

2008 JUL 10 PM 8:15

Approved as to Form and Legality:

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

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

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**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE SUPPLEMENTAL AGREEMENT NO. 1-B, WHICH SUPPLEMENTS SECTION 6.5 OF THE MEMORANDUM OF AGREEMENT AMONG THE CITY OF OAKLAND, THE OAKLAND REDEVELOPMENT AGENCY AND THE PORT OF OAKLAND RELATING TO THE FAIR SHARE BASIS COST AGREEMENT FOR THE DECONSTRUCTION OF BUILDINGS 804, 805, 806, 807 AND 808 WITHIN THE EAST GATEWAY DEVELOPMENT AREA OF THE FORMER OAKLAND ARMY BASE**

**WHEREAS**, Supplemental Agreement 1-B is intended to supplement Section 6.5 of the Memorandum of Agreement for Oakland Army Base dated July 8, 2003 (the "City-Port MOA"), as restated and amended on July 30, 2007, relating to the financial contributions required from the City and the Port for joint mitigation measures committed to under the Oakland Army Base Area Redevelopment Plan Environmental Impact Report certified by the City Planning Commission on July 31, 2002 (the "EIR"); and

**WHEREAS**, under the terms of the EIR and the Mitigation Monitoring and Reporting Program (MMRP) Measure 4.6-9, the City and the Port (each acting as itself and as "sub-district developer") have committed to share the costs on a "fair-share basis" of "a program to salvage as whole timber posts, beams, trusses and siding of warehouses to be deconstructed;" and

**WHEREAS**, because certain of the historic warehouses referred to in Mitigation Measure 4.6-9 as Buildings 804, 805, 806, 807 and 808 (the "Shared Buildings") are located partially on Agency property and partially on Port property, the City and Port agree that it is appropriate to share the costs of the Deconstruction of the Shared Buildings and concurrent demolition of the Shared Buildings on a fair-share basis as set forth in Supplemental Agreement 1-B; and

**WHEREAS**, on June 2, 2006, the Parties executed the "Letter Agreement Regarding the Sharing of Certain Costs for the Oakland Army Base Historic District Architectural Salvage, Reuse and Document Assessment," (the "Letter Agreement") and, on August 7, 2006, executed Supplemental Agreement No. 1-A To The Memorandum of Agreement for Oakland Army Based Relating to Section 6.5 of the City-Port MOA (Supplemental

Agreement 1-A), in order to meet the timelines of the redevelopment of the former Oakland Army Base, and to evenly split the cost for implementation of certain cultural resources mitigation measures, including Mitigation Measure 4.6-9; and

**WHEREAS**, the Parties acknowledge that Supplemental Agreement 1-B is necessary in furtherance of the Parties' obligations under Section 6.5 of the City-Port MOA related to the Parties' financial contributions for Cultural Resources Mitigation Measures and to specifically further define the Parties' obligations with respect to the deconstruction and the concurrent demolition of the Shared Buildings; and

**WHEREAS**, the Parties also acknowledge that Measure 4.6-14 of the MMRP states that "the City, Port and OARB sub-district developers shall fund on a fair share basis a program to salvage as whole timber posts, beams, trusses and siding of warehouses to be deconstructed. These materials shall be used on site if deconstruction is the only option. Reuse of a warehouse building or part of a warehouse building at its current location, or relocated to another Gateway location is preferable;" and

**WHEREAS**, the City will not engage in or authorize the deconstruction of the segments of Buildings 804, 805, 806, 807, 808 until such time that it has been determined that adaptive reuse is not feasible based upon a site development plan approved by the Agency Board and until such time that construction permits are issued to commence development of the site as approved; NOW, THEREFORE, BE IT

**RESOLVED**, that the City Administrator is authorized negotiate with the Port regarding the terms of Supplemental Agreement 1-B to establish the administrative framework to implement Measure 4.6-9 relating to the financial contributions required from the City and the Port for joint mitigation measures committed to under the EIR; and be it

**FURTHER RESOLVED**, that deconstruction of portions of warehouses located on Agency property within the Historic District of the former Oakland Army Base shall not take place until the Agency Board gives final approval to the Supplemental Agreement 1-B and approves a Lease Disposition and Development Agreement and a Ground Lease with a detailed site development plan and a determination that it is not feasible to reuse portions of Buildings 804, 805, 806, 807, and 808 and until construction permits are issued to commence development of the site as approved; and be it

**FURTHER RESOLVED**: That the City Council, acting as the Lead Agency, has independently reviewed, analyzed, and considered the 2002 Army Base EIR, the 2006 Supplemental EIR and Addenda #1 prior to acting on the approvals. Based upon such independent review, analysis, and consideration, and exercising its independent judgment, the City Council confirms that the 2002 Army Base EIR and 2006 Supplemental EIR can be applied to this set of proposed actions and approves Addenda #1 to the Supplemental EIR because the criteria of CEQA Guidelines Section 15162 requiring additional environmental review have not been met. Specifically, and without limitation, the City Council finds and determines that the project would not result in any new or more severe significant impacts, there is no new information of substantial importance that would result in any new or more severe significant impacts, there are no substantial changes in circumstances that would result in any new or more severe significant impacts, and there is no feasible mitigation measure or alternative that is considerably different from others previously analyzed that has not been

adopted, based upon the accompanying July 8, 2008 City Council Agenda Report, Addenda #1 and elsewhere in the record for this project and be it

**FURTHER RESOLVED**, that the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

IN COUNCIL; OAKLAND, CALIFORNIA, \_\_\_\_\_, 2008

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
Secretary of the Redevelopment Agency  
of the City of Oakland, California

**Exhibit A: Supplemental Agreement No.1-B**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 JUL 10 PM 8:15

Approved as to Form and Legality:

  
ORA Agency Counsel

**REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND**

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

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**AN AGENCY RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE SUPPLEMENTAL AGREEMENT NO. 1-B, WHICH SUPPLEMENTS SECTION 6.5 OF THE MEMORANDUM OF AGREEMENT AMONG THE CITY OF OAKLAND, THE OAKLAND REDEVELOPMENT AGENCY AND THE PORT OF OAKLAND RELATING TO THE FAIR SHARE BASIS COST AGREEMENT FOR THE DECONSTRUCTION OF BUILDINGS 804, 805, 806, 807, AND 808 WITHIN THE EAST GATEWAY DEVELOPMENT AREA OF THE FORMER OAKLAND ARMY BASE**

**WHEREAS**, Supplemental Agreement 1-B is intended to supplement Section 6.5 of the Memorandum of Agreement for Oakland Army Base dated July 8, 2003 (the "City-Port MOA"), as restated and amended on July 30, 2007, relating to the financial contributions required from the City and the Port for joint mitigation measures committed to under the Oakland Army Base Area Redevelopment Plan Environmental Impact Report certified by the City Planning Commission on July 31, 2002 (the "EIR"); and

**WHEREAS**, under the terms of the EIR and the Mitigation Monitoring and Reporting Program (MMRP) Measure 4.6-9, the City and the Port (each acting as itself and as "sub-district developer") have committed to share the costs on a "fair-share basis" of "a program to salvage as whole timber posts, beams, trusses and siding of warehouses to be deconstructed;" and

**WHEREAS**, because certain of the historic warehouses referred to in Mitigation Measure 4.6-9 as Buildings 804, 805, 806, 807 and 808 (the "Shared Buildings") are located partially on Agency property and partially on Port property, the Agency and Port agree that it is appropriate to share the costs of the Deconstruction of the Shared Buildings and concurrent demolition of the Shared Buildings on a fair-share basis as set forth in Supplemental Agreement 1-B; and

**WHEREAS**, on June 2, 2006, the Parties executed the "Letter Agreement Regarding the Sharing of Certain Costs for the Oakland Army Base Historic District Architectural

Salvage, Reuse and Document Assessment,” (the “Letter Agreement”) and, on August 7, 2006, executed Supplemental Agreement No. 1-A To The Memorandum of Agreement for Oakland Army Based Relating to Section 6.5 of the City-Port MOA (Supplemental Agreement 1-A), in order to meet the timelines of the redevelopment of the former Oakland Army Base, and to evenly split the cost for implementation of certain cultural resources mitigation measures, including Mitigation Measure 4.6-9; and

**WHEREAS**, the Parties acknowledge that Supplemental Agreement 1-B is necessary in furtherance of the Parties’ obligations under Section 6.5 of the City-Port MOA related to the Parties’ financial contributions for Cultural Resources Mitigation Measures and to specifically further define the Parties’ obligations with respect to the deconstruction and the concurrent demolition of the Shared Buildings; and

**WHEREAS**, the Parties also acknowledge that Measure 4.6-14 of the MMRP states that “the City, Port and OARB sub-district developers shall fund on a fair share basis a program to salvage as whole timber posts, beams, trusses and siding of warehouses to be deconstructed. These materials shall be used on site if deconstruction is the only option. Reuse of a warehouse building or part of a warehouse building at its current location, or relocated to another Gateway location is preferable;” and

**WHEREAS**, the Agency will not engage in or authorize the deconstruction of the segments of Buildings 804, 805, 806, 807, 808 until such time that it has been determined that adaptive reuse is not feasible based upon a site development plan approved by the Agency Board and until such time that construction permits are issued to commence development of the site as approved; **NOW, THEREFORE, BE IT**

**RESOLVED**, that the Agency Administrator is authorized to negotiate with the Port regarding the terms of Supplemental Agreement 1-B to establish the administrative framework to implement Measure 4.6-9 relating to the financial contributions required from the City and the Port for joint mitigation measures committed to under the EIR; and be it

**FURTHER RESOLVED**, that deconstruction of portions of warehouses located on Agency property within the Historic District of the former Oakland Army Base shall not take place until the Agency Board gives final approval to the Supplemental Agreement 1-B and approves a Lease Disposition and Development Agreement and a Ground Lease with a detailed site development plan and a determination that it is not feasible to reuse portions of Buildings 804, 805, 806, 807, and 808 and until construction permits are issued to commence development of the site as approved; and be it

**FURTHER RESOLVED:** That the Redevelopment Agency, acting as a Responsible Agency, has independently reviewed, analyzed, and considered the 2002 Army Base EIR, the 2006 Supplemental EIR and Addenda #1 prior to acting on the approvals. Based upon such independent review, analysis, and consideration, and exercising its independent judgment, the Agency confirms that the 2002 Army Base EIR and 2006 Supplemental EIR can be applied to this set of proposed actions and approves Addenda #1 to the Supplemental EIR because the criteria of CEQA Guidelines Section 15162 requiring additional environmental review have **not** been met. Specifically, and without limitation, the Agency finds and determines that the project would not result in any new or more severe significant impacts, there is no new information of substantial importance that would result in any new or more severe significant impacts; there are no substantial changes in circumstances that would result in any new or

more severe significant impacts, and there is no feasible mitigation measure or alternative that is considerably different from others previously analyzed that has not been adopted, based upon the July 8, 2008 City Council Agenda Report, Addenda #1 and elsewhere in the record for this project; and be it

**FURTHER RESOLVED**, that the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2008

**PASSED BY THE FOLLOWING VOTE:**

AYES – BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND  
CHAIRPERSON DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

LATONDA SIMMONS

Secretary of the Redevelopment Agency  
of the City of Oakland, California