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OFFICE OF THE CITY CLERK  
OAKLAND  
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# REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

## AGENDA REPORT

TO: Office of the Agency Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: April 28, 2009

RE: **A SUPPLEMENTAL REPORT ON:**

**An Agency Resolution Authorizing the Agency Administrator To Execute a Lease With FC Uptown Parcel 4 Parking, LLC, or Related Entities, For a Term of up to 36 Months to Reconstruct and operate a Parking Lot at 1911 Telegraph Avenue**

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### SUMMARY

On March 24, 2009, staff presented legislation to the Community and Economic Development Committee (CEDC) authorizing the Agency Administrator to execute a lease with FC Uptown Parcel 4 Parking, LLC (FC) for a term of up to 36 months to develop and operate a temporary parking lot at 1911 Telegraph Avenue (Property). Staff presented the proposed lease with FC in combination with other legislation related to the Uptown Project (Phase 1 and 2). Specifically, staff proposed the 36-month lease with FC for interim use of the Property as consideration for an amendment to a Disposition and Development Agreement (DDA) with FC Uptown Parcel 4, LLC (FC Uptown) for the sale and development of the Property, which provides for a 36-month extension of the date to purchase the Property.

Members of the CEDC recommended approval of the legislation authorizing the amendment to the DDA, but did not forward the legislation authorizing the proposed 36-month lease to the City Council. Instead committee members requested information about possible alternative uses for the Property during the 36-month extension term. The City Council approved the amendment to the DDA at a public hearing on March 31, 2009.

At this time, staff recommends approval of the proposed lease with FC for a term of up to 36 months to develop and operate a temporary parking lot because the only alternative interim use for the Property is to maintain its present condition as an unimproved "dirt" lot. The Agency does not have any funding to pay for the development and maintenance of a temporary public park or other use at the Property. Staff considers the proposed interim use of the Property to be preferable to its current condition because a surface parking lot will (1) address a parking shortage in the neighborhood, (2) generate financial benefits to the City and Agency, and (3) present a reasonably attractive alternative to the present condition of the site.

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Community and Economic Development Committee  
April 28, 2009

## **BACKGROUND**

### Property Description

The one-acre Agency-owned Property, which was formerly occupied by a Sears Auto Center and approximately 100 spaces of public parking, is adjacent to the Fox Theater and to the Uptown Project (Phase 1). The environmental cleanup of the Property, which required the demolition of all structures and paved surfaces on the site, was completed in 2008. The fenced site is currently vacant and considered a “dirt lot” that is ready for development. A recent picture of the Property is included as *Attachment A*.

### The Disposition and Development Agreement with FC Uptown Parcel 4, LLC

On February 27, 2007, pursuant to Resolution No. 2006-41 C.M.S., the Agency and FC Uptown entered into a DDA for the sale of Property for \$6.9 million and development of a mixed-use residential project, the Uptown Project (Phase 2). Pursuant to the terms of the DDA, FC Uptown was required to purchase the Property from the Agency by July of 2008. The developer could not meet this deadline because the downturn of the regional housing market and the national credit crisis made it infeasible for the developer to secure Project financing. FC Uptown requested a 36-month extension of the date to purchase the Property to July of 2011, and the Council approved the extension on March 31, 2009. Once the Agency sells the Property to Forest City, the developer will clear the site (including all improvements related to a surface parking lot, if approved), and start construction of the proposed mixed-use Project.

## **KEY ISSUES AND IMPACTS**

### The Parking Lease

Agency staff decided to include a lease for the development and operation of a temporary surface parking lot in its DDA amendment negotiations with FC Uptown for a number of reasons. First, staff proposed the parking lease with FC as consideration for an amendment to the DDA with FC Uptown that provides for a 36-month extension of the date to purchase the Property.

Accordingly, the proposed lease terms calls for the Agency to receive all net revenues generated by the parking lot as compensation for the 36-month DDA extension after payment of \$300,000, plus annual interest of 10 percent on this amount, to FC. Second, staff identified a need for day-time and evening parking facilities in the area surrounding the Property. Third, staff considers a reasonably attractive and economically productive temporary parking lot to be an acceptable interim use for the Property.

The proposed parking lease requires FC to build and operate a temporary surface parking lot at the Property. FC will advance all funds necessary to pay for the design and construction of the proposed facility. As part of this process, FC has to obtain all planning and building approvals required for the development of the parking lot. Specifically, FC has to apply for a conditional use permit for the proposed interim use of the Property, which will be subject to approval by the Planning Commission. Without such approval, the proposed parking lot cannot be developed and the lease would be terminated.

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During the term of the lease, FC will be entitled to receive all net parking revenues of up to \$300,000, plus annual interest of 10 percent on this amount, to recover a portion of their development costs (currently estimated to be between \$400,000 and \$500,000). The Agency will be entitled to all net revenue collected thereafter. Based on initial revenue projections for the surface lot, it could generate between \$125,000 and \$150,000 per year in net operating income, depending on the number of available parking spaces, general public demand for hourly, daily and monthly parking, and the average number of evening shows at the Fox Theater. Current projections indicate that FC Uptown would be fully repaid within the first 2.5 years of the proposed 36-month term. The Agency would receive up to \$100,000 during the remaining lease term.

#### Parking Lot Design

FC Uptown's proposed conceptual design for the surface lot is included as **Attachment B**. Generally, the parking lot would not be fenced and include up to 120 spaces, including 5 accessible parking spaces for persons who have disabilities. An existing driveway on 19<sup>th</sup> Street will serve as the only entry point to the surface lot.

The proposed drought-tolerant landscaping plan for the parking lot, which incorporates plant types recommended by the East Bay Municipal Utility District's "Plants and Landscapes for Summer-Dry Climates Overview", is designed to require little maintenance. Landscaping would be located (1) on a 20 feet wide, 3,400-square-foot area along Telegraph Avenue designed to screen cars from pedestrian view, (2) along a five feet wide area on 19<sup>th</sup> Street, and (3) on all four corners of the site. The rear of the Property is located adjacent to Fox Square, the new public park in the Uptown area. The landscaping plan also includes a bioswale (also known as bioretention area) that is designed to collect storm water run-off from the site. Bioswales are planted with native vegetation to significantly reduce the flow velocity in the swale's drainage course, which gives the runoff the time to be stored and filtered. This process removes pollutants and suspended solids from runoff.

The proposed interim parking lot was designed to combine maximum parking efficiencies with an attractive, yet cost-effective landscaping component. Any increase in the size of the landscaping will require elimination of parking spaces, increase maintenance costs, and, at a certain point, jeopardize the financial feasibility of the parking lot. If, for example, the number of parking spaces was reduced from 120 to 70 to accommodate additional landscaping, net income from parking operations would not be sufficient to repay FC for a portion of the parking lot development costs over the proposed 36-month term. Nevertheless, staff and FC will work together to evaluate the feasibility of enlarging the proposed landscaping areas, especially along 19<sup>th</sup> Street (which would result in the loss of at least 8 parking spaces). This redesign of the lot will reduce net revenues payable to the Agency.

#### A Temporary Park and other Uses

Several community members expressed a desire for a temporary public park at the Property. Agency staff has been unable to identify funding to pay for the development and maintenance of a temporary public park at the Property. Moreover, while development costs for the new park

are impossible to estimate without a conceptual design, staff does not consider funding for a temporary park to be an appropriate use of scarce City and Agency resources at a time when existing City parks and public facilities are already in great need of major capital improvements and regular maintenance services. It should be pointed out in this context that the Agency, after spending \$2 million toward capital improvements at several City-owned parks during Fiscal Year 2007-09, allocated an additional \$1 million as part of its Fiscal Year 2009-11 budget toward capital improvements at the following parks and public facilities:

- Lincoln Square Park (261-11th Street)
- Malonga Casquelourd Center for the Arts (1428 Alice Street)
- Jefferson Square Park (618 Jefferson Street)
- Chinese Garden Park (7th and Harrison Streets)
- Madison Square Park (810 Jackson Street)

In addition, the City of Oakland's Public Works Agency is unable to provide park maintenance services at a new interim public park at the Property because it does not have the resources after the elimination of 55 park and tree maintenance staff during Fiscal Year 2008-09 to cover a deficit in the Landscaping and Lighting Assessment District (LLDA).

There have been other suggestions for the interim use of the Property ranging from a community garden to a display area for large sculptures. These alternatives will also require Agency and/or City funding for site preparation and maintenance, but do not present any viable income opportunities that would allow for recovery of all or a portion of these implementation expenditures. The Agency has not budgeted for any such costs.

In light of these funding constraints, the only alternative scenario for the interim use of the Property would be to maintain the site in its current unimproved state. The Agency would have to negotiate with FC Uptown, as part of the first amendment to the DDA, a payment to the Agency to cover site maintenance and project administration cost over the 36-month extension term. Under this scenario, the lot would remain in its current unattractive condition, and the Agency would be responsible for ensuring that the Property is properly maintained.

#### Other Parking Opportunities

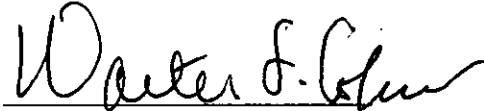
Committee members expressed interest in determining whether Franklin Street Plaza located on Franklin Street between 17<sup>th</sup> and 19<sup>th</sup> Street could be made available for evening parking during events at the Fox Theater. The garage will be kept open for evening performances during April to determine if parking demand is sufficient to pay for the additional operating expenses that are necessary for keeping extended business hours at Franklin Street Plaza.

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## RECOMMENDATION AND RATIONALE

Staff recommends the adoption of an Agency resolution authorizing the Agency Administrator to execute a lease with FC Uptown Parcel 4 Parking, LLC, for a term of up to 36 months to reconstruct and operate a temporary parking lot at 1911 Telegraph Avenue. Staff will work with the developer and interested community members to evaluate the financial feasibility of enlarging the proposed landscaping areas.

Respectfully submitted,

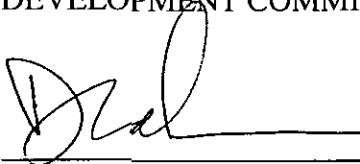


Walter S. Cohen, Director  
Community and Economic Development Agency

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

Prepared by:  
Jens Hillmer  
Urban Economic Coordinator

APPROVED AND FORWARDED TO  
THE COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE:

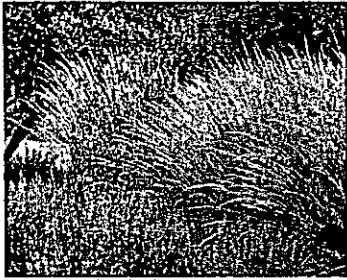


Office of the Agency Administrator

Attachment A



# Attachment B



**Latin Name**  
*Calamagrostis acutiflora* Karl Forster

**Common Name**  
Feather Reed Grass

**Latin Name**  
*Pithecomitoba variegata*

**Common Name**  
Mark Orange

**Latin Name**  
*Chondropetalum lectum*

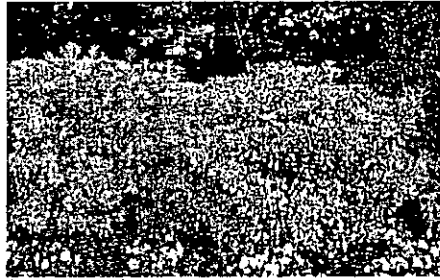
**Common Name**  
Small Cape Rush

**Latin Name**  
*Carex divulsa*

**Common Name**  
Parkway Sedge

**Latin Name**  
*Melaleuca zamuerensis* (myrt)

**Common Name**  
Pork Tree



**Latin Name**  
*Chondropetalum lectum*

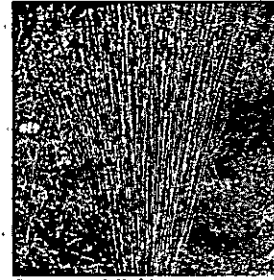
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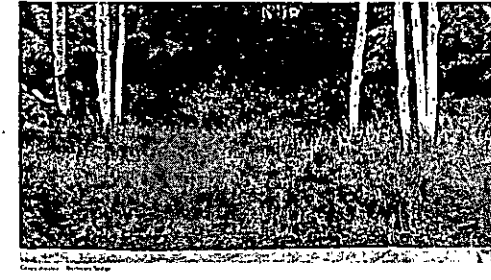


**Latin Name**  
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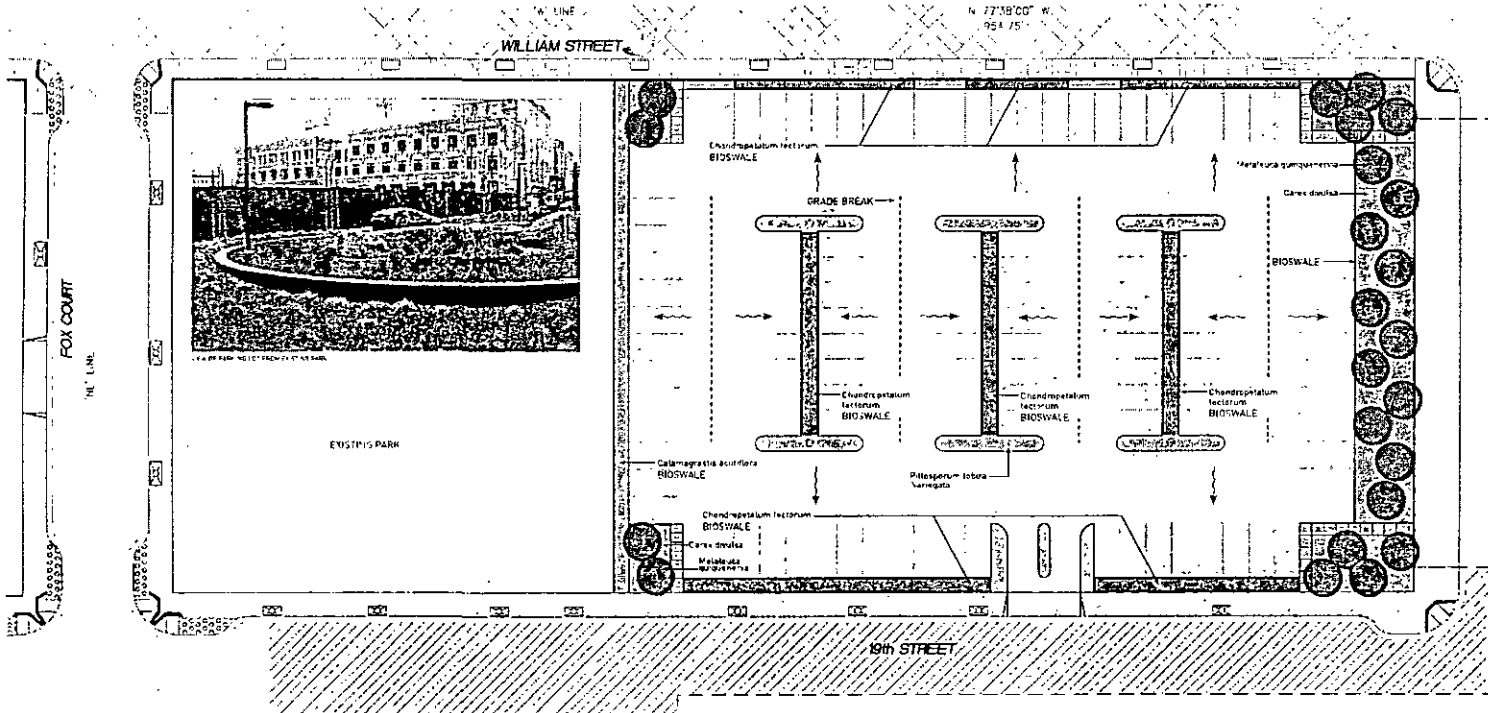
**Latin Name**  
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Pork Tree



**Latin Name**  
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Pork Tree



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OAKLAND PARCEL 4: PROPOSED PARKING LOT LANDSCAPE SCREENING  
FOREST CITY RESIDENTIAL WEST