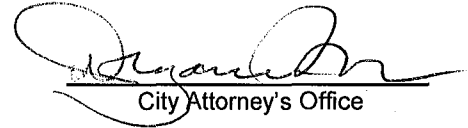


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Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. 86533 C.M.S.

RESOLUTION DECERTIFYING PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT FOR MIXED-USE PROJECT, CONSISTING OF MARKET RATE AND AFFORDABLE SENIOR HOUSING UNITS AND RETAIL SPACE, AT 4311- 4317 MACARTHUR BOULEVARD

WHEREAS, on March 5, 2010, AMG & Associates ("Applicant") filed applications for Major Conditional Use Permits, Variances, Design Review and California Environmental Quality Act ("CEQA") Review for a mixed-use project consisting of market rate and affordable senior housing and retail space at 4311- 4317 MacArthur Blvd ("Project"); and

WHEREAS, on July 17, 2013, following duly noticed public hearings and public comment periods, the Oakland Planning Commission approved the Project, subject to findings and conditions of approval, and certified the final Environmental Impact Report ("EIR") for the Project; and

WHEREAS, on July 29, 2013, the Commercial and Retail Attraction and Development for the Laurel ("CRADL") and Citizens4Oakland filed an appeal to the City Council challenging the Planning Commission's approval of the Project and certification of the EIR ("Appeal"); and

WHEREAS, on November 19, 2013, following a duly noticed public hearing, City Council denied the Appeal and upheld the Project approval and certification of the EIR by Resolution No. 84717 C.M.S.; and

WHEREAS, on December 17, 2013, CRADL, Citizens4Oakland and Maureen Dorsey filed a Complaint and Petition for Writ of Mandamus in Alameda County Superior Court challenging City Council's decision to uphold the Project approval and certification of the EIR ("Lawsuit"); and

WHEREAS, pursuant to a defense and indemnification agreement, Applicant retained legal counsel to defend the City of Oakland in the Lawsuit; and

WHEREAS, on July 17, 2015, Applicant notified the City of Oakland Planning Department that due to changes in Federal, State and Local funding sources for affordable housing, the Project was no longer feasible and withdrew the Project; and

WHEREAS, on August 26, 2015, the Planning Department acknowledged Applicant's withdrawal of the Project and notified Applicant that in light of the Project withdrawal, the Project approvals (as defined in Condition #1 of the Project's Conditions of Approval) are no longer valid; and

WHEREAS, the Project approvals are no longer valid and the City has no reason to defend an EIR related to a development project that is no longer being pursued due to economic reasons; now therefore, be it

RESOLVED: That the City's prior certification of the EIR related to the Project is rescinded; and be it

FURTHER RESOLVED: That the EIR is decertified effective immediately; and be it

FURTHER RESOLVED: That the Environmental Review Officer is directed to inform the Governor's Office of Planning and Research and the Alameda County Clerk that all Notices of Determination (NOD) concerning certification of the Project EIR (State Clearinghouse No. 2011052049) are revoked as a result of the City's decertification of the Project EIR.

IN COUNCIL, OAKLAND, CALIFORNIA, **DEC 13 2016**

PASSED BY THE FOLLOWING VOTE:


AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



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