

REDEVELOPMENT AGENCY OF THE
CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE AGENCY ADMINISTRATOR
2006 AUG 31 AM 11:56

TO: Office of the Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: September 12, 2006

RE: **Revised Attachment A to the Agenda Report for the Resolutions Authorizing: 1) an Amendment to an Owner Participation Agreement with East End Oakland I, LLC, for 1100 Broadway to Provide the Agency Greater Review and Approval Authority over the Development of a Mixed-Use Project for the 1100 Broadway Site, Restrict Transfer of the Project Property Prior to Completion of the Development, and Expand the Agency's Remedies in the Event East End Oakland Defaults on its Obligations to Develop the Project; and Revised Resolution 2) Authorizing Sale of the Public Parking Garage at 1111 Franklin Street by the Agency to East End Oakland I, LLC, for a price of \$4,350,000**

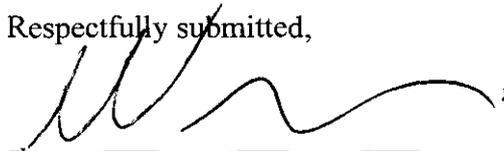
SUMMARY

The revisions to Attachment A of the above referenced agenda report and one of the related resolutions consist of the addition of a single sentence authorizing the Agency Administrator to

“extend up to 180 days the deadline for East End Oakland to close escrow on the purchase of the public parking garage at 1111 Franklin Street at her sole discretion upon the request of East End and her determination that East End is making good faith efforts, based upon verifiable evidence, to meet the closing conditions listed above.”

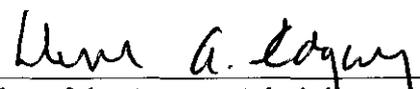
This language was included in the original agenda report dated July 11, 2006 at the end of the subsection entitled “c) Conditions for Close of Escrow” on page 7. The addition of this extension language to the end of Term No. 10 on page 3 of Attachment A – Proposed Term Sheet, and the end of the fifth “Resolved” clause of the resolution make the Proposed Term Sheet and resolution consistent with the language and intent of the agenda report. Earlier versions of Attachment A and the resolution without this additional language were mistakenly included in the original agenda packet, and this fact was just recently noticed.

Respectfully submitted,



Daniel Vanderpriem
Director of Redevelopment, Economic
Development, Housing and Community
Development

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:


Office of the Agency Administrator

Prepared by: John Quintal
Economic Development Analyst

Item: _____
CED Committee
September 12, 2006

ATTACHMENT A

Proposed Term Sheet Sale of UCOP Parking to East End Oakland, LLC

1. PRICE: The initial purchase price to be the cash sum of \$4,350,000. The initial price to be increased by a 5% annual rate prorated daily from the date of execution of the Purchase and Sale Agreement for sale of the Property as described below to the close of the Property purchase transaction.
2. TERMS OF PAYMENT: Purchase price to be due and payable in cash at the close of escrow.
3. ENVIRONMENTAL REVIEW AND SITE CONDITIONS: East End to bear costs, if any, associated with assessment of the environmental condition of the Property. East End to bear costs, if any, associated with remediation of hazardous materials contamination on the Property. East End to release the Agency and City from any liability for contamination on the Property. It is understood that East End is purchasing the Property on a “as is, where is” basis in its current condition. However, the Agency shall complete any regularly scheduled maintenance prior to conveyance.
4. PROPERTY DESCRIPTION: UCOP Parking is composed of the real property described in Exhibit A, as well as equipment, fixtures and other personal property appurtenant to the parking operations. The UCOP Parking currently provides 145 automobile parking spaces and ramps which provide access to the parking spaces.
5. DOCUMENTATION: Following the expiration of the Property Approval Period (as defined below), but within 90 days of Agency/Council approval of the sale of the Property, the Agency and East End to enter into a Purchase and Sale Agreement (“PSA”) consistent with the terms of this Letter of Intent and including such other reasonable and customary terms (including due diligence contingencies and preconveyance conditions) as are mutually acceptable. The execution of the PSA to be subject

to prior Agency/Council authorization. PSA to specify condition of title to be conveyed by the Agency. Title to be free and clear of all encumbrances except for specific matters provided in the PSA. Agency to assign parking licenses and other contracts related to parking and other operations on the Property to East End as part of the transaction, other than those that East End has not agreed to assume.

6. PUBLIC PARKING:

Conveyance of title to the Property to East End to be subject to East End's obligation to maintain and operate the UCOP Parking as parking available to the general public following East End's purchase until a Temporary Certificate of Occupancy is issued for the mixed-use development East End is developing on the site immediately adjacent to the UCOP Building ("Project"). East End to be allowed to close off parking spaces to public parking if necessary for construction access to the adjacent development, subject to reasonable Agency approval of closure.

7. GOOD FAITH DEPOSIT:

East End to make a Good Faith Deposit of \$100,000 into escrow upon execution of the PSA. Deposit and any interest thereon to be applied towards the purchase price at closing.

If the purchase and sale of the Property is not completed after execution of the PSA by the close of escrow date due to an uncured breach or default by East End under the PSA, then the Good Faith Deposit and all interest accrued thereon will be retained by the Agency. Interest will accrue at the market rate of the escrow company's interest bearing account and will belong to East End. If sale is not completed due to any reason other than an uncured breach or default by East End, then the Good Faith Deposit and interest to be returned to East End.

8. PROPERTY APPROVAL PERIOD:

Commencing on the date of this Letter of Intent and ending on the later of (i) 120 days from the date of this Letter of Intent; or (ii) Agency/City Council authorization of the PSA (the "Property Approval Period"), East End to review and investigate the

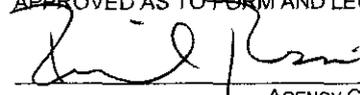
economic, physical, environmental and title condition of the Property. East End to determine whether or not the Property is acceptable within the Property Approval Period.

9. APPROVALS: Transaction subject to the discretionary approval of the City Council acting as the Agency's governing body.
10. OPEN & CLOSE OF ESCROW: Upon signing of this Letter of Intent, escrow to be opened at a title company in Oakland mutually acceptable to the parties. Close of escrow shall occur no sooner than the occurrence of all of the following events: a) East End's procurement of all approvals and permits to necessary start construction of the Project; b) East End's documentation that all debt and equity financing is committed and available for construction of the Project; and c) East End's issuance of a notice to proceed to its contractor for construction of the Project. Also, close of escrow shall occur no later than 360 days after the discretionary approval of the transaction by the Agency/City Council as provided above and execution of the PSA by the Agency and East End. Agency Administrator may extend this deadline up to a maximum of 180 days at her sole discretion upon the request of East End and her determination that East End is making good faith efforts, based upon verifiable evidence, to meet the closing conditions listed above.
11. TITLE INSURANCE: East End to secure title insurance policy, if desired, at its own expense.
12. CLOSING COSTS: East End to bear all title and escrow fees and closing costs. East End to pay Alameda County transfer tax. East End and the Agency to share City of Oakland transfer tax equally.
13. STUDIES AND REPORTS: Within 30 days of executing this Letter of Intent, the Agency to provide copies of any studies or reports relating to the Property including soils tests, surveys, regulatory reviews, engineering studies, complete copies of all reciprocal easements or other regulatory agreements with UCOP.

14. RIGHT OF ENTRY: The Agency to grant a right of entry to East End to conduct tests and other feasibility studies during the Property Approval Period. East End to indemnify the Agency and City for entry.
15. BROKER'S COMMISSION: East End represents that no brokers have acted on its behalf in connection with the Property.
16. RETAIL USE Prior to closing of the purchase of the Property, East End shall execute an amendment to the Basic Owner Participation Agreement which will require that a minimum 10,000 square feet of ground floor retail space be included in the Project.

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APPROVED AS TO FORM AND LEGALITY


AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION NO. _____ C.M.S.

A RESOLUTION AUTHORIZING SALE OF THE PUBLIC PARKING GARAGE AT 1111 FRANKLIN STREET BY THE AGENCY TO EAST END OAKLAND I, LLC, FOR A PRICE OF \$4,350,000

WHEREAS, In May 1998 the Agency purchased a 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 at 1111 Franklin Street (the "Property"); and

WHEREAS, East End Oakland I, LLC ("East End") has approached the Agency and offered to purchase the Property for an initial price of \$4,350,000, which exceeds the Property's fair market value, to support East End's development of the real property at 1100 Broadway including the historic Key System Building (the "Project"); and

WHEREAS, the Agency has determined that the initial sales price and escalation provision should be sufficient to provide funds to construct similar replacement parking in the downtown Central District; and

WHEREAS, the Property was originally purchased with the intent of supporting development of the Project site; and

WHEREAS, the Agency has determined that sale of the Property to East End will increase the amount of retail space in the Project and thereby provide direct and indirect benefits to the Central District and the City of Oakland; and

WHEREAS, an Environmental Impact Report ("EIR") (certified by the Planning Commission on April 24, 1998) was prepared for a 150 room hotel at 1100 Broadway, as previously proposed, by the Community and Economic Development Agency, and has been independently reviewed and considered by the Agency in evaluating the sale of the Property to facilitate the Project, in compliance with CEQA Guidelines Sections 15162 and 15163; and

WHEREAS, none of the circumstances necessitating preparation of a subsequent or supplemental EIR are present; and

WHEREAS, specifically, there are no new substantial changes to the Project or the circumstances surrounding the Project and no new information of substantial importance that will involve new significant impacts or an increase in the severity of previously identified impacts, and all potentially significant impacts (with the possible exception of visual quality and architectural resources that were fully analyzed in the EIR) will be reduced to a less than significant level by conditions of approval and implementation of the adopted Mitigation Monitoring Program imposed on the Project; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("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 also been satisfied because this transaction is exempt from CEQA under section 15312 of the CEQA Guidelines (sale of surplus government property); and

WHEREAS, Health and Safety Code Sections 33430 and 33431 authorize a redevelopment agency to sell real property after a public hearing, notice of which has been given by publication before the hearing once a week for two weeks; and

WHEREAS, the Agency held a noticed public hearing on the proposed sale on September 19, 2006; now, therefore, be it

RESOLVED: That the Agency hereby authorizes the sale of the Property to East End Oakland I, LLC; and be it further

RESOLVED: That the Agency Administrator is hereby authorized to negotiate and enter into a Purchase and Sale Agreement ("PSA") with East End for the sale and purchase of the Property consistent with the following terms and conditions:

- 1) The initial purchase price to be \$4,350,000, increased by a 5% annual rate prorated daily from the date of execution to the close of escrow.
- 2) East End to bear the costs of assessment of the environmental condition and remediation of hazardous materials contamination on the Property.
- 3) Conveyance of title to the Property to East End to be subject to East End's obligation to maintain and operate the UCOP parking as parking available to the general public following East End's purchase until completion of the Project. East End to be allowed to close off parking spaces to public parking if necessary for construction access to the Project site, subject to reasonable Agency approval of closure.
- 4) East End to make a Good Faith Deposit of \$100,000 into escrow upon execution of the PSA.

- 5) Close of escrow to occur no sooner than: a) East End's procurement of all approvals and permits necessary to start construction of the Project; b) East End's documentation that all debt and equity financing is committed and available for construction of the Project; and c) East End's issuance of a notice to proceed to its contractor for construction of the Project. Also, close of escrow to occur no later than 360 days after the date of approval of this Resolution. Deadline for the close of escrow may be extended for a maximum of 180 days at the sole discretion of the Agency Administrator upon her determination that East End is making good faith efforts, based upon verifiable evidence, to meet the closing conditions listed above.
- 6) Prior to closing, East End to execute an amendment to the Owner Participation Agreement ("OPA") that requires a minimum 10,000 square feet of ground floor retail space be included in the Project, if an expanded OPA containing this requirement has not already been executed.
- 7) In the event East End is not able to initiate construction of the Project and close escrow on the purchase of the Property, East End to have the right to assign its rights under the PSA to another qualified developer upon the discretionary approval of the Agency Administrator, and under the same terms and conditions contained in this Resolution and the PSA.

and be it further

RESOLVED: That all proceeds from sale of the Property received by the Agency shall be deposited into 1996 Bonds Fund (9504), General Ledger Organization (08222) Miscellaneous Sales Revenue Account (48119) for subsequent appropriation to 1986 Bonds Fund (9504), Capital Improvement Projects– Economic Development Organization (94800), Structures & Improvements Account (57311) in a project to be determined later for use in the development and construction of replacement parking in the Central District; and be it further

RESOLVED: That the Agency Administrator is authorized to take whatever action and execute all documents for the sale consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
 LATONDA SIMMONS
 Secretary of the Redevelopment Agency
 of the City of Oakland