documents as necessary or appropriate, in consultation with the City Attorney, to consummate the transaction under the Cooperation Agreement in accordance with this Resolution, or to otherwise effectuate the purpose and intent of this Resolution and its basic purpose; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved 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 staff is directed to undertake the clerical task of amending the approved MMRP and/or the Project Conditions of Approval, as may be necessary, to conform to this Resolution; and be it further

RESOLVED: That the City finds and determines that this Resolution complies with CEQA and that staff is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it further

RESOLVED: That the record before the City on this matter includes the information set forth in 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 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 Project; all written evidence received by relevant City or Agency staff before and during public hearings on the Project and appeal; and all matters of common knowledge and all official enactments 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, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS , BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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