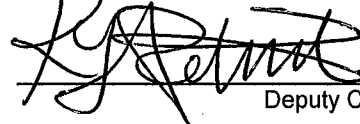


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2016 JUN 17 AM 9:16

APPROVED AS TO FORM AND LEGALITY:

  
Deputy City Attorney

OAKLAND CITY COUNCIL

86266

RESOLUTION No. \_\_\_\_\_ C.M.S.

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RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO (1) EXECUTE A CONSENT TO THE CONVEYANCE BY MACARTHUR TRANSIT COMMUNITY PARTNERS, LLC ("MTCP") TO A JOINT VENTURE BETWEEN BOSTON PROPERTIES, LP OR RELATED ENTITY, AND MCGRATH PROPERTIES, INC., OR RELATED ENTITY, OF PARCEL B-1 AND B-2 OF THE MACARTHUR BART TRANSIT VILLAGE FOR DEVELOPMENT OF ONE RESIDENTIAL MIXED-USE PROJECT, PURSUANT TO THE TERMS OF A DEVELOPMENT AGREEMENT ("DA") BETWEEN THE CITY OF OAKLAND AND MTCP AND (2) CONSENT TO THE PARTIAL ASSIGNMENT OF THE DA, AS SUCH CONVEYANCE AND ASSIGNMENT ARE NOT PROJECTS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA"), AND SEPARATELY AND INDEPENDENTLY RELYING ON THE PREVIOUSLY CERTIFIED 2008 ENVIRONMENTAL IMPACT REPORT PER CEQA GUIDELINES SECTIONS 15162-15164, 15183, 15183.3, AND 15168 AND 15180

**WHEREAS**, on June 4, 2008, the City of Oakland Planning Commission (the "Commission") certified the MacArthur Transit Village Environmental Impact Report ("EIR") and recommended approval of the MacArthur Transit Village Planned Unit Development ("PUD"); and

**WHEREAS**, on July 1, 2008, pursuant to Resolution No. 81422 C.M.S., the Oakland City Council ("City Council") approved the MacArthur Transit Village PUD; and

**WHEREAS**, pursuant to Ordinance No. 12959 C.M.S., dated July 21, 2009, the City Council adopted the "Development Agreement ("DA") by and between City of Oakland ("City") and MacArthur Transit Community Partners, LLC ("MTCP") Regarding the Property and Project Known as "MacArthur Transit Village" ; and

**WHEREAS**, the DA and Oakland Planning Code require City Council consent to the transfer of development rights to "Non-Exempt Transferees," as defined in the DA; and

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**WHEREAS**, in December 2015, MTCP submitted a request to transfer interest in MacArthur Transit Village Parcels B-1 and B-2 (hereinafter referred to as "Parcel B", since the two parcels will be combined to create one Parcel B for development) to a different developer; and

**WHEREAS**, MTCP has identified a joint venture between Boston Properties LP, or related entity, and McGrath Properties, Inc., or related entity, as the proposed new developer, and staff has determined that the joint venture has the financial capacity and development experience to deliver the proposed development on Parcel B; and

**WHEREAS**, MTCP desires to assign certain of its rights, interests and obligations relating to Parcel B under the DA, to the proposed new developer and the City desires to consent to and approve of such assignment; and

**WHEREAS**, the requirements of the California Environmental Quality Act ("CEQA") and the CEQA guidelines as prescribed by the Secretary of Resources have been satisfied; now therefore be it

**RESOLVED:** That, pursuant to the DA, the City consents to the partial assignment and assumption of the DA relating to Parcel B and the transfer and assignment of development rights under the DA for Parcel B to a joint venture between Boston Properties LP, or related entity, and McGrath Properties, Inc., or related entity; and be it further

**RESOLVED:** That, pursuant to the DA, the City Administrator or designee is hereby authorized to execute a written consent to the partial assignment and assumption of the DA relating to Parcel B and the transfer and assignment of development rights under the DA for Parcel B to a joint venture between Boston Properties LP, or related entity, and McGrath Properties, Inc., or related entity; and be it further

**RESOLVED:** That the City finds and determines, after independent review and consideration, that this action complies with CEQA because it is not a project under CEQA, and separately and independently the City is relying on the previously Certified 2008 ER per CEQA Guidelines Sections 15162-15164, 15183, 15183.3 and 15168 and that none of the circumstances that require a supplemental or subsequent EIR have occurred; and be it further

**RESOLVED:** That the City Administrator or designee shall cause to be filed with the County of Alameda a Notice of Determination and/or Exemption for this action; and be it further

**RESOLVED:** That the City Administrator is further authorized to take whatever action is necessary with respect to the consent to the transfer and assignment of development rights under the DA consistent with this Resolution and its basic purposes; and be it further

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**RESOLVED:** That all documents necessary to effect the consent to the partial assignment and assumption of the DA related to Parcel B and the assignment and transfer of the development rights under the DA with regards to Parcel B pursuant to this Resolution shall be reviewed and approved by the City Attorney, and copies shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 05, 2016

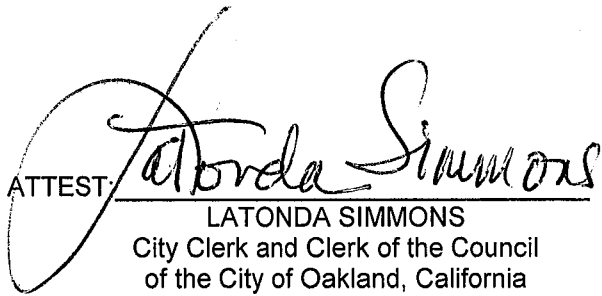
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, ~~KAPLAN~~, REID AND PRESIDENT GIBSON McELHANEY -7

NOES- 0

ABSENT- Kaplan

ABSTENTION- 0

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