

**REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND**

OFFICE OF THE CITY CLERK
2006 OCT 12 PM 1:21

Agenda Report

TO: Office of the City Administrator/Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: October 24, 2006

SUBJECT: City and Agency Resolutions Authorizing the Sale of Real Property Located at 3860 Martin Luther King, Jr. Way by the Redevelopment Agency to Cotter and Coyle, LLC, for \$1,060,000 for the Development of a 34-Unit Condominium Project, and Authorizing a Disposition and Development Agreement for the Project

SUMMARY

The item is a request for Redevelopment Agency and City Council approval of resolutions authorizing the Redevelopment Agency to sell to Cotter and Coyle, LLC, Agency-owned real property at 3860 Martin Luther King, Jr. Way at a purchase price of \$1,060,000, its appraised fair market value, for development of a 34-unit market rate condominium residential project with approximately 1,200 square feet of retail space. The resolutions will authorize the Agency Administrator to enter into a Disposition and Development Agreement (DDA) with Cotter and Coyle, LLC for the project. The terms of the DDA are shown in Attachment A and the project design is shown in Attachment B. Staff recommends the adoption of these resolutions.

FISCAL IMPACTS

Approval of the DDA and sale of 3860 Martin Luther King, Jr. Way will generate \$1,060,000 in land sales proceeds, not including the closing costs. Close of escrow is anticipated in July 2007.

The Agency purchased 3860 Martin Luther King, Jr. Way from the City in June 2002 in exchange for a promissory note for \$257,000. The Agency will repay this promissory note to the City with the land sales proceeds. The property was originally purchased by the City using CDBG funds so the proceeds of the promissory note are considered CDBG Program income and will be deposited and appropriated into CDBG Fund (2108), Housing Development Organization (88929), Vacant Housing Project (G06750).

The remaining \$803,000 in land proceeds minus any closing costs will be deposited in the Broadway/MacArthur/ San Pablo Redevelopment Capital Fund (9530), Redevelopment Projects Organization (88669) Sale of Land Account (48111) and be appropriated for projects in the next two-year budget cycle. In addition, the project will produce approximately \$4 million of tax

Item No. _____
CED Committee
October 24, 2006

increment revenue for the Broadway/MacArthur/San Pablo Redevelopment Project Area and \$2 million for the Low and Moderate Income Housing Fund over the life of the redevelopment project area, which is shown in Attachment C.

The project will generate approximately \$8,000 a year in property tax that the City will receive as part of the pass-throughs to other taxing entities. The project residents will also support retail activities in the area and throughout Oakland, which will generate additional sales tax and business license tax for the City.

BACKGROUND

The subject property at 3860 Martin Luther King Jr. Way is a vacant parcel of land located directly west of Highway 24 between 39th Street and Apgar Street. The property is in the Broadway/MacArthur/San Pablo Redevelopment Project Area and is located immediately west of the MacArthur BART Station, on the opposite side of Highway 24 from the proposed MacArthur Transit Village Project and the BART station entrance. The property is owned by the Redevelopment Agency.

The Redevelopment Agency entered into the ENA with Cotter and Coyle, LLC, on February 24, 2006 to evaluate the feasibility of selling the property at fair market value for the purpose of a for-sale housing development. Cotter and Coyle, LLC, has completed their feasibility analysis to the satisfaction of the Agency and is now ready to proceed with the purchase of the Agency property at the appraised fair market value. The development team has completed the required environmental review under CEQA for this project and the project has received the necessary planning entitlements. The project was reviewed and approved by the Planning Commission at their September 20, 2006 meeting. The project is consistent with the Agency's vision for development surrounding the MacArthur BART Station.

KEY ISSUES AND IMPACTS

Determination of Sales Price

The sales price for the property, \$1,060,000, is the fair market value of the property as determined by a third party appraiser, Thomas E. Dum Real Estate Appraisers, Inc. The Agency hired the appraiser to complete the analysis of fair market value. The date of the valuation was August 21, 2006. The fair market value as determined by the appraisal has been reviewed and accepted by both the development team and the City's Real Estate Division staff.

Agency Repayment of Promissory Note to City

The Agency purchased 3860 Martin Luther King Jr. Way from the City in June 2002 in exchange for a \$257,000 promissory note in order to establish debt for the Broadway/MacArthur/San Pablo Redevelopment Project Area. Redevelopment Project Areas must have debt greater or equal to their tax increment allocations in order to collect the tax increment funds. The Agency has since established debt for the Broadway/MacArthur/San Pablo Redevelopment Project Area and no longer has a need to retain the debt from the promissory note. The promissory note is recorded

against the deed of the property and must be repaid at the time the property is sold.

The City originally purchased the property in 1989 using Community Development Block Grant (CDBG) funds. CDBG guidelines require that the proceeds of the promissory note from the purchase of the property be considered as CDBG Program Income. As a result, the payment from the promissory note will be appropriated to the CDBG Fund, Vacant Housing Program Project.

CEQA Review

On September 20, 2006, the Planning Commission determined that the project is categorically exempt from the environmental review requirements of CEQA pursuant to Section 15332 of the State CEQA Guidelines (In-Fill Development Projects). The City Council and Redevelopment Agency Board will be making the same determination when approving the attached resolutions for this project.

Key Negotiated DDA Deal Terms

A summary of the project and a list of the deal terms that were negotiated as part of the DDA are included with this report as “Attachment A”. The following list highlights the most critical deal terms that have been negotiated:

- Cotter and Coyle, LLC to purchase the site for \$1,060,000, the appraised fair market value of the property;
- Cotter and Coyle, LLC to take the Property in its “as-is” condition;
- Cotter and Coyle, LLC to be responsible for the cost of all required off-site improvements in connection with the project;
- The plans and specifications for the project are to be reviewed and approved by the Agency; and
- The Agency’s employment and contracting programs (prevailing wage, local employment, local/small local business enterprise contracting, apprenticeship, living wage, or first-source hiring) will not apply to this Project since there is no Agency subsidy to the project.

Project Area Committee Review

The Broadway/MacArthur/San Pablo Redevelopment Project Area has an active Project Area Committee (PAC) that advises the Agency on all activities within the Project Area. The development team presented the project proposal to the PAC at their September 7, 2006 meeting. The PAC adopted a motion in support of the project and supporting the sale of the Agency-owned property to the development team.

PROJECT DESCRIPTION

Project Scope

The proposed development project at 3860 Martin Luther King, Jr. Way will provide 34 units of market rate, for-sale housing, including: 2 studio units, 21 one-bedroom units, 10 two-bedroom units, and one 3-bedroom unit. The residential units will range from 514 to 1,659 square feet in

size. In addition, there will be approximately 1,200 square feet of commercial space on the ground floor of the building along Martin Luther King Jr. Way toward Apgar Street and 34 parking spaces in a structured garage with entry from 39th Street, which will be provided by an easement from the adjacent property at 3884 Martin Luther King, Jr. Way, which is owned by Cotter and Coyle, LLC and is also proposed for residential condominium development. The schematic designs for the project are included with this report as Attachment B.

The Developer

Cotter and Coyle, LLC, is a partnership between Neil Cotter of C.O.D. Builders, Inc. and Gilbert Coyle of Coyle Iron. They offer over 39 years of combined experience in housing and mixed-use construction and development with a focus on developing in underutilized areas. Their recent projects include 532 30th Street in Oakland (a 27-unit condominium project) completed in 2005, 300 Linden Street in San Francisco (17 loft style condominiums with ground floor retail) completed in 2002, and 1710-1720 Market Street in San Francisco (22 loft style condominiums with ground floor retail) completed in 1999.

Project Budget and Financing

Cotter and Coyle, LLC, are estimating a total project development cost of \$9,385,000, as shown in Table 1. This development budget equates to about \$276,000 per unit, or \$326 per square foot, which is generally consistent with residential development of this type.

Table 1. Developer's Estimated Cost for 3860 Martin Luther King, Jr. Way Residential Project

Land Acquisition	\$1,060,000
Construction Costs	\$6,862,000
Soft Costs, including financing costs	\$1,463,000
Total Project Costs	\$9,385,000

Project Schedule

The development team received their land-use entitlements on September 20, 2006. Completion of the construction documents, permits, and construction contract is expected to take 9 months. The conveyance of the site to the development team is expected to take place in July 2007. Construction will require 18 months, with occupancy of the units starting in January 2009.

SUSTAINABLE OPPORTUNITIES

Economic

The proposed project will take a vacant underutilized property and convert it to a productive use - ownership housing. The project will generate approximately \$8,000 a year in additional property tax revenue for the City's General Fund, beginning in Fiscal Year 2008-09 and will generate approximately \$4 million of tax increment revenue for the Redevelopment Agency over the life of the Broadway/MacArthur/San Pablo Redevelopment Plan.

Environmental

The development of high-density housing adjacent to transit-node locations creates a more sustainable urban land use pattern and increased transit ridership. The DDA also requires Cotter and Coyle, LLC to incorporate green building techniques in the project; to the extent it is economically feasible. The project design includes the use of solar panels, green building materials, and energy efficient appliances.

Social Equity

The project will generate approximately \$2 million for the Low and Moderate Income Housing Fund over the life of the Broadway/MacArthur/San Pablo redevelopment plan, which will fund approximately 10 to 15 new affordable housing units by the end of the project area life in 2045.

DISABILITY AND SENIOR CITIZEN ACCESS

All housing development projects are required to construct and set aside units to be occupied by persons with disabilities as required by Federal ADA Accessibility Guidelines, the Fair Housing Act, and the State of California's Title 24 accessibility regulations. This means that at least five percent of the newly constructed units will be available to people with disabilities. Also, the use of "green building" materials may reduce the incidence of environmental illness disabilities.

RECOMMENDATIONS AND RATIONALE

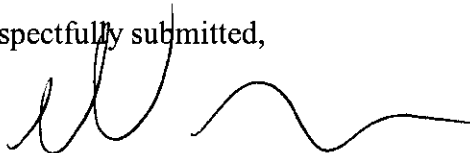
Staff recommends that the Redevelopment Agency and City Council authorize the sale of the subject property to Cotter and Coyle, LLC for a price of \$1,060,000 for the purpose of completing the for-sale condominium project. The proposed sale meets many objectives of the Broadway/ MacArthur/San Pablo redevelopment plan and the 5-year implementation plan:

- The project will redevelop a key underutilized site in the project area;
- The project will increase the stock of for-sale housing in the project area; and
- The project, once developed, will enhance residential and commercial property values on the west side of the MacArthur BART Station and will encourage efforts to alleviate economic and physical blight conditions in the area by enhancing the development potential and overall economic viability of neighboring properties.

ACTION REQUESTED OF THE COUNCIL

Staff recommends that the Redevelopment Agency and City Council approve the attached resolutions authorizing the sale of the Agency-owned real property at 3860 Martin Luther King, Jr. Way to Cotter and Coyle, LLC for \$1,060,000 and authorizing the execution of a DDA with Cotter and Coyle, LLC for this project.

Respectfully submitted,



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

Prepared by:
Kathy Kleinbaum
Urban Economic Analyst IV

APPROVED FOR FORWARDING TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE


OFFICE OF THE AGENCY ADMINISTRATOR

LIST OF REPORT ATTACHMENTS:

- ATTACHMENT A: TERM SHEET AND PROJECT SUMMARY
- ATTACHMENT B: PROJECT SCHEMATIC DESIGN
- ATTACHMENT C: TAX INCREMENT ANALYSIS

ATTACHMENT A
TERM SHEET AND PROJECT SUMMARY
3860 Martin Luther King, Jr. Way

Project Terms

The terms of the Disposition and Development Agreement include the following:

- Cotter and Coyle, LLC to build 34 residential condominium units
- Cotter and Coyle, LLC to build approximately 1,200 square feet of commercial space;
- Cotter and Coyle, LLC to purchase the site for \$1,060,000, the appraised fair market value of the property;
- Seller financing to be secured by a deed of trust on the Property;
- Cotter and Coyle, LLC to be responsible for the cost of required off-site improvements in connection with the Project;
- Cotter and Coyle, LLC to take the Property in its “as-is” condition;
- Cotter and Coyle, LLC to comply with provisions of the Broadway/MacArthur/San Pablo Redevelopment Plan and nondiscrimination provisions of redevelopment law;
- The plans and specifications for the Project are to be reviewed and approved by the Agency;
- Transfer of the Property to be restricted prior to Project completion;
- Project commencement and completion dates to be set in the DDA as negotiated by the Agency Administrator;
- No required application of the Agency’s employment and contracting programs (prevailing wage, local employment, local/small local business enterprise contracting, apprenticeship, living wage, or first-source hiring) to the Project;
- The Project to be restricted to residential, parking, and commercial uses; 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 the Redevelopment Plan may require.

Project Summary

Project Name:	3860 Martin Luther King, Jr. Way
Project Type:	Residential with commercial and parking
Address/Location:	3860 Martin Luther King Jr. Way, in the Broadway/MacArthur/San Pablo Redevelopment Project Area
Developer:	Cotter and Coyle, LLC
Architect:	Levy Design Partners
Type of Construction:	New construction-Type III wood-frame, six-story residential buildings with structured parking wrapped by retail.
Number of Units:	34 units including: <ul style="list-style-type: none">• 2 studio units• 21 one-bedroom units• 10 two-bedroom units• 1 three-bedroom unit
Retail Area:	1,200 square feet
Parking Garage:	34 spaces
Project Tenure:	Market rate for-sale and commercial condominiums
Total Development Costs:	\$9,385,000
Average Development Cost per Unit:	\$273,382
Average Sales Price per Unit:	\$375,155

Development Schedule

Cotter and Coyle, LLC submitted land-use applications on June 16, 2006, and received their land-use entitlements on September 20, 2006.

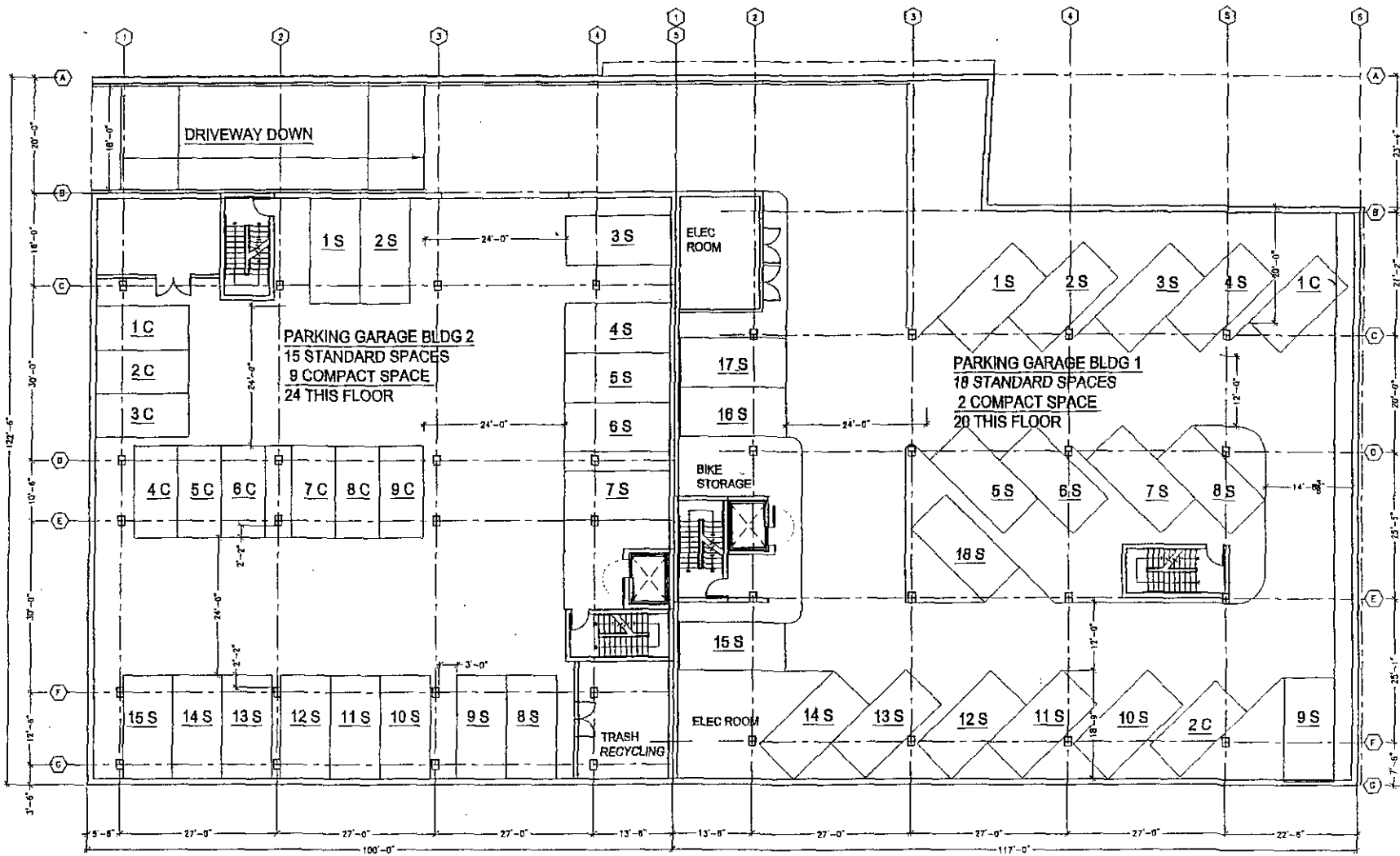
Cotter and Coyle, LLC will submit for building permits by December 31, 2006.

Cotter and Coyle, LLC will close escrow on purchase of Property within 30 days of after receipt of a building permit, this date is estimated to be July, 29, 2007.

Cotter and Coyle, LLC will begin construction, defined as the pouring of concrete for foundation work, within 150 days after receipt of a building permit, this date is estimated to be November 26, 2007.

Cotter and Coyle, LLC will complete construction no later than January 19, 2007, or 570 days after receipt of a building permit.

ATTACHMENT B
PROJECT SCHEMATIC DESIGN



1 BASEMENT PLAN
1/4" = 1' - 0"



ARCHITECTURE
90 South Park
San Francisco CA 94107
415.777.0981
415.777.9517

LEVY DESIGN PARTNERS, INC.

**Martin Luther King Jr. Way
Bldgs 1 & 2**

3484 & 3480 M.L. King Jr. Way
Oakland CA

APN #012-0288-020-8031
OAKLAND, CA
PROJECT NO. 2005-21

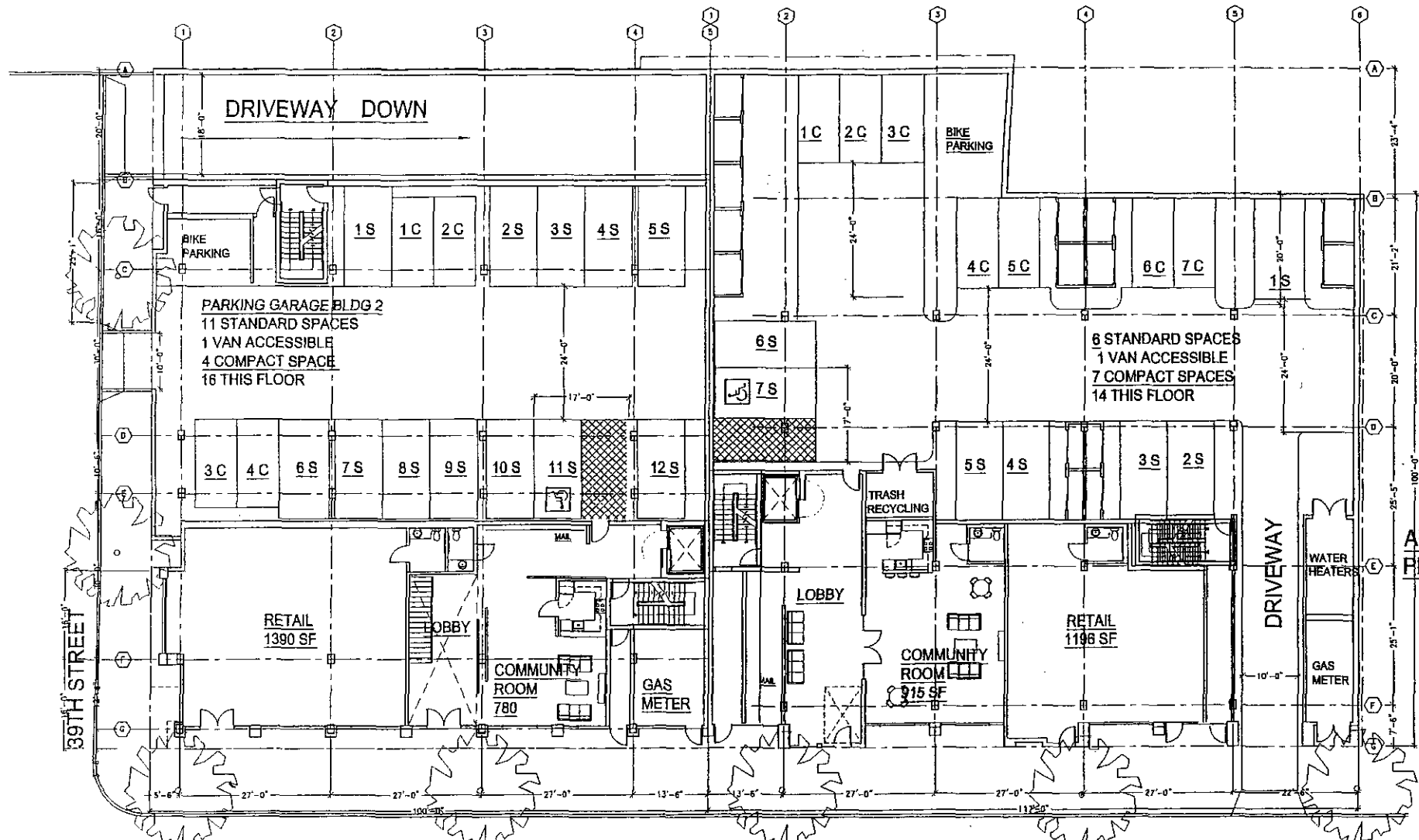
DATE: 07/2005
08/12/05 PLANNED IMPROVEMENT
07/12/05 PLANNED IMPROVEMENT

CONTRACT:
TOBY LEVY
contact@levydesignpartners.com

www.levydesignpartners.com

SCALE: 1/8" = 1'-0"
BASEMENT

A2.0



MARTIN LUTHER KING BLVD

1 GROUND FLOOR PLAN
1/8" = 1'-0"



ARCHITECTURE
90 South Park
San Francisco CA 94107
415.777.0591
415.777.5117

LEVY DESIGN PARTNERS INC.

Martin Luther King Jr. Way
Bldgs 1 & 2

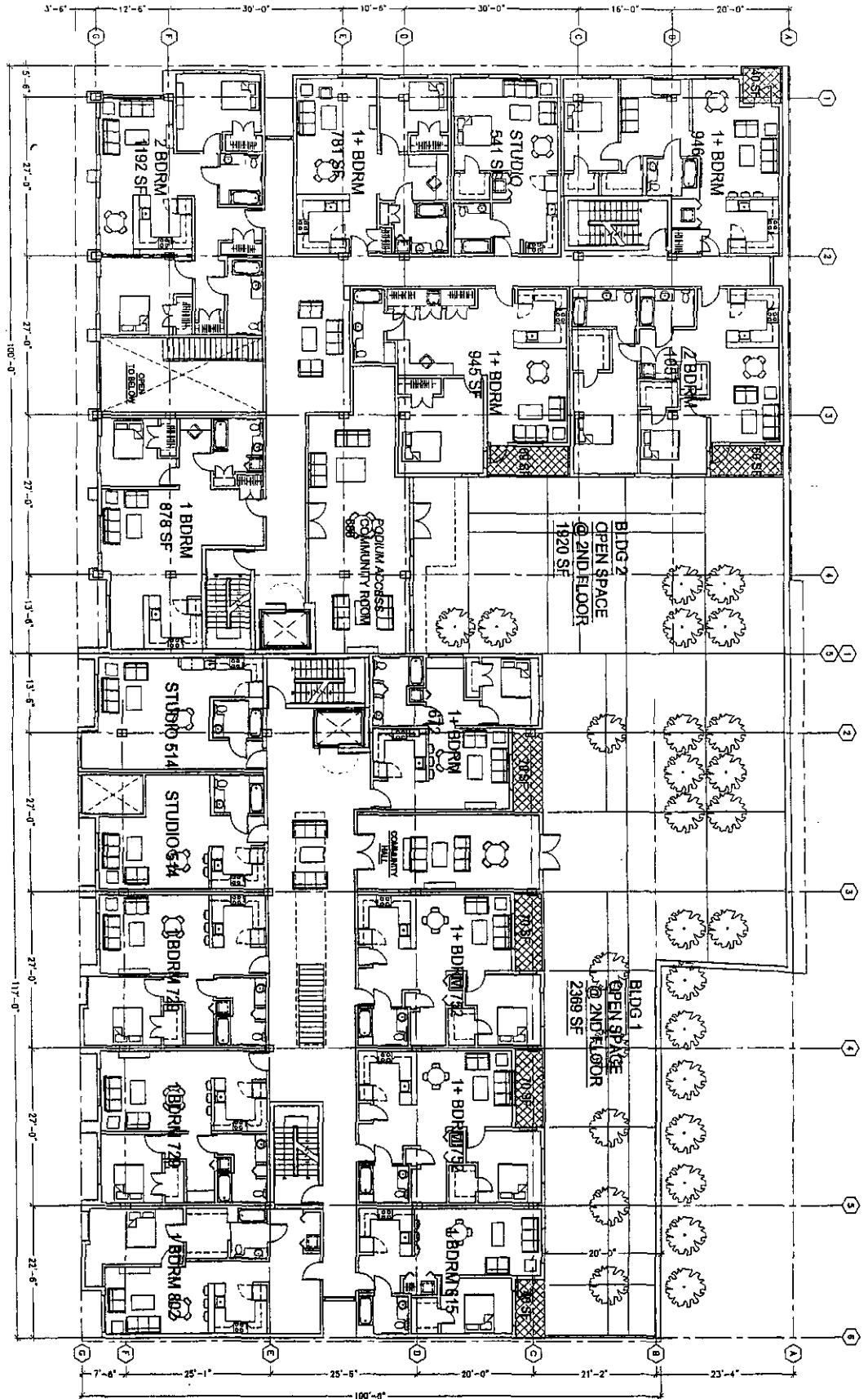
3804 & 3890 M.L. King Jr. Way
Oakland CA
APN: 012 0668 030 8031
OAKLAND, CA
PROJECT NO. 2023-21

DATE	DESCRIPTION
07/2023	SCHEMATIC DEVELOPMENT
08/2023	PERMISSION SUBMITTAL
09/2023	PERMISSION RESPONSE

CONTACT:
TOBY LEVY
contact@levydesignpartners.com

www.levydesignpartners.com
SCALE: 1/8" = 1'-0"
GROUND

A2.1



1 2ND FLOOR PLAN



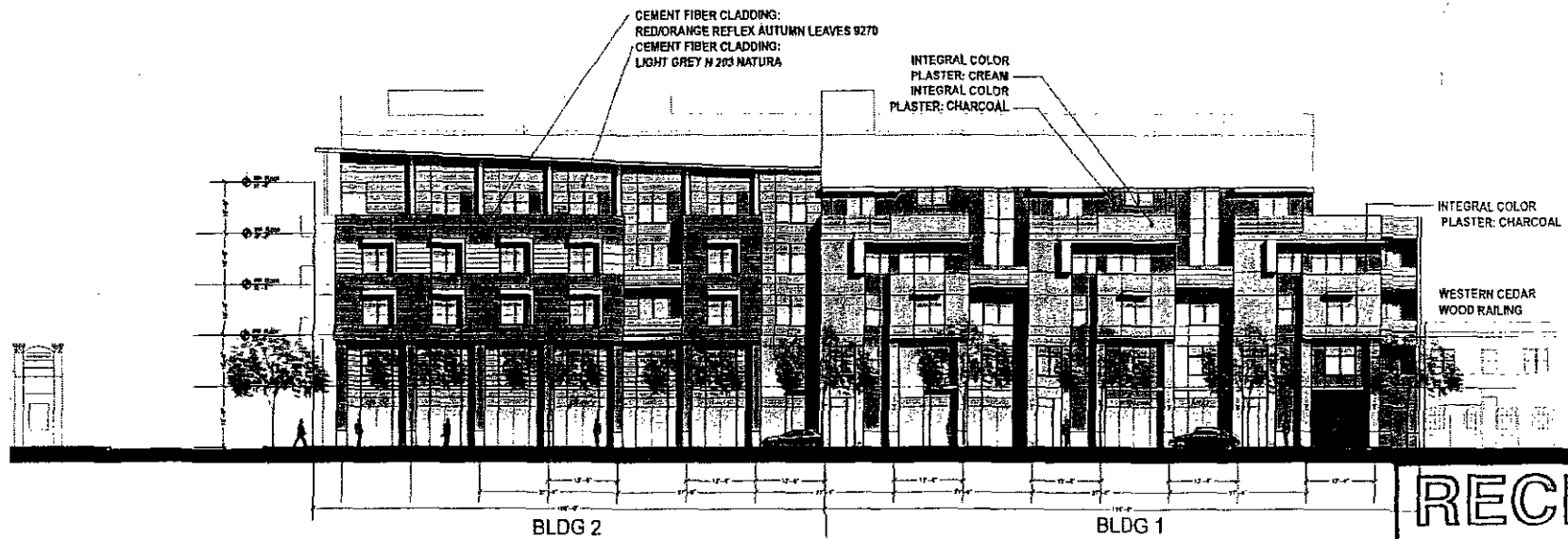
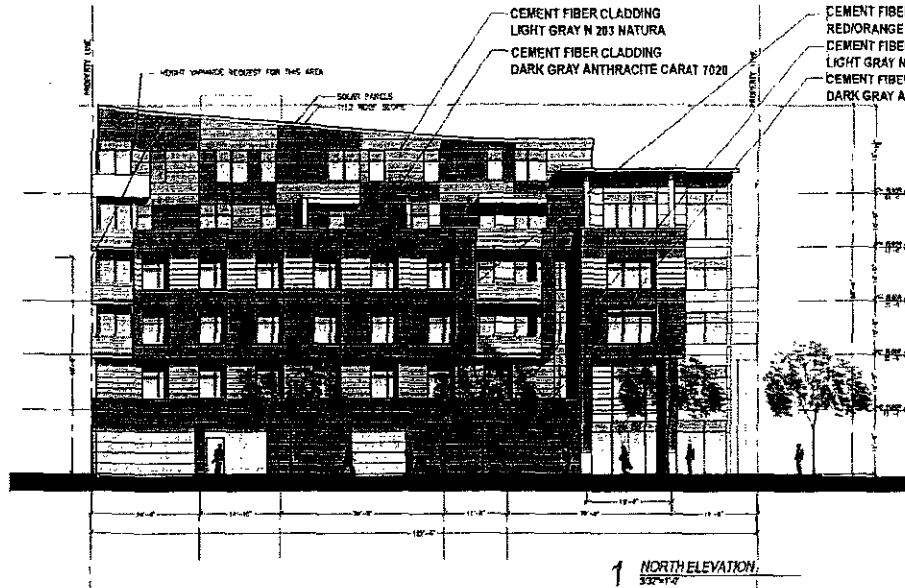
A2.2

scale 1/8"=1'-0"
2ND FLOOR

DATE: 10/15/10
DRAWN BY: TOSHIKI
CHECKED BY: [Signature]

2010 LEVY DESIGN PARTNERS INC. 10/15/10
ARCHITECTURE
90 South Park
San Francisco
CA 94107
415.777.0561
415.777.5117

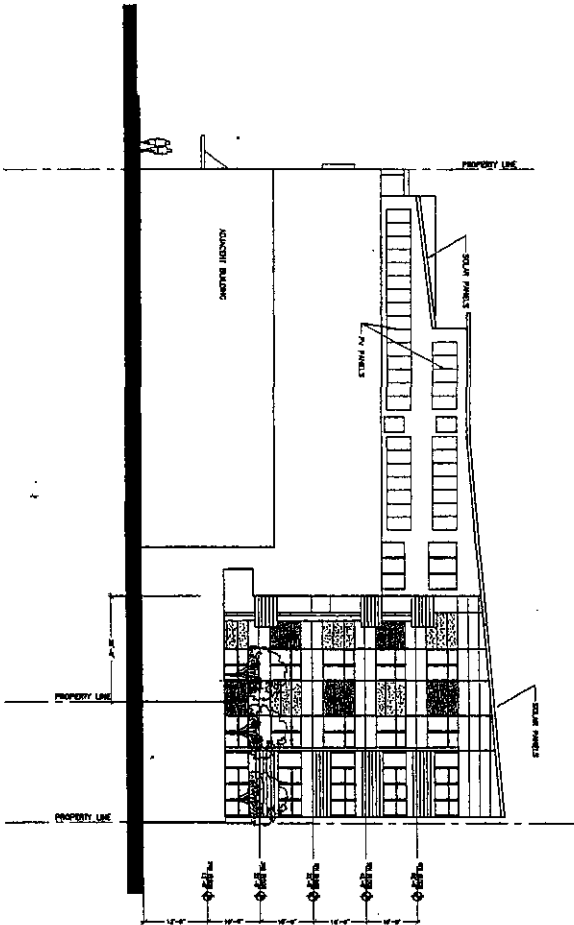
LEVY DESIGN PARTNERS INC
ARCHITECTURE
Martin Luther King Jr. Way
Bldgs 1 & 2



LEVY DESIGN PARTNERS, INC. ARCHITECTURE
 90 SWAIN PARK
 SAN FRANCISCO
 CA 94107
 415.777.0961
 415.777.5117

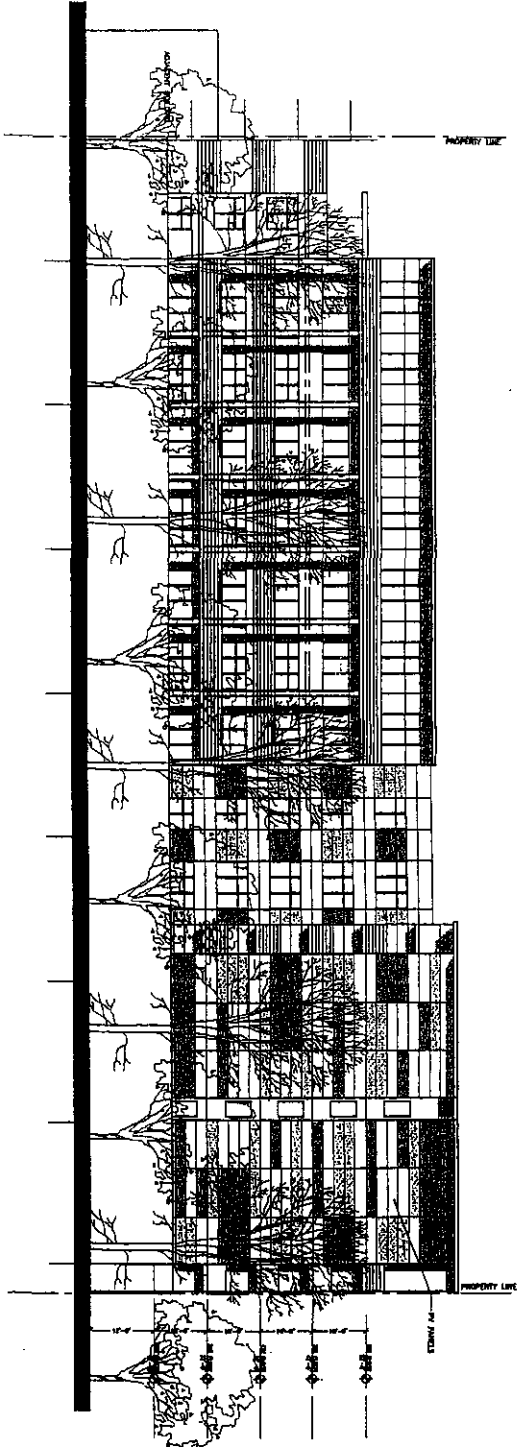
Martin Luther King Jr. Way

RECEIVED
 AUG - 7 2006
 City of Oakland
 Planning & Zoning Division



2 SOUTH ELEVATION

1 EAST ELEVATION

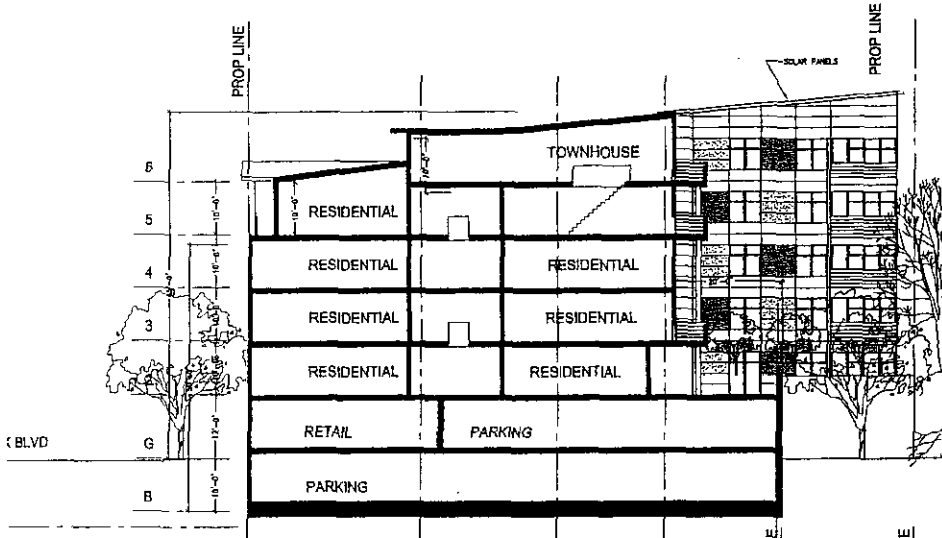


DATE	10/21/09
BY	LEVY DESIGN PARTNERS INC.
FOR	LEVY DESIGN PARTNERS INC.
PROJECT NO.	2009-21
PROJECT NAME	MARTIN LUTHER KING JR. WAY BLDGS 1 & 2
ARCHITECT	LEVY DESIGN PARTNERS INC.
ADDRESS	90 SOUTH PARK, SAN FRANCISCO, CA 94107
PHONE	415.777.0581
FAX	415.777.5117
WWW	WWW.LEVYDESIGNPARTNERS.COM
CONTRACT NO.	
CONTRACT DATE	
CONTRACT VALUE	
SCALE	3/32" = 1'-0"
DATE	10/21/09
BY	LEVY DESIGN PARTNERS INC.
FOR	LEVY DESIGN PARTNERS INC.
PROJECT NO.	2009-21
PROJECT NAME	MARTIN LUTHER KING JR. WAY BLDGS 1 & 2
ARCHITECT	LEVY DESIGN PARTNERS INC.
ADDRESS	90 SOUTH PARK, SAN FRANCISCO, CA 94107
PHONE	415.777.0581
FAX	415.777.5117
WWW	WWW.LEVYDESIGNPARTNERS.COM

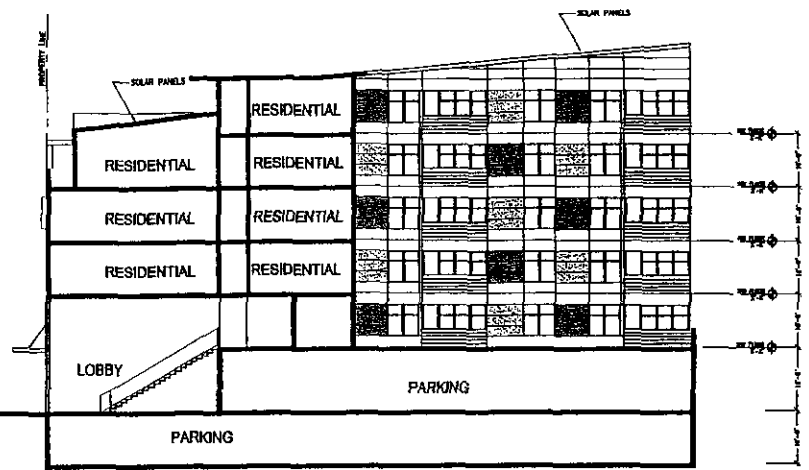
A3.2

LEVY DESIGN PARTNERS INC ARCHITECTURE
 90 South Park
 San Francisco
 CA 94107
 415.777.0581
 415.777.5117

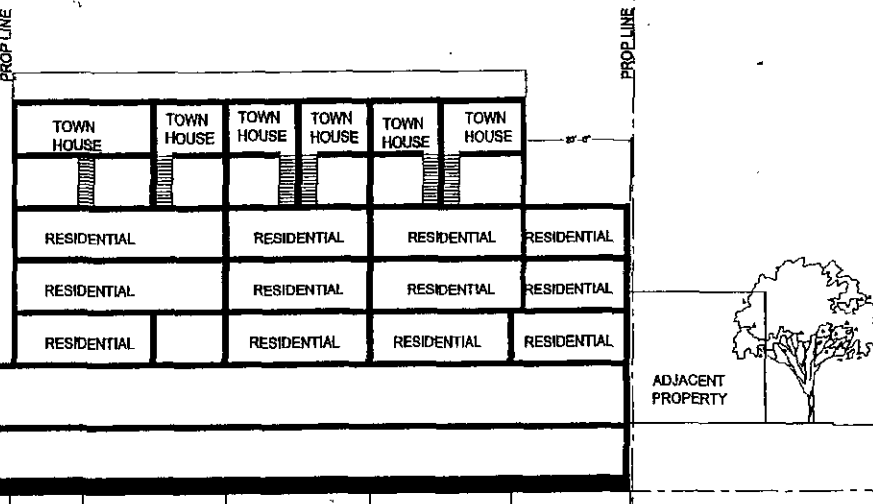
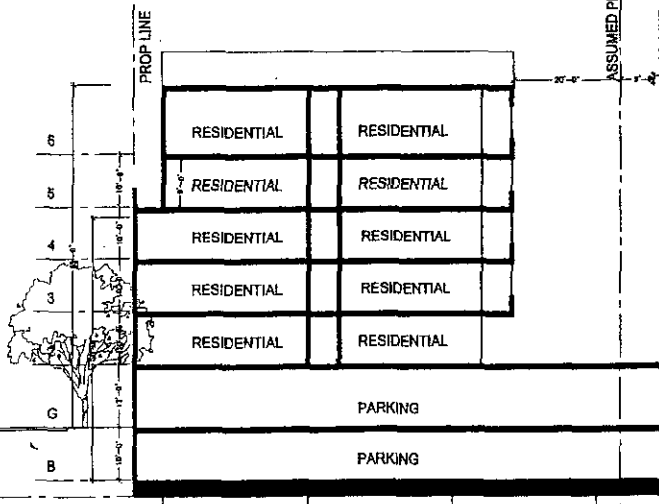
*Martin Luther King Jr. Way
 Bldgs 1 & 2*



1 BUILDING SECTION
3/32"=1'-0"



2 BUILDING SECTION
3/32"=1'-0"



3 BUILDING SECTION
3/32"=1'-0"

(BLVD)

39TH ST

ADJACENT
PROPERTY

ARCHITECTURE
90 South Park
San Francisco
CA 94107
415.777.0891
415.777.5517

LEVY DESIGN PARTNERS INC.

**Martin Luther King Jr. Way
Bldgs 1 & 2**

3694 & 3695 M.L. King Jr. Way
Oakland CA
APN: 8012-0066-033 8031
OAKLAND, CA
PROJECT NO. 2005-21

DATE: 07/09/09

BY: T. LEVY	PLANNING REVISION
BY: T. LEVY	PLANNING REVISION

CONTACT:
TOBY LEVY
tolevy@levydesignpartners.com

www.levydesignpartners.com


SCALE: 3/32"=1'-0"

SECTIONS

A3.3

2006 OCT 12 PM 1:21

APPROVED AS TO FORM AND LEGALITY:


Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY LOCATED AT 3860 MARTIN LUTHER KING, JR. WAY TO COTTER AND COYLE, LLC, FOR \$1,060,000, FOR THE DEVELOPMENT OF A 34-UNIT CONDOMINIUM PROJECT, AND AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE PROJECT

WHEREAS, the California Community Redevelopment Law, Health and Safety Code Section 33430, authorizes a redevelopment agency within a 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 Broadway/MacArthur/San Pablo Redevelopment Plan, adopted on July 25, 2000 (Ordinance No. 12269 C.M.S.) and the updated Five-Year Implementation Plan (1999-2004) was adopted on December 7, 2004 (Resolution No. 2004-66 C.M.S.) (together, the "Redevelopment Plan"), authorize the Redevelopment Agency to sell land in the Project Area; and

WHEREAS, the City of Oakland and the Redevelopment Agency are working to redevelop the area surrounding the MacArthur BART Station to transit-supportive uses including multi-family housing; and

WHEREAS, the Agency owns real property at 3860 Martin Luther King, Jr. Way (APN 012-0968-030-01), more fully described in Exhibit A attached to this Resolution (the "Property"); and

WHEREAS, the Property is located in the Broadway/MacArthur/San Pablo Redevelopment Project Area and is directly adjacent to the MacArthur BART Station; and

WHEREAS, the Agency purchased the property from the City of Oakland in June 2002 (Resolution No. 02-44 C.M.S.) in exchange for a promissory note for \$257,000, the appraised value of the property at that time; and

WHEREAS, the City of Oakland originally purchased the property in 1989 using Community Development Block Grant (CDBG) funds and as a result any proceeds the City receives from the sale of the Property are considered CDBG program income; and

WHEREAS, Cotter and Coyle, LLC, desires to purchase the Property from the Agency in order to develop a 34-unit condominium project with approximately 1,200 square feet of retail space (the "Project"); and

WHEREAS, the market value of the Property in an as-is condition has been appraised at \$1,060,000; and

WHEREAS, staff has negotiated and proposes entering into a Disposition and Development Agreement ("DDA") with Cotter and Coyle, LLC, which sets forth the terms and conditions of the sale of the Property to Cotter and Coyle, LLC, and governs the development of the Project and the use of the Property by Cotter and Coyle, LLC, and any successors to the Property subsequent to sale through recorded covenants running with the land; and

WHEREAS, the DDA requires that Cotter and Coyle, LLC, construct and operate the Project consistent with the Redevelopment Plan and restricts the use of the Property to housing and commercial uses; and

WHEREAS, the DDA and the grant deed that will convey the Property to Cotter and Coyle, LLC, adequately condition the sale of the Property on the redevelopment and use of the Property in conformity with the Redevelopment Plan, and such documents prohibit discrimination in any aspect of the Project as required under the Redevelopment Plan and the California Community Redevelopment Law; and

WHEREAS, the Project uses are in conformity with the Redevelopment Plan, the Project will assist in the elimination of blight in the Broadway/MacArthur/San Pablo Redevelopment Area, and the Project will help meet the objectives of the Redevelopment Plan; and

WHEREAS, the California Community Redevelopment Law (Health and Safety Code Section 33433) requires that before any property of a redevelopment agency that is acquired in whole or in part with tax increment moneys is sold for development pursuant to a redevelopment plan, the sale must first be approved by the legislative body, i.e., the City Council, by resolution after public hearing; and

WHEREAS, as required by the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contains a copy of the draft DDA and a summary of the cost of the agreement to the Agency, the estimated fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, and an explanation of why the sale of the Property and development of the Project will assist in the elimination of blight, with supporting facts and material; and

WHEREAS, a joint public hearing between the Agency and the City Council of the City of Oakland was held to hear public comments on the sale of the Property for the Project; and

WHEREAS, notice of the sale of the Property and the public hearing was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

WHEREAS, the City Council has approved the sale of the Property by resolution after the public hearing; and

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

WHEREAS, the Project has completed the required environmental review and has been determined to be compliant with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State CEQA Guidelines"), and the City's Environmental Review Regulations; and

WHEREAS, on September 20, 2006, the Planning Commission determined that the Project is categorically exempt from CEQA pursuant to Section 15332 of the State CEQA Guidelines (In-Fill Development Projects); now therefore be it

RESOLVED: That the Agency hereby finds and determines that the sale of the Property by the Agency to Cotter and Coyle, LLC, for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Broadway/MacArthur/San Pablo Redevelopment Project Area, conforms to the Broadway/MacArthur/San Pablo Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that:

1. The Project will redevelop a vacant site adjacent to the MacArthur BART Station, which will contribute to the Agency's goals to concentrate infill development on underutilized properties within the Broadway/MacArthur/San Pablo redevelopment project area;

2. The Project will increase the stock of ownership housing in the Broadway/MacArthur/San Pablo redevelopment project area;
3. The Project, once developed, will enhance depreciated and stagnant residential and commercial property values on the west side of the MacArthur BART Station, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, excessive vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties;
4. The Project, once developed, will create permanent jobs in the redevelopment project area through the provision of commercial space in the project;
5. The Project will improve environmental design within the Broadway/MacArthur/San Pablo redevelopment project area through the use of green building techniques and by following smart-growth development principals (locating high-density housing adjacent to public transportation);

and be it further

RESOLVED: That the Redevelopment Agency hereby authorizes the Agency Administrator or his or her designee to sell the Property to Cotter and Coyle, LLC, or an affiliated entity or entities approved by the Agency Administrator, for the purchase price of \$1,060,000, subject to the terms and conditions of the DDA; and be it further

RESOLVED: That the Agency finds and determines that the purchase price of \$1,060,000 is equal to the fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, that there are no Agency or City subsidies to the developer in this transaction, and that therefore the Agency's employment and contracting programs do not apply; and be it further

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

- Cotter and Coyle, LLC, to purchase the site for \$1,060,000, the appraised fair market value of the Property;
- Cotter and Coyle, LLC, to be responsible for the cost of required off-site improvements in connection with the Project;
- Cotter and Coyle, LLC, to take the Property in its "as-is" condition;
- Cotter and Coyle, LLC, to comply with provisions of the Broadway/MacArthur/ San Pablo Redevelopment Plan and nondiscrimination provisions of redevelopment law;

- The plans and specifications for the Project are to be reviewed and approved by the Agency;
- Transfer of the Property to be restricted prior to Project completion;
- Project commencement and completion dates to be set in the DDA as negotiated by the Agency Administrator;
- No required application of the Agency's employment and contracting programs (prevailing wage, local employment, local/small local business enterprise contracting, apprenticeship, living wage, or first-source hiring) to the Project;
- The Project to be restricted to residential, parking, and commercial uses; 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 the Redevelopment Plan may require;

and be it further

RESOLVED: That \$257,000 of the land sale proceeds will be used to repay the Agency's promissory note to the City and will be deposited in and appropriated to the CDBG Fund (2108), Housing Development Organization (88929), Vacant Housing Project (G06750); and be it further

RESOLVED: That the remaining \$803,000 in land sale proceeds, minus any closing costs, will be deposited in the Broadway/MacArthur/San Pablo Capital Fund (9530), Redevelopment Projects Organization (88669), Sale of Land Account (48111); and be it further

RESOLVED: That the Agency Administrator or his or her designee is hereby authorized to negotiate and execute the Disposition and Development Agreement with Cotter and Coyle, LLC, or an affiliated entity or entities approved by the Agency Administrator, for the Project, as well as negotiate and execute other documents necessary to facilitate the sale and development of the Property for the Project; and be it further

RESOLVED: That all documents related to this transaction 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 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 and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250

Frank H. Ogawa Plaza, 3rd Floor, Oakland and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; 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 and execute documents with respect to the sale of the Property as necessary to effectuate this transaction, and to take any other action with respect to the Property and Project consistent with this Resolution and its basic purpose.

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, Redevelopment Agency
of the City of Oakland

EXHIBIT A**PROPERTY DESCRIPTION, 3860 MARTIN LUTHER KING, JR. WAY**

The land referred to in this Report is situated in the State of California, County of Alameda, City of Oakland as is described as follows:

PARCEL ONE:

Commencing at a point on the eastern line of Martin Luther King, Jr. Way (formerly Grove Street), distant thereon forty (40) feet northerly from the point of intersection thereof with the northern line of Apgar Street, running thence at right angles easterly one hundred (100) feet; thence northerly and parallel with Martin Luther King, Jr. Way (formerly Grove Street) sixty-four and 39/100 (64.39) feet; thence westerly in a direct line one hundred and 52/100 (100.52) feet to a point on the eastern line of Martin Luther King, Jr. Way (formerly Grove Street) distant thereon seventy (70) feet northerly from the point of commencement; and thence southerly along said last named line seventy (70) feet to the point of commencement.

Being a portion of Plot No. 37 as per Kellersberger's Map of Ranchos of Vincente and Domingo Peralta on file in the office of the County Recorder of the County of Alameda.

Assessors Parcel No. 012-0968-030-01

PARCEL TWO:


Beginning at the point of intersection of the eastern line of Martin Luther King, Jr. Way (formerly Grove Street) with the northern boundary line of plot numbered 37 as shown upon the map hereinafter referred to; and running thence southerly along said line of Martin Luther King, Jr. Way (formerly Grove Street) sixty-seven (67) feet; thence easterly parallel with the northern boundary line of said plot numbered 37 one hundred twenty-five (125) feet; thence northerly parallel with said line of Martin Luther King, Jr. Way (formerly Grove Street) sixty-seven (67) feet to the northern boundary line of said plot numbered 37; and thence westerly along said line of plot numbered 37 one hundred twenty five (125) feet to the point of beginning.

Being a portion of Plot No. 37 as per Kellersberger's Map of Ranchos of Vincente and Domingo Peralta on file in the office of the County Recorder of the County of Alameda.

Assessors Parcel No. 012-0968-030-01

2006 OCT 12 PM 1:21

APPROVED AS TO FORM AND LEGALITY:


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION APPROVING THE SALE OF REAL PROPERTY LOCATED AT 3860 MARTIN LUTHER KING, JR. WAY BY THE REDEVELOPMENT AGENCY TO COTTER AND COYLE, LLC, FOR \$1,060,000, FOR THE DEVELOPMENT OF A 34-UNIT CONDOMINIUM PROJECT

WHEREAS, the California Community Redevelopment Law, Health and Safety Code Section 33430, authorizes a redevelopment agency within a survey (project) area or for purposes of redevelopment to sell real property; and

WHEREAS, the California Community Redevelopment Law, Health and Safety Code Section 33433, requires that before any property of a redevelopment agency that is acquired in whole or in part with tax increment moneys is sold for development pursuant to a redevelopment plan, the sale must first be approved by the legislative body, i.e., the City Council, by resolution after a public hearing; and

WHEREAS, the City and the Redevelopment Agency of the City of Oakland ("the Agency") are working to redevelop the area surrounding the MacArthur BART Station to transit-supportive uses including multi-family housing; and

WHEREAS, the Agency owns real property at 3860 Martin Luther King, Jr. Way (APN 012-0968-030-01), more fully described in Exhibit A attached to this Resolution (the "Property"); and

WHEREAS, the Property is located in the Broadway/MacArthur/San Pablo Redevelopment Project Area and is directly adjacent to the MacArthur BART Station; and

WHEREAS, the Agency purchased the property from the City in June 2002 (Resolution No. 02-44 C.M.S.) in exchange for a promissory note for \$257,000, the appraised value of the property at that time; and

WHEREAS, the City originally purchased the property in 1989 using Community Development Block Grant (CDBG) funds and as a result any proceeds the City receives from the sale of the Property are considered CDBG program income; and

WHEREAS, Cotter and Coyle, LLC, desires to purchase the Property from the Agency in order to develop a 34-unit condominium project with approximately 1,200 square feet of retail space (the "Project"); and

WHEREAS, the market value of the Property in an as-is condition has been appraised at \$1,060,000; and

WHEREAS, staff has negotiated and proposes entering into a Disposition and Development Agreement ("DDA") with Cotter and Coyle, LLC, which sets forth the terms and conditions of the sale of the Property to Cotter and Coyle, LLC, and governs the development of the Project and the use of the Property by Cotter and Coyle, LLC, and any successors to the Property subsequent to sale through recorded covenants running with the land; and

WHEREAS, the DDA requires that Cotter and Coyle, LLC, construct and operate the Project consistent with the Redevelopment Plan and restricts the use of the Property to housing and commercial uses; and

WHEREAS, the DDA and the grant deed that will convey the Property to Cotter and Coyle, LLC, adequately conditions the sale of the Property on the redevelopment and use of the Property in conformity with the Redevelopment Plan, and such documents prohibit discrimination in any aspect of the Project as required under the Redevelopment Plan and the California Community Redevelopment Law; and

WHEREAS, the Project uses are in conformity with the Redevelopment Plan, the Project will assist in the elimination of blight in the Broadway/MacArthur/San Pablo Redevelopment Area, and the Project will help meet the objectives of the Redevelopment Plan; and

WHEREAS, as required by the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contains a copy of the draft DDA and a summary of the cost of the agreement to the Agency, the estimated fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, and an explanation of why the sale of the Property and development of the Project will assist in the elimination of blight, with supporting facts and material; and

WHEREAS, a joint public hearing between the Agency and the City Council was held to hear public comments on the sale of the Property for the Project; and

WHEREAS, notice of the sale of the Property and the public hearing was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

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

WHEREAS, the Project has completed the required environmental review and has been determined to be compliant with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State CEQA Guidelines"), and the City's Environmental Review Regulations; and

WHEREAS, on September 20, 2006, the Planning Commission determined that the Project is categorically exempt from CEQA pursuant to Section 15332 of the State CEQA Guidelines (In-Fill Development Projects); now therefore be it

RESOLVED: That the City Council hereby finds and determines that the sale of the Property by the Agency to Cotter and Coyle, LLC for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Broadway/MacArthur/San Pablo Redevelopment Project Area, conforms to the Broadway/MacArthur/San Pablo Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that:

1. The Project will redevelop a vacant site adjacent to the MacArthur BART Station, which will contribute to the Agency's goals to concentrate infill development on underutilized properties within the Broadway/MacArthur/San Pablo redevelopment project area;
2. The Project will increase the stock of ownership housing in the Broadway/MacArthur/San Pablo redevelopment project area;
3. The Project, once developed, will enhance depreciated and stagnant residential and commercial property values on the west side of the MacArthur BART Station, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, excessive vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties;
4. The Project, once developed, will create permanent jobs in the redevelopment project area through the provision of commercial space in the project; and
5. The Project will improve environmental design within the Broadway/MacArthur/San Pablo redevelopment project area through the use of green building techniques and by following smart-growth development principals (locating high-density housing adjacent to public transportation);

and be it further

RESOLVED: That the City Council hereby approves the sale of the Property by the Agency to Cotter and Coyle, LLC, or to an affiliated entity satisfactory to the Agency,

for the purchase price of \$1,060,000, subject to the terms and conditions of the DDA; and be it further

RESOLVED: That the City Council finds and determines that the purchase price of \$1,060,000 is equal to the fair market value of the Property at its highest and best use permitted under the Redevelopment Plan; and be it further

RESOLVED: That \$257,000 of the land sale proceeds will be used to repay the Agency's promissory note to the City and will be deposited in and appropriated to the CDBG Fund (2108), Housing Development Organization (88929), Vacant Housing Project (G06750); 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 City's decision is based are respectively: (a) the Community and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it further

RESOLVED: That the Council hereby appoints the City Administrator or her designee as agent of the City to take any other action with respect to the Property and the Project consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

Attest: _____

LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of
Oakland, California

EXHIBIT A**PROPERTY DESCRIPTION, 3860 MARTIN LUTHER KING, JR. WAY**

The land referred to in this Report is situated in the State of California, County of Alameda, City of Oakland as is described as follows:

PARCEL ONE:

Commencing at a point on the eastern line of Martin Luther King, Jr. Way (formerly Grove Street), distant thereon forty (40) feet northerly from the point of intersection thereof with the northern line of Apgar Street, running thence at right angles easterly one hundred (100) feet; thence northerly and parallel with Martin Luther King, Jr. Way (formerly Grove Street) sixty-four and 39/100 (64.39) feet; thence westerly in a direct line one hundred and 52/100 (100.52) feet to a point on the eastern line of Martin Luther King, Jr. Way (formerly Grove Street) distant thereon seventy (70) feet northerly from the point of commencement; and thence southerly along said last named line seventy (70) feet to the point of commencement.

Being a portion of Plot No. 37 as per Kellersberger's Map of Ranchos of Vincente and Domingo Peralta on file in the office of the County Recorder of the County of Alameda.

Assessors Parcel No. 012-0968-030-01

PARCEL TWO:

Beginning at the point of intersection of the eastern line of Martin Luther King, Jr. Way (formerly Grove Street) with the northern boundary line of plot numbered 37 as shown upon the map hereinafter referred to; and running thence southerly along said line of Martin Luther King, Jr. Way (formerly Grove Street) sixty-seven (67) feet; thence easterly parallel with the northern boundary line of said plot numbered 37 one hundred twenty-five (125) feet; thence northerly parallel with said line of Martin Luther King, Jr. Way (formerly Grove Street) sixty-seven (67) feet to the northern boundary line of said plot numbered 37; and thence westerly along said line of plot numbered 37 one hundred twenty five (125) feet to the point of beginning.

Being a portion of Plot No. 37 as per Kellersberger's Map of Ranchos of Vincente and Domingo Peralta on file in the office of the County Recorder of the County of Alameda.

Assessors Parcel No. 012-0968-030-01