

04 NOV - 1 PM 12:00 APPROVED AS TO FORM AND LEGALITY:

Hlee

City Attorney

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION NO. 2004-58 C.M.S.

**A RESOLUTION OF NECESSITY DECLARING CERTAIN
PROPERTY INTERESTS AT 571 THOMAS BERKLEY WAY
(20TH STREET), OAKLAND CA 94612, (ASSESSOR PARCEL
NUMBERS: 008-0644-036-00, 008-0644-037-00), NECESSARY
FOR PUBLIC PURPOSES AND AUTHORIZING AGENCY
COUNSEL TO INITIATE CONDEMNATION PROCEEDINGS
FOR THE ACQUISITION OF SAID PROPERTY**

WHEREAS, the Agency wishes to pursue the development of a mixed-use rental housing and retail development project (the "Uptown Project") in Oakland on the blocks 642, 643, 644 and 649 generally bounded by Thomas L. Berkley Way (formerly 20th Street) on the north, Telegraph Avenue on the east, 19th Street on the south and San Pablo Avenue on the west (the "Uptown Project Area"), and redevelopment on adjacent properties not within the Uptown Project Area, but still within the Uptown Retail and Entertainment Area (the "Uptown Activity Area"), as identified on Exhibit "A" in the Central District Redevelopment Project Area ("Central District") of the Central District Urban Renewal Plan, adopted by the Agency on June 12, 1969, as amended (the "Plan"); and

WHEREAS, the proposed Uptown Project will assist in the elimination of blight in the Central District, and will help meet the objectives of the Plan and redevelopment law; and

WHEREAS, The Uptown Project will benefit the Central District as described in the Agenda Report for this Resolution, and by increasing and improving the supply of affordable housing available in the Central District and the City for low and moderate income homebuyers, attracting more residents to downtown Oakland, creating more commercial retail activities and by enhancing the economic viability and redevelopment potential of the Uptown Activity Area; and

WHEREAS, after good faith negotiations with the owners of certain privately-owned real property in the Uptown Project Area were unsuccessful, the Agency wishes to authorize Agency Counsel to commence eminent domain proceedings to acquire said property; and

WHEREAS, as documented in the EIR and elsewhere in the record, the actions authorized by this resolution will not involve any new or more severe significant impacts, there are no substantial changes with respect to the circumstances under which the project was approved that involve new or substantially more severe significant environmental impacts, and no significant new information has come to light that would indicate new or more significant impacts, or substantially different or feasible mitigation measures the project sponsor refuses to adopt, and, accordingly, none of the circumstances necessitating preparation of a Subsequent or Supplemental EIR ("SEIR") are present; now therefore be it

RESOLVED: That the Redevelopment Agency hereby finds, determines, and resolves as follows:

1. The Redevelopment Agency of the City of Oakland is a public entity authorized to establish and carry out community redevelopment projects pursuant to Health and Safety Code Sections 33391, et seq.
2. The property interests described hereinafter are to be taken for public use, namely, to eliminate blight and for redevelopment purposes, and for affordable housing, and all public purposes pursuant to the authority conferred upon the Redevelopment Agency to acquire property by eminent domain, including Health and Safety Code Section 33391; Code of Civil Procedure Sections 1240.140, 1240.510, and 1240.610; and Article I, Section 19, of the California Constitution.
3. The interest to be acquired herein is the fee simple interest in certain property located at 571 Thomas Berkley Way (20th Street), Oakland California 94612, (Assessor Parcel Numbers: 008-0644-036-00, 008-0644-037-00), together with all improvements situated thereon and the underlying fee interest, if any, appurtenant to the property in and to any adjoining streets, alleys, public ways, or railroad rights-of-way, all as more particularly indicated in the legal description and map attached hereto and incorporated herein by this reference as Attachment A-2.
4. The environmental impacts of the Uptown Project were considered in the Environmental Impact Report that was certified by the Oakland Planning Commission, in compliance with CEQA, for the Uptown Project, on February 18, 2004 and none of the circumstances necessitating preparation of an SEIR are present.

5. The Redevelopment Agency has reviewed and considered the Environmental Impact Report, before and as part of the process of determining whether to acquire the above-described property.
6. The subject property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the Redevelopment Agency's use of the subject property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future, or, in the alternative, for a more necessary public use under Code of Civil Procedure section 1240.610 in that the Agency's use of the subject property is a more necessary public use than the use to which the subject property is appropriated.
7. The Redevelopment Agency hereby declares that it has found and determined each of the following:
 - (a) The public interest and necessity require the proposed Uptown Project;
 - (b) The proposed Uptown Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
 - (c) The property described in this resolution is necessary for the proposed Uptown Project; and
 - (d) The offer required by Government Code section 7267.2 has been made to the owners of record.
8. Agency General Counsel or its designee is hereby authorized (a) to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, in the name of the Redevelopment Agency of the City of Oakland, (b) to acquire the property interests described above by eminent domain, (c) to seek and obtain an Order for Possession of said property interests in accordance with the provisions of the eminent domain law, and (d) to deposit the total sum of probable compensation fixed by appraisal with the State Treasurer in the State Condemnation Deposits Fund, as provided by statute; and be it

FURTHER RESOLVED: That funds in the amount of \$331,625 for the acquisition of this property have previously been budgeted and appropriated by the Agency pursuant to Resolution No. 2004-38 C.M.S. passed on July 20, 2004 and are available from Central District Tax Allocation Sources (Fund # 9532), Uptown/Forest City LDDA (Project #T245610), Org. 94800.

IN AGENCY, OAKLAND, CALIFORNIA, NOV 16 2004, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- ~~BROOKS~~, BRUNNER, CHANG, NADEL, QUAN, ~~REID~~ WAN, AND PRESIDENT DE LA FUENTE - 6

NOES- REID - 1

ABSENT- 0

ABSTENTION- 0

EXCUSED - BROOKS - 1

ATTEST: Alonda Simmons
CEDA FLOYD
Secretary of the Redevelopment Agency
of the City of Oakland