

RESOLUTION NO. 36-06

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ACCEPTING THE SUMMARY REPORT PURSUANT TO SECTION
33433 AND APPROVING THE DISPOSITION AND DEVELOPMENT
AGREEMENT BETWEEN THE RICHMOND COMMUNITY
REDEVELOPMENT AGENCY AND 12TH AND MACDONALD, LLC**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), the Richmond Community Redevelopment Agency the "Agency") is carrying out the Redevelopment Plan (the "Redevelopment Plan") for the Downtown Redevelopment Project Area 10A (the "Redevelopment Project"); and

WHEREAS, the goals and objectives of the Redevelopment Plan include, among others, elimination of vacant buildings, revitalization of underutilized sites, and creation of jobs and private investment in the Redevelopment Project Area consistent with the policies and standards of the General Plan of the City of Richmond; and

WHEREAS, on April 19, 2005, the City and Agency directed the Community and Economic Development Director to initiate a request for proposals ("RFP") process to solicit experienced development teams for a proposed 12th and Macdonald Mixed Use Project on certain real property bound on the north by Nevin Avenue, on the south by Macdonald Avenue, on the west by 11th Street, and on the east by 13th Street (the "Site"); and

WHEREAS, on September 20, 2005, after completion of a competitive selection process, the City and Agency directed the City Manager and Executive Director to enter into an exclusive right to negotiate agreement (the "ERN") with AF Evans on behalf of the City and Agency for the development of the 12th and Macdonald Mixed Use Project; and

WHEREAS, AF Evans subsequently formed 12th and Macdonald, LLC, a California limited liability company (the "Developer"), to develop the 12th and Macdonald Mixed Use Project; and

WHEREAS, in accordance with the ERN and in furtherance of the Redevelopment Project, the Agency has prepared a Disposition and Development Agreement (the "DDA") with the Developer that provides for the acquisition and development of the Site; and

WHEREAS, the Site is located within the boundaries of the Redevelopment Project, and consists of (a) certain land currently owned by the Agency (the "Agency Parcels"), (b) certain right of way property and public parking garage currently owned by the City (the "City Parcel") and (c) certain adjacent parcels of land currently owned by third parties which are anticipated to be acquired by the Agency for inclusion within the Site (the "Acquisition Parcels"), which are described more specifically in the DDA; and

WHEREAS, the DDA provides that the Agency will make commercially reasonable efforts to acquire from the City the City Parcel and the City-owned public parking garage located adjacent to the Site (the "City Parking Garage Parcel"), which is more specifically described in the DDA, in order to further the purposes of the DDA; and

WHEREAS, pursuant to the DDA, it is anticipated the Site will be developed by the Developer as a high density mixed-use project, including approximately 237 for-sale residential units and 21,000 square feet retail development; and

WHEREAS, the Community Redevelopment Law provides in Section 33433 that before any property acquired, in whole or in part, with tax increment monies, is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the legislative body after a public hearing, that notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two (2) successive weeks prior to the hearing, and that the Agency shall make available for public inspection a copy

of the proposed sale or lease and a report containing specified information and the financial aspects of the proposal; and

WHEREAS, notice of the public hearing was published in the West County Times on April 18 and 25th, 2005; and

WHEREAS, pursuant to Health and Safety Code section 33433, a report was prepared and made available for public inspection and copying no later than the time of publication of the first notice of the public hearing, which report includes a copy of the proposed DDA and a summary including the information required by Section 33433; and

WHEREAS, the City Council and the Agency held a joint public hearing on May 2, 2006 to consider the approval of the proposed DDA; and

WHEREAS, the City Council desires to approve the proposed DDA;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. the City Council hereby accept the 12th and Macdonald Mixed Use Project Summary Report pursuant to Section 33433 of the California Community Redevelopment Act on a Disposition and Development Agreement by and between the Richmond Community Redevelopment Agency and 12th & Macdonald, LLC pertaining to the Site within Downtown Redevelopment Project Area 10A.

Section 2. the City Council hereby accept findings set forth in the report that the sale or lease of the properties will assist in the elimination of blight, is consistent with the Redevelopment Plan for the Downtown Redevelopment Project Area 10A and that the consideration for the Site is not less than the fair valuation based on the covenants, use conditions and development costs authorized by the sale or lease of the Site.

Section 3. the City Council hereby accept the Reuse Valuation Report Pursuant to Section 33433 of the California Community Redevelopment Act on a Disposition and Development Agreement by and between the Richmond Community Redevelopment Agency and 12TH & Macdonald, LLC pertaining to the Site within Downtown Redevelopment Project Area 10a.

Section 4. The City Council finds and determines that approval and implementation of the DDA, and the sale, lease and transfer of the Site to the Developer as provided in the DDA will assist in the elimination of blight, and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

Section 5. The City Council hereby approves the DDA, and further directs and authorizes the City Manager to cooperate with Agency staff in the preparation, execution and processing of such documents as are necessary to facilitate the conveyance of the City Parcel and the City Parking Garage Parcel, as defined in the DDA, from City to Agency. Nothing in this resolution or the approvals and authorizations provided for herein shall be construed to approve or authorize the City Manager to take any actions or provide any approvals that are required by law to be taken and/or approved by the City Council.

PASSED AND ADOPTED this 2nd day of May, 2006, by the following vote to wit:

AYES: Councilmembers Bates, Butt, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Viramontes, and Mayor Anderson

NOES: None

ABSTESNTIONS: None

ABSENT: None

SANDRA L. THOMPSON
Acting Clerk of the City of Richmond

Approved:

IRMA L. ANDERSON
Mayor

Approved as to Form:

JOHN EASTMAN
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of Resolution No. 36-06, finally passed and adopted by the Council of the City of Richmond at a regular meeting held on May 2, 2006, and published with accordance with law.