

*W. Miller*

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2003 SEP 11 PM 2:07

REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND

RESOLUTION N&O 03-70 C.M.S.

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**AN AGENCY RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND AUTHORIZING THE SALE OF APPROXIMATELY 4.35 ACRES OF REAL PROPERTY LOCATED ON OAKPORT STREET NEAR HASSLER WAY FOR \$3,318,047 TO, AND AUTHORIZING THE NEGOTIATION AND EXECUTION OF, A DISPOSITION AND DEVELOPMENT AGREEMENT WITH, HENDRICK AUTOMOTIVE GROUP FOR THE DEVELOPMENT OF AN INFINITI AUTOMOBILE DEALERSHIP**

**WHEREAS**, the Redevelopment Agency of the City of Oakland ("Agency") owns approximately 3.42 acres of unimproved and vacant real property located along Oakport Street near Hassler Way, which property is more particularly described in Exhibit "A" attached hereto and made a part hereof ("Agency Parcel"); and

**WHEREAS**, the City of Oakland ("City") owns approximately .93 acres of vacant real property ("City Parcel") adjacent to the Agency Parcel which property is more particularly described in Exhibit "B" attached hereto and made a part hereof; and

**WHEREAS**, concurrently with adoption of this resolution, the City has made certain findings and has agreed to sell the City Parcel to the Agency for redevelopment; and

**WHEREAS**, the Agency Parcel and the City Parcel collectively shall be referred to as the "Property;" and

**WHEREAS**, the Property is located in the Coliseum Redevelopment Project Area; and

**WHEREAS**, pursuant to Resolution No. 96-53 C.M.S., the Agency purchased the Agency Parcel from the City using non-tax increment funds, and executed a promissory note to the City for the \$8.5 million purchase price; and

**WHEREAS**, Health and Safety Code Section 33430 authorizes a redevelopment agency within a survey (project) area or for purposes of redevelopment to sell real property, Section 33432 requires that any sale of real property by a redevelopment agency in a project area must be conditioned on redevelopment and use of the property in conformity with the redevelopment plan, and Section 33439 provides that a redevelopment agency must retain controls and establish restrictions or covenants running with the land for property sold for private use as provided in the redevelopment plan; and

**WHEREAS**, the Agency has entered into negotiations with Hendrick Automotive Group, a New York general partnership ("Buyer") to purchase the Property for development of an approximately 37,000 square-foot, two-story building, and related parking spaces for a new Infiniti automobile dealership and service facility (the "Project"); and

**WHEREAS**, the Agency has held a public hearing on this sale, notice of which was given by publication at least once a week for two weeks in a newspaper of general circulation; and

**WHEREAS**, the City is the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 (CEQA"); and

**WHEREAS**, an Environmental Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared under the California Environmental Quality Act of 1970 ("CEQA") for the Infiniti (Oakland) automobile dealership and service facility and for the proposed general advertising sign; and

**WHEREAS**, the IS/MND concluded that the Project, as mitigated, will not have any significant adverse impacts on the environment and, therefore, a Mitigated Negative Declaration was prepared and circulated for public comment; and

**WHEREAS**, the requirements of 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 been satisfied; and

**WHEREAS**, the Project conforms to the Redevelopment Plan for the Coliseum Area Redevelopment Project adopted on July 25, 1995, and subsequently amended on July 29, 1997, as well as the Five Year Implementation Plan for the Coliseum Area (the "Coliseum Redevelopment Plan"); now, therefore, be it

**RESOLVED:** That the Agency hereby finds and determines that the sale of the Property by the Agency to Buyer or a legal entity controlled by Buyer furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Coliseum Redevelopment Project Area, conforms to the Coliseum Redevelopment Plan, and furthers the goals and objectives of said Plan in that the Project will: redevelop a vacant and underutilized site; stimulate industrial, R&D, and commercial development; provide long-term job training and employment opportunities for Project Area residents; improve transportation, public facilities and infrastructure in the Project Area; enhance neighboring property values; assist neighborhood commercial revitalization; and attract new and retain existing businesses in the Project Area; and be it further

**RESOLVED:** That the Agency finds and determines that (i) it was presented the IS/MND and has reviewed and considered the information in the IS/MND prior to taking action on the Project; (ii) the IS/MND is legally adequate and was completed in compliance with CEQA; (iii) there is no substantial evidence that the project will have a significant effect on the environment; and (iv) the IS/MND identifies all potential significant impacts and feasible mitigation measures that would reduce these impacts to less than significant levels and such mitigation measures have been incorporated

into the project, by the City of Oakland, through conditions of approval and adoption of a mitigation monitoring program; and be it further

**RESOLVED:** That the Agency adopts the Mitigation Monitoring Program for the proposed project; and be it further

**RESOLVED:** That the Agency hereby authorizes the Agency Administrator or her designee to sell the Property to Buyer for the fair market value cash price of \$3,318,047 with \$3,277,454 paid to the Agency and \$40,593 paid to the city for the Fair Market Value of the City Parcel; and be it further

**RESOLVED:** That the Property shall be transferred to Buyer pursuant to terms of a Disposition and Development Agreement (“DDA”) to be negotiated and executed by Agency and Buyer; and be it further

**RESOLVED:** That the transaction shall include the following terms and conditions:

- The price of \$3,318,047 to be payable in cash at the close of escrow;
- The Agency to have the option to repurchase all or portions of the Property if Buyer does not commence construction of the Project within the time frames specified in the DDA;
- Buyer to comply with provisions of the Coliseum Area Redevelopment Plan and nondiscrimination provisions of redevelopment law;
- The Buyer to write automobile leases from an Oakland address to assure that related sales tax accrues to the City of Oakland; and
- Any other appropriate terms and conditions as the Agency Administrator or her designee may establish in his or her discretion or as the California Community Redevelopment Law or Redevelopment Plan may require;

and be it further

**RESOLVED:** That the Agency finds that the above transaction represents a fair market value sale of the Property at the Property’s highest and best use; and be it further

**RESOLVED:** That the Agency Administrator is authorized to negotiate and execute an amendment to the promissory note to the City; and be it further

**RESOLVED:** That all documents shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

**RESOLVED:** That the Agency hereby appoints the Agency Administrator or her designee as agent of the Redevelopment Agency to conduct negotiations, execute documents with respect to the sale of the Property, including any grant deeds or other documentation as necessary to effectuate the transaction, exercise any of the repurchase options, pay the purchase

price, and accept property under those options, and take any other action with respect to the Property and the Project consistent with this Resolution and its basic purpose; and be it further

**RESOLVED:** That the Agency Administrator or her designee is hereby authorized to file a notice of determination on this action with the Office of the Alameda County Recorder, and the Agency Secretary is hereby authorized and directed to retain a copy of the IS/MND in the record of proceedings for this Project, which shall be maintained by the Agency Secretary; and be it further

**RESOLVED:** That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, SEP 30 2003, 2003

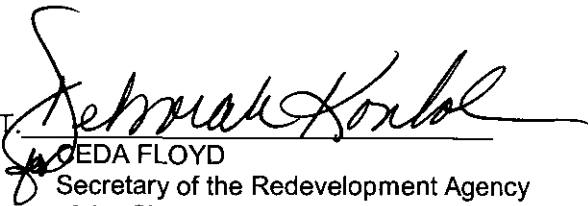
**PASSED BY THE FOLLOWING VOTE:**

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:   
SEDRAN KORB  
Secretary of the Redevelopment Agency  
of the City of Oakland

**LEGAL DESCRIPTION  
PARCEL 2**

Real property located in the City of Oakland, County of Alameda, State of California, also being a portion of Lot 1 as shown on the Parcel Map Waiver and Certificate of Compliance recorded October 7, 1999 as series 99382176, more particularly described as follows:

**Beginning** at the most northerly corner of said Lot 1 as shown on said Parcel Map Waiver and Certificate of Compliance; **thence**, along the northeasterly line of said Lot 1, South 33°50'12" East, 289.43 feet; **thence**, leaving said northeasterly line of Lot 1, South 56°09'36" West, 514.71 feet to a point on the southwesterly line of Lot 10 as shown on said Parcel Map Waiver and Certificate of Compliance; **thence**, along the southwesterly line of said Lot 10, North 33°50'24" West, 289.43 feet to the intersection with the northwesterly line of Lot 1 extended southwesterly; **thence**, along said extension and said northwesterly line of Lot 1, North 56°09'36" East, 514.72 feet to the **Point of Beginning**.

Containing 3.42 acres, more or less, measured in ground distances.

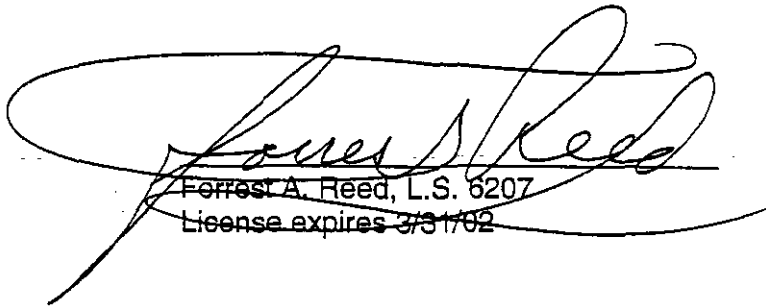
**END OF DESCRIPTION**

Bearings and distances described herein are based upon the California Coordinate System of 1983, Zone III, 1986 adjustment. All distances described herein are grid distances. To obtain ground distances, multiply grid distances by 1.0000708.

**Surveyor's Statement**

This description was prepared pursuant to section 8726 of the Business and Professions Code of the State of California by or under the supervision of:

12/18/01  
Date

  
Forrest A. Reed, L.S. 6207  
License expires 3/31/02



# OAKPORT STREET (Undedicated)

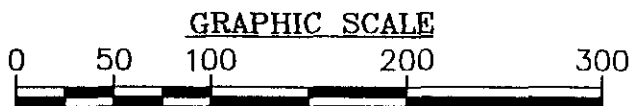
LOT 12  
PM 6003  
BK 205 PG 94-98

New Zhone Technologies  
Development Currently  
Under Construction

S33°50'12"E 289.43'

P.O.B.

Billboard



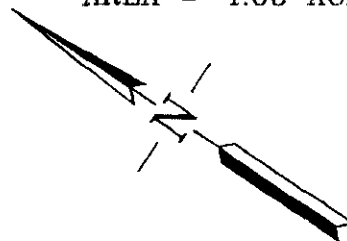
IN FEET  
1 INCH = 100 FT.

N56°09'36"E 514.72'

PARCEL 2  
AREA = 3.42 ACRES

S56°09'36"W 514.71'

PARCEL 1  
AREA = 4.00 ACRES



Parcel Map Waiver/  
Certificate of Compliance  
99382176

LOT 2

LOT 1

HASSLER WAY

LOT 10, PM 6003 BK 205 PG 94-98  
N33°50'24"W 289.43'

GRAND DEVELOPMENT  
RE: 5722 IM: 155

## PORT OF OAKLAND

LAND SURVEYS AND MAPPING



530 Water Street  
Oakland, California



### Parcel 2

Oakport Street and Hassler Way  
Plat to Accompany Legal Description

DRAWN BY: ead	Field Bk:
CHECKED BY: far	Wrk. Ord: 20068
SCALE: 1" = 100'	Data File:
DATE: 4/16/01	Revision: 1
SHEET 1 OF 1	Rev. date: 12/18/01
ATTACHMENTS:	
FILE LOC.: > pmwaiver_641301.dwa	

RECORDING REQUESTED BY:

City of Oakland, a Municipal Corporation



4 PGS

WHEN RECORDED MAIL TO:

Frank Fanelli, ASA  
Manager, Real Estate Division  
City of Oakland  
Community & Economic Development Agency  
250 Frank H. Ogawa Plaza  
4<sup>th</sup> floor  
Oakland, CA 94612

TAX ROLL PARCEL NUMBER  
(ASSESSOR'S REFERENCE NUMBER)  
041-3902-013-00  
MAP BLOCK PARCEL SUB

*it per*

(Space above for Recorder's use only)

**CORRECTION DOCUMENT**  
**To Correct and Amend**

The  
Certificate of Compliance

Recorded on April 27, 2001 by the City of Oakland, as Document Number 2001141354, Alameda County Records.

This Correction Document is being recorded for the following reason:

There is an error in the distance label on the northwesterly line of ~~the parcel~~. The distance was labeled 414.72 feet, but should have read 514.72 feet. The revised description and plat are attached.

Owner: Redevelopment Agency of the City of Oakland

Frank Fanelli

Date: 1/4/02

APPROVED:

Gary Patton

Date: 1-4-02

Gary Patton  
Zoning Administrator  
Local Agency Official

## LEGAL DESCRIPTION

Real property located in the City of Oakland, County of Alameda, State of California, being a portion of Lot 10, as shown on Parcel Map 6003, recorded in Book 205 of Parcel Maps at pages 94-98, Alameda County Records, more particularly described as follows: **Beginning** at the most westerly corner of Parcel 2 as shown on Certificate of Compliance, recorded April 27, 2001 as series number 2001141354, Alameda County Records; **thence**, along the westerly line of said Lot 10, North 33°50'24" West 1282.76 feet to a point on a curve concave to the southwest having a radius of 372.21 feet; **thence** northwesterly 26.45 feet along said curve through a central angle of 4°04'16"; **thence** North 56°09'36" East 20.05 feet to a point on a non-tangent curve concave to the southwest having a radius of 392.21 feet to which point a radial line bears North 52°17'51" East, said point also being on the easterly line of said Lot 10; **thence** southeasterly 26.44 feet along said curve through a central angle of 03°51'45"; **thence** continuing along said easterly line of Lot 10 the following 3 courses:

1. South 33°50'24" East 253.55 feet;
2. North 56°09'36" East, 14.00 feet;
3. South 33°50'24" East 1029.21 feet to a point on the northwesterly line of said Parcel 2;

**Thence** along said northwesterly line South 56°09'36" West 34.00 feet to the **Point of Beginning**.

Containing 40,593 square feet, more or less, measured in grid distances.

## END OF DESCRIPTION

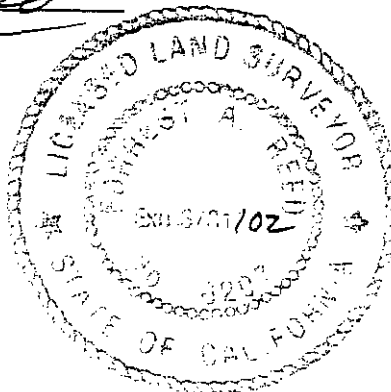
This description is based upon the North American Datum of 1983, (1986 Adjustment) as shown upon Record of Survey 990, filed for record in Book 18 of Record of Surveys, Pages 50-60, in the Office of the Recorder of Alameda County. All distances called for by this description are grid distances. To obtain ground distances, multiply distances called for herein by 1.0000708.

### Surveyor's Statement

I hereby state that this description and its accompanying plat were prepared by me or under my direction in December 2001.

  
Forrest A. Reed, PLS 6207  
License expires March 31, 2002

12/14/01  
Date





OAKPORT

STREET

(Undedicated)

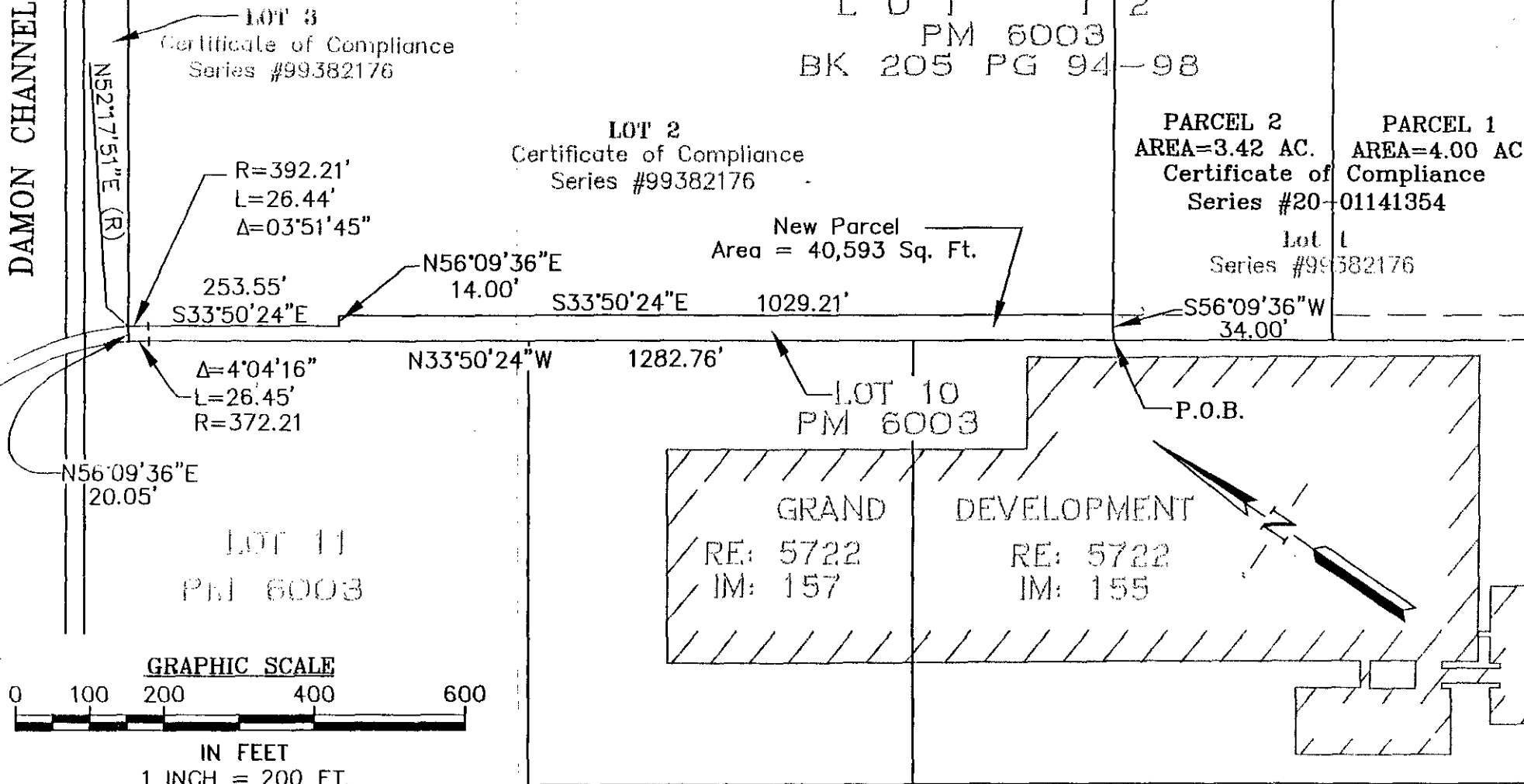
DAMON CHANNEL

LOT 1 2  
PM 6003  
BK 205 PG 94-98

LOT 2  
Certificate of Compliance  
Series #99382176

PARCEL 2  
AREA=3.42 AC.  
Certificate of Compliance  
Series #20-01141354  
Lot 1  
Series #99382176

New Parcel  
Area = 40,593 Sq. Ft.



BASIS OF BEARINGS

Refer to Parcel Map 6003, recorded in Book 205 Parcel Maps at pages 94-98, Alameda County Records. All distances shown hereon are grid distances. To convert to ground distances, multiply grid distances by 1.0000708.

EDGEWATER DRIVE

**PORT OF OAKLAND**  
 LAND SURVEYS AND MAPPING  
 530 Water Street  
 Oakland, California

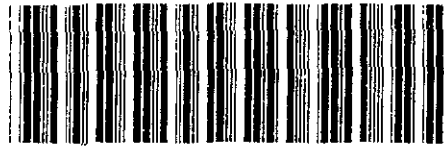
PLAT  
To Accompany  
Legal Description

DRAWN BY: ead	Field Bk:
CHECKED BY: cm	Wrk. Ord: 20068
SCALE: 1" = 200'	Data File:
DATE: 12/12/01	Revision:
SHEET 1 OF 1	Rev. date:
ATTACHMENTS:	
FILE LOC.>	

RECORDING REQUESTED BY:

City of Oakland, a Municipal Corporation

2002005767 01/04/2002 03:57 PM  
OFFICIAL RECORDS OF RECORDING FEE: 0.00  
ALAMEDA COUNTY  
PATRICK O'CONNELL



4 PGS

WHEN RECORDED MAIL TO:

Frank Fanelli, ASA  
Manager, Real Estate Division  
City of Oakland  
Community & Economic Development Agency  
250 Frank H. Ogawa Plaza  
4<sup>th</sup> floor  
Oakland, CA 94612

TAX ROLL PARCEL NUMBER  
(ASSESSOR'S REFERENCE NUMBER)  
041-3902-013-00  
MAP BLOCK PARCEL SUB

4  
m

(Space above for Recorder's use only)

**CERTIFICATE OF COMPLIANCE**

For the subdivision of the remainder of Lot 10 resulting from the recording of the Certificate of Compliance filed April 27, 2001 as Series No. 2001141354, Alameda County Records, and which property is shown in its entirety on Parcel Map 6003 filed June 2, 1993 in Book 205 of Parcel Maps at pages 94-98, Alameda County Records.

Pursuant to sections 33166.20 1/2 and 66499.35 of the Government Code of the State of California and City of Oakland Municipal Code section 16.24.020, the City of Oakland, a municipal corporation, hereby records this Certificate of Compliance for the parcels of land described in the attached Legal Descriptions and accompanying plats, after finding that the parcels described are in compliance with section 66428 by virtue of a Parcel Map Waiver attached and hereby made a part of this Certificate of Compliance.

**Owner:** Redevelopment Agency of the City of Oakland,

Frank Fanelli

Date: 1/4/02

APPROVED:

Gary Patton

Date: 1-4-02

Gary Patton  
Zoning Administrator  
Local Agency Official

R/R  
PARCEL