

**CITY OF OAKLAND**  
**AGENDA REPORT**

2010 SEP -1 PM 4: 50

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: September 14, 2010

**RE: Report and Consideration of Alternative Actions on Ninth Avenue Partners' Proposal and Possible Adoption of a Resolution to Not Accept Ninth Avenue Terminal Partners' Proposal for Reuse of the Ninth Avenue Terminal**

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**SUMMARY**

On June 20, 2006 and July 18, 2006, the City Council and Oakland Redevelopment Agency approved the Oak to Ninth Project. Condition of Approval (COA) 25c required the City to issue an RFP for possible greater reuse of the Ninth Avenue Terminal (NAT). One response to that RFP was received. Ninth Avenue Terminal Partners provided a proposal to use 90,000 square feet of the NAT for a vintner's hall with associated commercial activities. Negotiations with the Terminal Partners group have taken place while the legal challenges to the Oak to 9<sup>th</sup> EIR were resolved. The Terminal Partners have made their final proposal and the proposal is being sent to City Council for determination as required by COA 25c.

**FISCAL IMPACT**

The fiscal impacts associated with the Ninth Avenue Terminal depend on the action taken by the Council. Since the land will not be conveyed to the City for at least three years, and possibly five or more years, there is no impact to the current or the next two year budget cycle. Beyond that time frame there is a possibility of rental income from \$140,000 to \$205,000 per year in today's dollars.

**BACKGROUND**

Project Description

The Oak to Ninth Project proposed by Oakland Harbor Partners, LLC and approved by the City and Agency on June 20, 2006 and July 18, 2006, would redevelop approximately 64.2 acres bound by the Embarcadero Roadway (parallel to Interstate 880), the Oakland Estuary, Estuary Park, and Brooklyn Basin.

The Project includes the construction of approximately 3,100 residential dwelling units (of which 465 will be affordable), approximately 200,000 square feet of ground floor retail/commercial space, and 31.89 acres of parks and open spaces. Two marinas will be renovated and expanded

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to accommodate 170 boat slips. Approximately 160,000 square feet of the 180,000 square foot Ninth Avenue Terminal building will be demolished and converted to park and other uses consistent with the Tidelands Trust. A continuous public pedestrian trail and bicycle facility, a segment of the Bay Trail, will be constructed along the project's waterfront (excluding parcels not owned by the City/Port of Oakland or the project sponsor). The majority of existing uses and structures on the project site would be removed or demolished.

On July 18, 2006 the City Council approved the Oak to Ninth Project with a condition that allowed Oakland Harbor Partners (OHP) to demolish all but 20,000 square feet of the 180,000 s.f. Ninth Avenue Terminal Shed Building (Terminal Building) unless a viable proposal to reuse between 40,000 s.f. and 90,000 s.f. of the 1930s portion of the structure is approved by the City Council within one year. The Condition of Approval (#25) also specified a process for soliciting reuse proposals and allowed a one year timeframe for a decision on a project.

A proposal was received from the Ninth Avenue Terminal Partners (NATP) that includes a winemaking center (including the aging of wine), tasting room, waterfront restaurant, and a water-oriented recreation retail facility within 90,000 s.f. of the Terminal Building. A copy of the proposal is included as *Attachment A* to this report. The City Council considered the proposal at a meeting on June 5, 2007 and concluded that the proposal potentially had merit, but that there was not enough information to make a final determination about whether the proposal was economically feasible. The Council granted an extension of time to allow NATP to continue the financial feasibility analysis and other studies needed to make a final determination about the proposal. The financial negotiations were conducted and the parties have reached an impasse regarding fair market rent, while the other studies were completed and the issues resolved.

### Environmental Analysis

The City published a Draft EIR for the Project on August 31, 2005. A Final EIR was published on February 1, 2006. An addendum to the EIR was published on June 7, 2006. On March 15, 2006, the Oakland Planning Commission certified the EIR (which includes the Draft EIR, the Final EIR, and the Addendum) and took actions approving, or recommending approval of, various resolutions and ordinances related to the approval of the project. On June 20, 2006 and July 18, 2006, the City Council and Redevelopment Agency adopted a number of Resolutions and Ordinances approving the Project, including Resolution No. 79981 C.M.S. certifying the EIR.

After the Court ruled that the EIR was deficient in certain respects and held invalid the resolution certifying the EIR, the City prepared Revisions to the EIR, specifically entitled, "*Revisions to the Analysis in the Oak to Ninth Project EIR (SCH No. 2004062013) Prepared to Comply with the Alameda County Superior Court Order in Case No. RG06-280345 and Case No. RG06-280471*" published October 1, 2008. This document was published for a 45-day public review period extending from October 1, 2008 to November 17, 2008. Nineteen comment letters were received during this time period.

The revised EIR was certified by the City Council in January of 2009 and accepted by the Court.

## **KEY ISSUES AND IMPACTS**

COA 25c mentions that proposals for greater reuse of the NAT be based on specific criteria including trust consistent purposes, timing of implementation, funding sources, financial capacity and others as necessary.

### Trust Consistent Purposes

Both the State Lands Commission and the Bay Conservation and Development Commission (BCDC) have jurisdiction over the proposed project. Neither agency will officially act until the City has approved the project, if it chooses to do so. Therefore, no binding determination of whether the project is Trust compliant can be made.

### Timing of Implementation

If the Council accepts the proposal the project would still need to go through the City's entitlement and CEQA process. At a minimum a zone text change would be required as the proposed use is not consistent with the adopted zoning for the Oak to 9<sup>th</sup> project. Additional CEQA work could be required because the commercial activities may have different traffic impacts than the currently approved public park. Subsequent to City entitlements, if granted, the project would require application and approval from BCDC and State Lands. It is unlikely that the entitlement process through all agencies could be completed in less than 18 months.

### Funding Sources

The proposal lists the funding sources as approximately \$900,000 equity, \$4.8 million in debt and approximately \$700,000 in historic tax credits.

### Financial Capacity

The State Lands Commission has informed the City that Trust properties must be leased at fair market value. The City of Oakland Real Estate Department has determined that \$0.19 per square foot per month is the adjusted fair market rent based upon a market rent survey analysis, conducted in accordance with State Tideland's Trust requirements, for the NAT. The adjusted fair market value included a tenant improvement allowance of \$4 million, the value of improvements in their proposal, plus a further adjustment for a 12% return on their equity, which reduced the estimated fair market rent from \$0.78 per square foot to the adjusted value of \$0.19 per square foot. The Terminal Partner's submitted an appraisal giving a figure of \$0.12 per square foot per month in its "as is" condition. Their appraisal showed a fair market rental

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estimate of \$0.40 per square foot per month, as rehabilitated and restored, less the amortized cost of rehabilitation. The Terminal Partners have proposed a rent of \$0.13 per square foot per month after numerous negotiating sessions. The difference in rent is \$5,400 per month and \$64,800 annually. In addition the Terminal Partners have proposed a 66 year lease. The City Real Estate Department recommends a lease of no more than 30 years. It should be noted that the State Tideland's Trust Commission has ultimate approval over the fair market rental value. If the State does not agree with the City's fair market rental value estimate it will not approve the lease.

The City of Oakland does not currently have Trust responsibilities for the NAT. The Port retains ownership and has a Master Lease arrangement with Oakland Harbor Partner's (OHP). The City will not take ownership, in trust, of the land until it has been cleaned up under the environmental remediation plan. OHP has indicated that they will lease to the Terminal Partners at a rent set by the Oakland City Council, if the Terminal Partners are able and willing to proceed before the City takes ownership of the NAT. The City will not receive any revenue from the lease until the land is conveyed to the City.

## **ALTERNATIVES**

The language in COA 25 states, "that the City does not have the financial capacity to contribute to this effort." The language in the COA also required that the proposed uses be Trust consistent. As noted above, the fair market rent determined by the City's appraisal is substantially greater than the amount the Terminal Partners assert is necessary for the project to be viable. Therefore, the first alternative is for the Council to find that the proposal is not responsive to the RFP based on the need for a City contribution in the form of below market rent, the likely unacceptable value of the below market rent in the Trust area and uncertainty regarding the consistency of the proposed use with the Tidelands Trust.

The second alternative is for the City or Redevelopment Agency to continue negotiations with Terminal Partners through an Exclusive Negotiating Agreement. Thus, choosing this alternative allows the project to move forward into negotiations over lease terms as well as the City's entitlement process. If approved, the project still would need to be approved by BCDC and State Lands Commission in order to proceed. As noted above, there are serious questions about whether the proposal would succeed in obtaining these other agency approvals.

In addition to the permitting issues, there are a host of issues that would need to be addressed through the course of negotiating a disposition and development agreement and, ultimately, a lease between the City or Agency and the Terminal Partners. These include predevelopment milestones, lease term, rent, use restrictions, maintenance, potential liability issues regarding the use of the building, security considerations, operating terms, among others. As a result, it would be premature to take any action to commit the City or Agency to pursue a lease with Terminal Partners at this time. If the Council decides to proceed with the proposal by subsidizing the project at below market rent, staff is asking for direction to return to the Council or the Redevelopment Agency with an Exclusive Negotiating Agreement to establish a framework for

addressing these considerations and negotiating terms of a disposition and development agreement and lease with the Terminal Partners.

## **SUSTAINABLE OPPORTUNITIES**

This proposal is part of the Oak to Ninth Mixed Use Development Project which includes many economic, environmental and social equity benefits for the City of Oakland and the region.

Economic: There are many economic benefits of the Project to the local economy. The housing proposed in the project will be available to a range of income levels including very low, low, moderate, and above-moderate income families. The tax increment generated by the project can be used for projects within the Central City East Redevelopment Plan Area. Jobs for residents may be available during construction, within the commercial businesses associated with the development, and with the maintenance of the parks, open space and landscaping areas within the project.

Environmental: The Project area has been used for industrial purposes for many years. The soils reports indicate that much of the soil on the site is contaminated. The project sponsors are remediating the soil to the standards required by the California State Department of Toxic Substance Control and the Regional Water Quality Control Board. The Project also provides public access to the waterfront which has been restricted for years by industrial businesses operating on the waterfront. Completion of a significant segment of the Bay Trail is a major environmental contribution to Oakland the all cities surrounding the San Francisco Bay.

Social Equity: The 3,100 residential units will include a variety of multifamily housing types affordable to people at a range of incomes. The proposed parks, open space areas, and the Bay Trail are considered regional facilities and accessible to any members of the public who want to use them. Retail and commercial opportunities will be available to both existing nearby residents and the new community population.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

The Oak to Ninth Mixed Use Development Project includes approximately 32 acres of parks and open space with passive recreational opportunities appropriate for senior citizens and people with disabilities. The internal circulation system of the proposed development, as well as a significant portion of the San Francisco Bay Trail, is designed to focus on pedestrian and bicycle activities. The proposed public amenities within the project will be constructed to standards that can accommodate senior citizens and people with disabilities.

**RECOMMENDATION(S) AND RATIONALE**

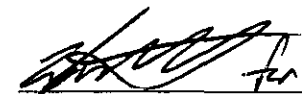
Staff recommends the Council take public comment and decide on one of the alternatives to

- A) Adopt a resolution to reject the proposal as non-responsive to the RFP based on the proposal's call for below-market rent; or
- B) Direct staff to return with a City or Agency resolution authorizing an Exclusive Negotiating Agreement with Terminal Partners for the adaptive reuse of the NAT.

**ACTION REQUESTED OF THE CITY COUNCIL**

That the City Council adopt one of the two alternatives.

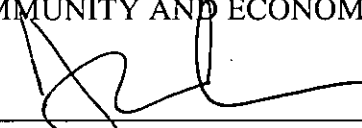
Respectfully submitted,



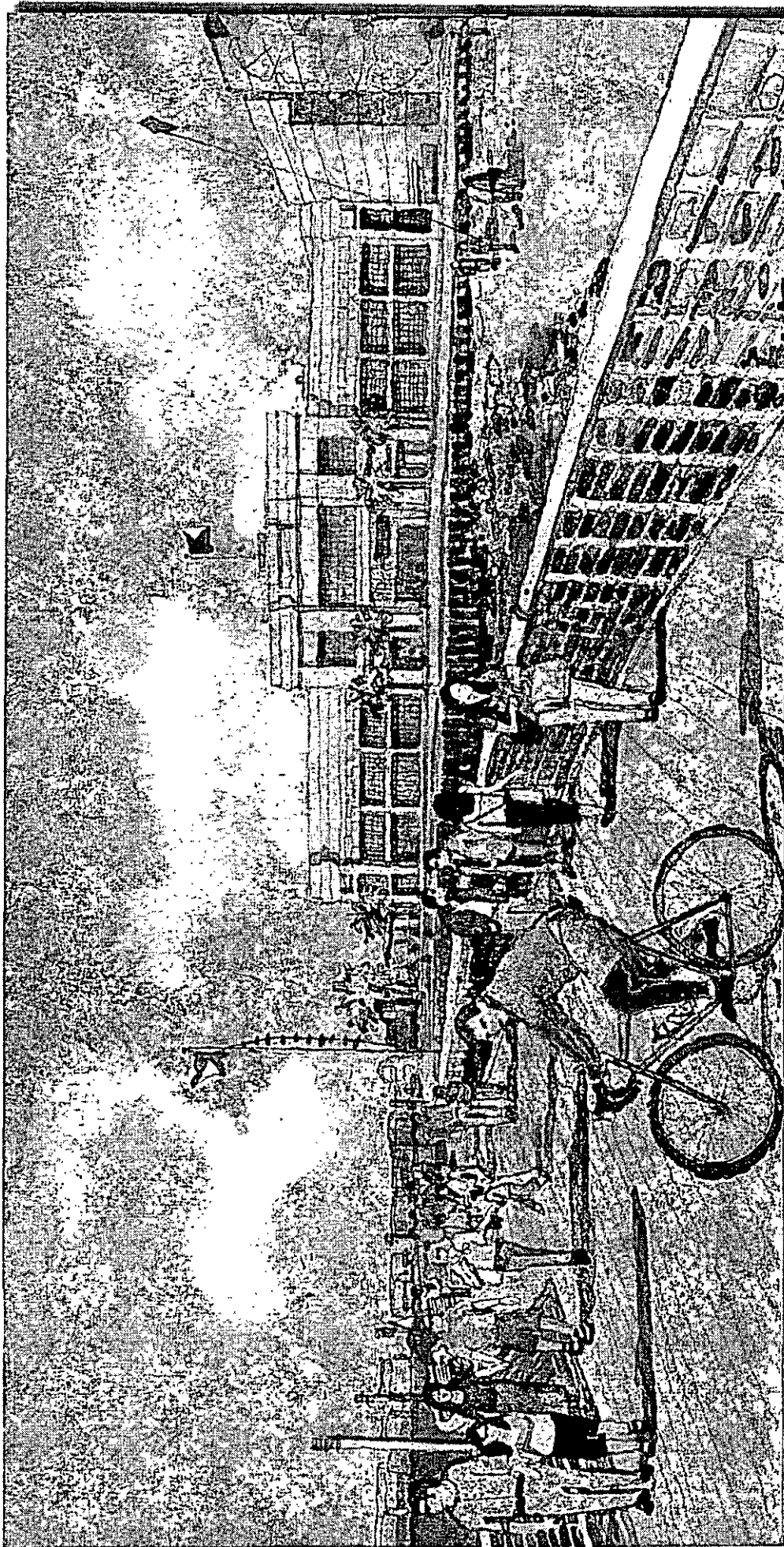
\_\_\_\_\_  
Walter S. Cohen, Director  
Community and Economic Development Agency

Reviewed by:  
Eric Angstadt, Deputy Director, CEDA

**APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:**

  
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Office of the City Administrator

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September 14, 2010



*Vinners' Hall, on Oakland's Estuary*

*.....a Waterfront Food and Wine Experience*

*North Avenue Ferriand Partners January 2010*

What if Oakland had  
a meeting place for making artisan food and wine?

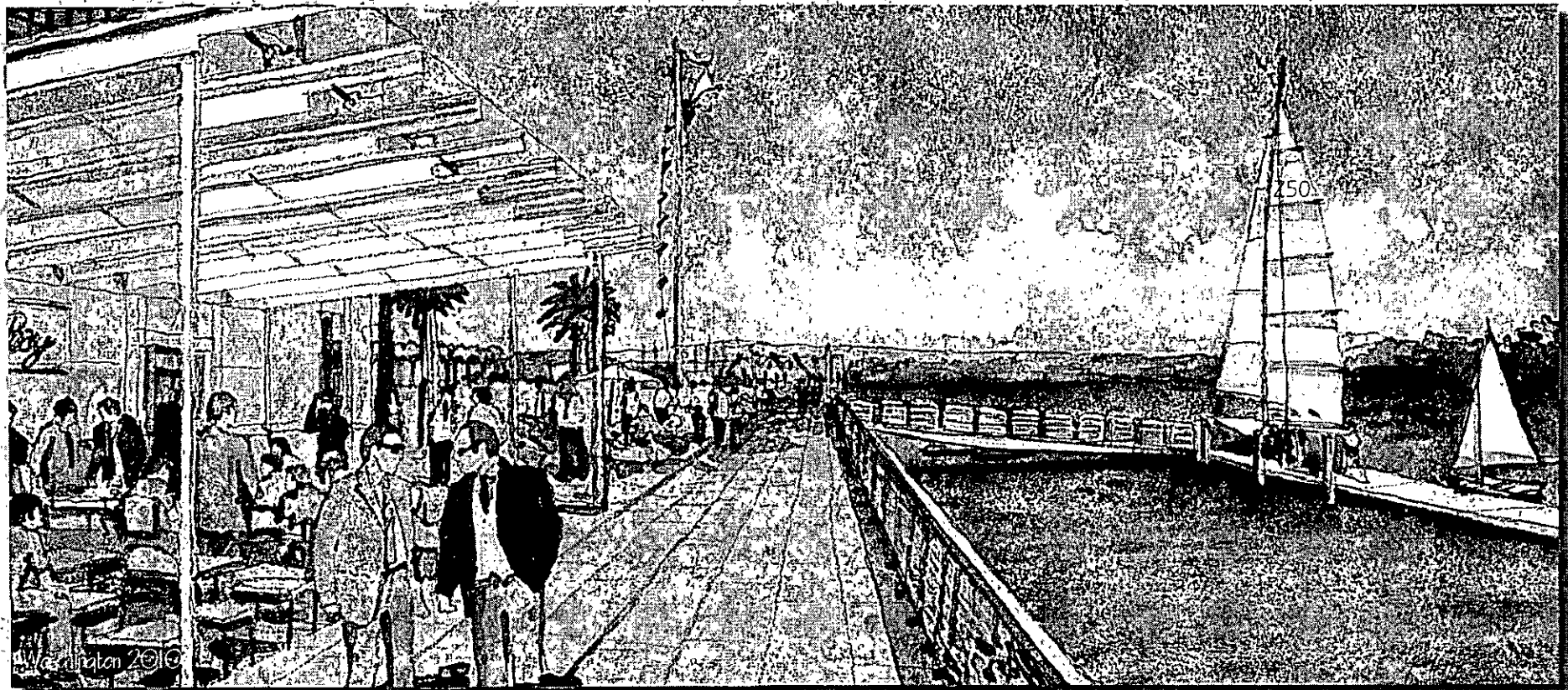
What if this place  
was on the waterfront in a restored historic building?

What if this place  
was created entirely without public subsidy?

What if we could  
jump start revitalization of the Oak to Ninth District?

Vintners' Hall, on Oakland's Estuary





*Throughout the world,  
great cities have successfully turned old waterfront industrial buildings into thriving centers of arts, culture and commerce  
and catalysts for future opportunity.*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

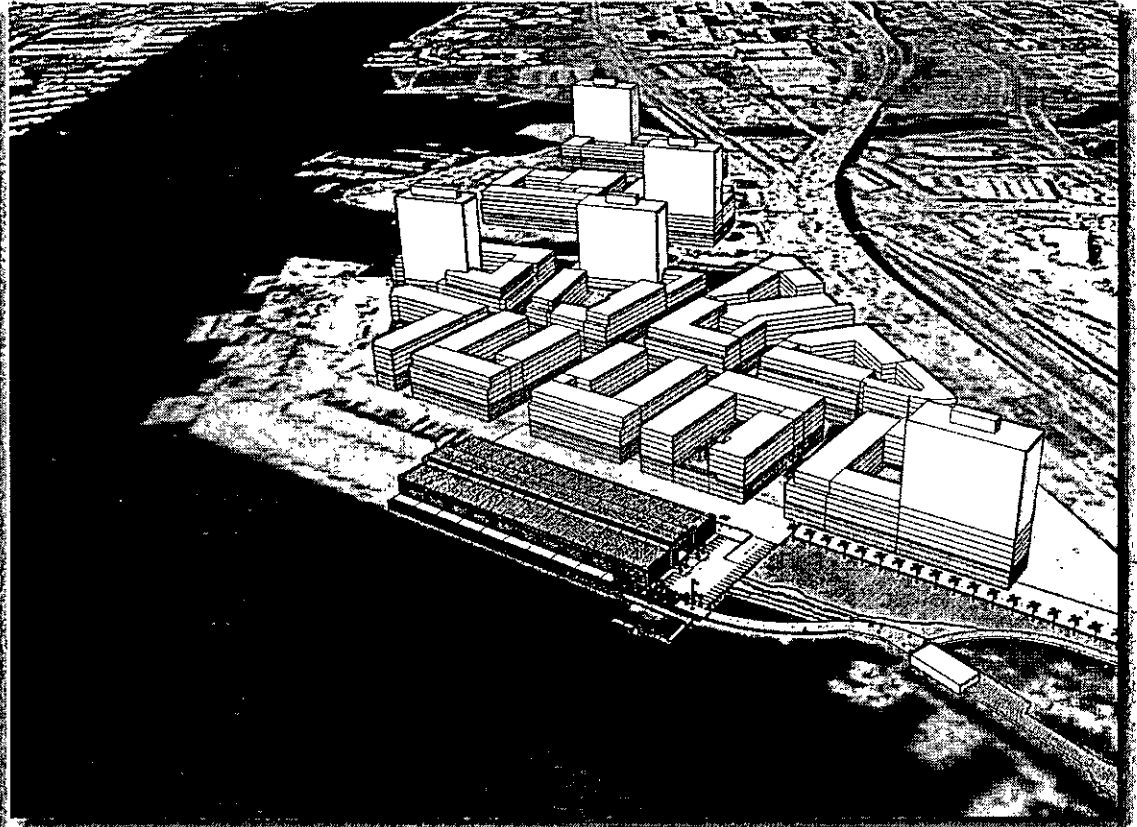
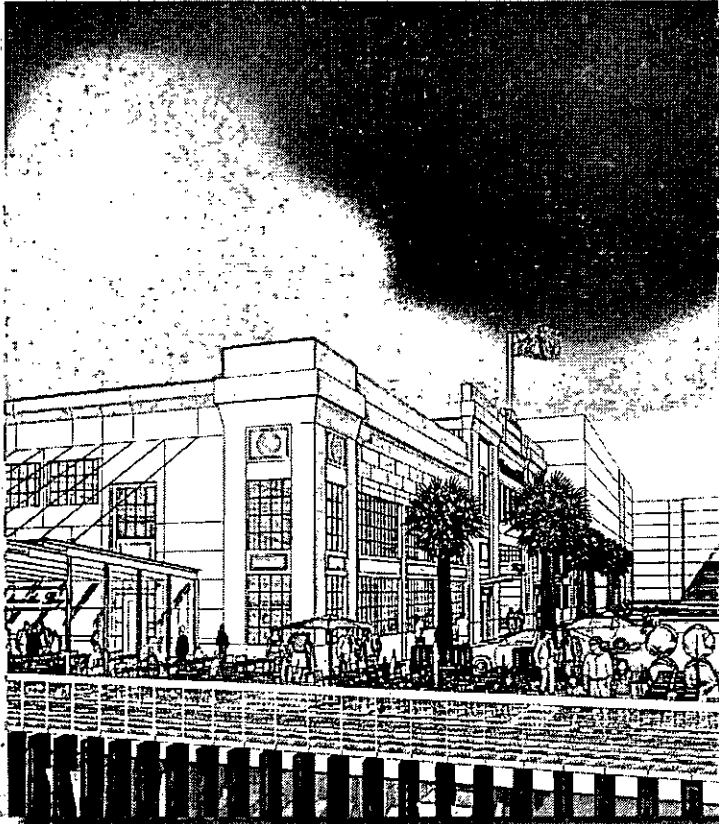
## *Vintners' Hall Complements Plans for Oak to Ninth*

*The Vintners Hall creates a destination and identity that will benefit the proposed housing. There are significant advantages for both developments. There is no downside at all to saving the terminal building and making it a vital asset. It creates a unique use, extends the bay trail with a variety of active uses, gets folks out to the estuary NOW....bikes, strollers, kayaks & canoes. Creating a waterfront destination within the Oak to Ninth area long before the larger project will be built can only help that project.*

*In the end a waterfront with variety is best all around - the vision is to have wharf side activity and parklike settings that link all the way to Jack London Square and east toward the airport.*

*The Vintners' Hall accommodates construction of Oak to Ninth at a future phase. Streets, utilities, buildings - all can be built without shutting down the Vintners' Hall.*

*Vintners' Hall, on Oakland's Estuary*



*Oakland Harbor Partners wrote:*

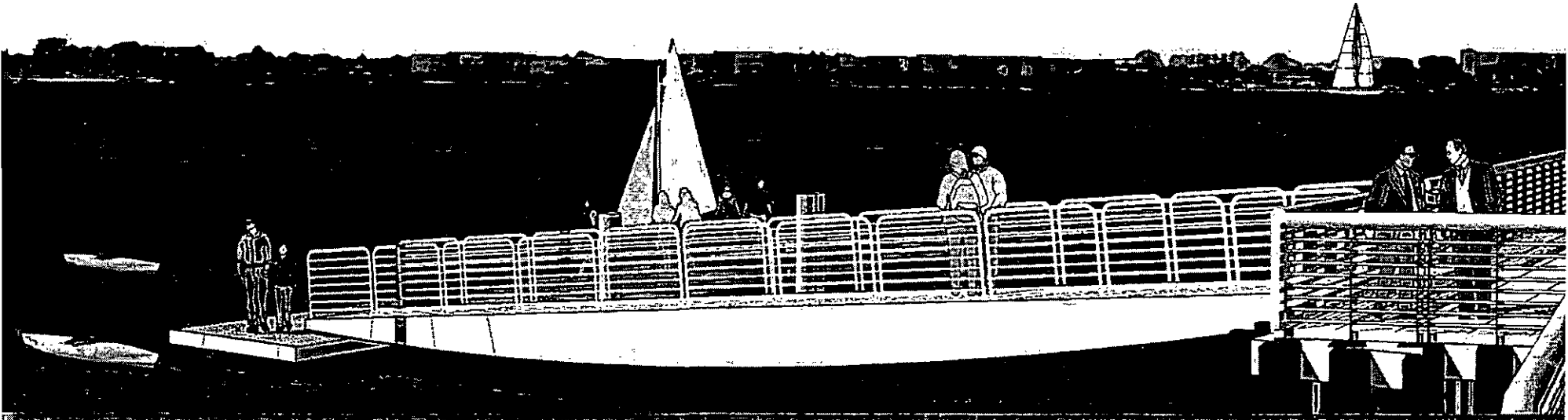
*"The proposal for a Vintners Hall has the potential to be an asset to the Oakland waterfront if the investment is made to properly rehabilitate and restore the 9th Avenue Terminal Building."*

*a Waterfront Food and Wine Experience*

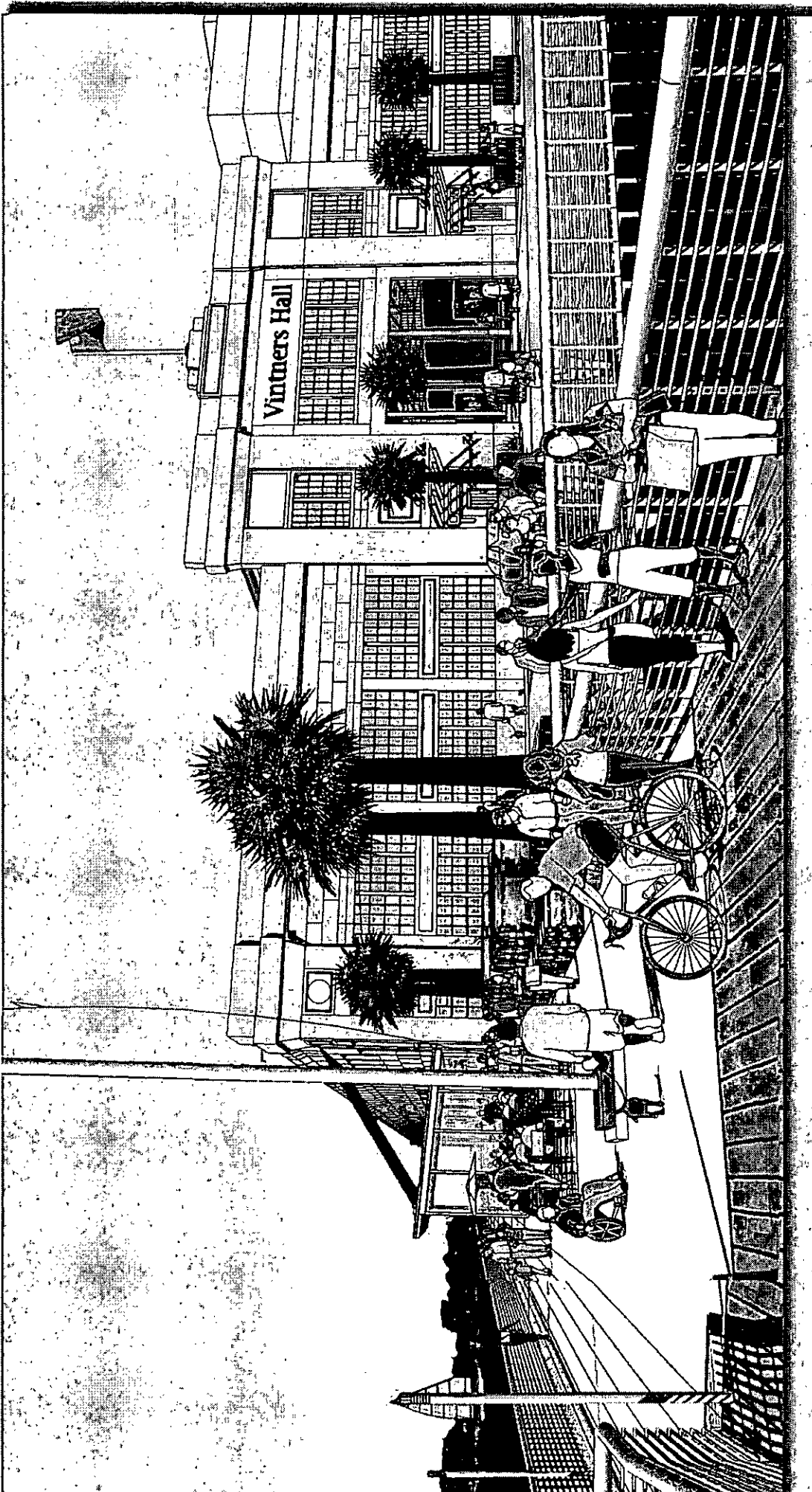
*Ninth Avenue Terminal Partners, January 2010*

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*Vintners' Hall, on Oakland's Estuary*



*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

Loading From Existing Docks

*Making of a Place... The Plan:*

Building Services  
Food Retail

Public Access

Restaurant  
Wine Education

Northside Tenants

Winery 1  
Wine

Winery 2

Winery 3

Winery 4

Winery 5

Winery 6

Winery 7

Winery 8

Recreation

Wine Trail along Wharf

*Vintners' Hall, on Oakland's Estuary*

**Our vision** is to bring together a one-of-a-kind winemaking center, a waterfront restaurant, local artisan food businesses, and a water-oriented recreational facility in an historic gem on the estuary.

which together reinforce Oakland's place as a vibrant, diverse metropolitan community.

Entry Court

Oyster Reef  
Restaurant

Refurbished Historic

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

## **A Place to Touch Oakland's Waterfront:**

### Public Access to the Bay.

*The renovated Ninth Avenue Terminal will be an exciting waterfront destination that draws the public to the waterfront and increases the public's enjoyment of the Estuary. The water-oriented recreation space will be a retail facility that rents and sells canoes, kayaks, and related equipment. Additionally, we will encourage the operator of this business to eventually expand the range of services to include bike rental and sailing.*

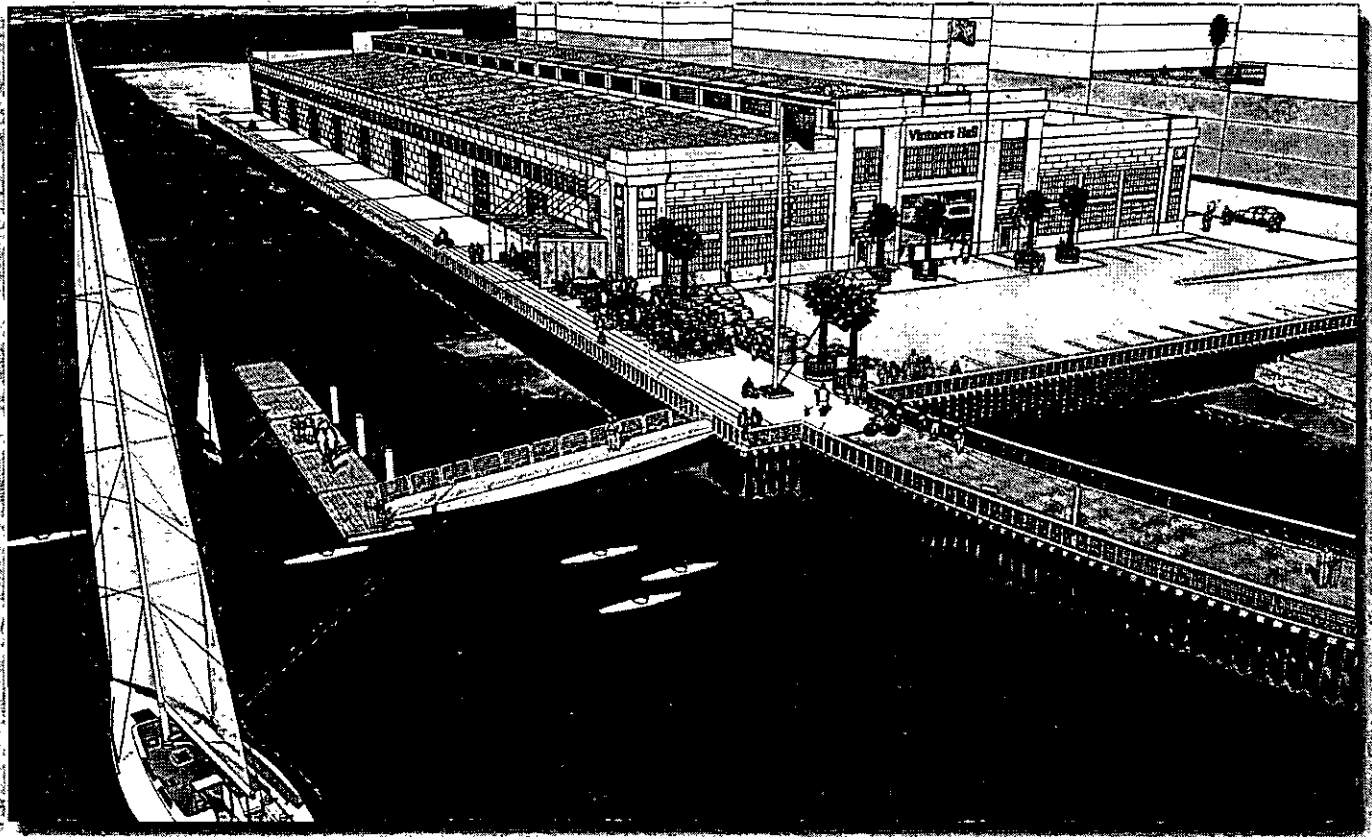
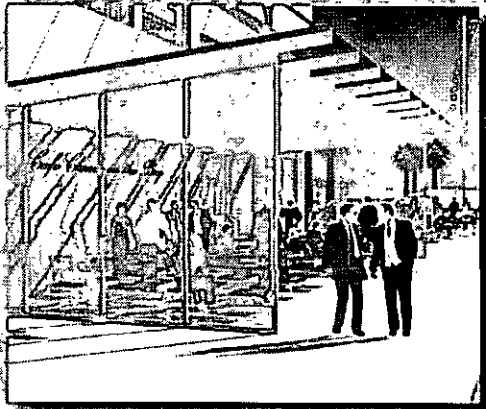
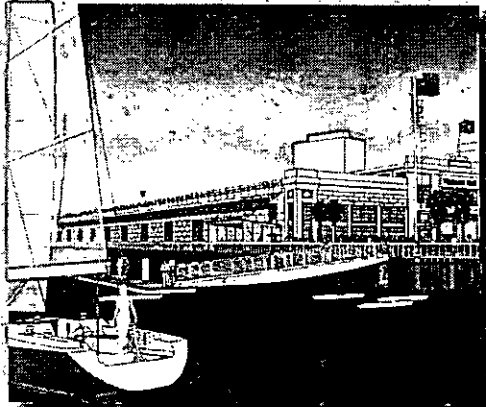
*We would like to add a floating dock and gangplank for launching recreational watercraft.*

*Nowhere else in the world;*

*combines the experience visiting the artisans in the Vintners' Hall, a family restaurant, tasting room, and water-oriented recreation - a trip to the Ninth Avenue Terminal will be a rich and enjoyable experience for people throughout the Bay Area and for visitors from out of town.*

**Vintners' Hall, on Oakland's Estuary**





*The variety of open spaces and activities created by saving the Ninth Avenue Terminal complement the future open lawn areas including providing an attractive destination in inclement weather and in the evening.*

*a Waterfront Food and Wine Experience*

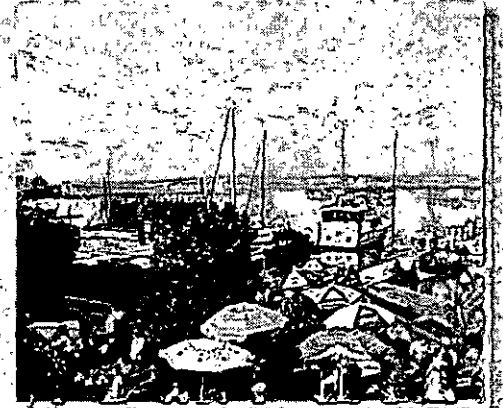
*Ninth Avenue Terminal Partners, January 2010*

## *A Family Place to Socialize:*

*In the spirit of "The Ramp" in San Francisco*

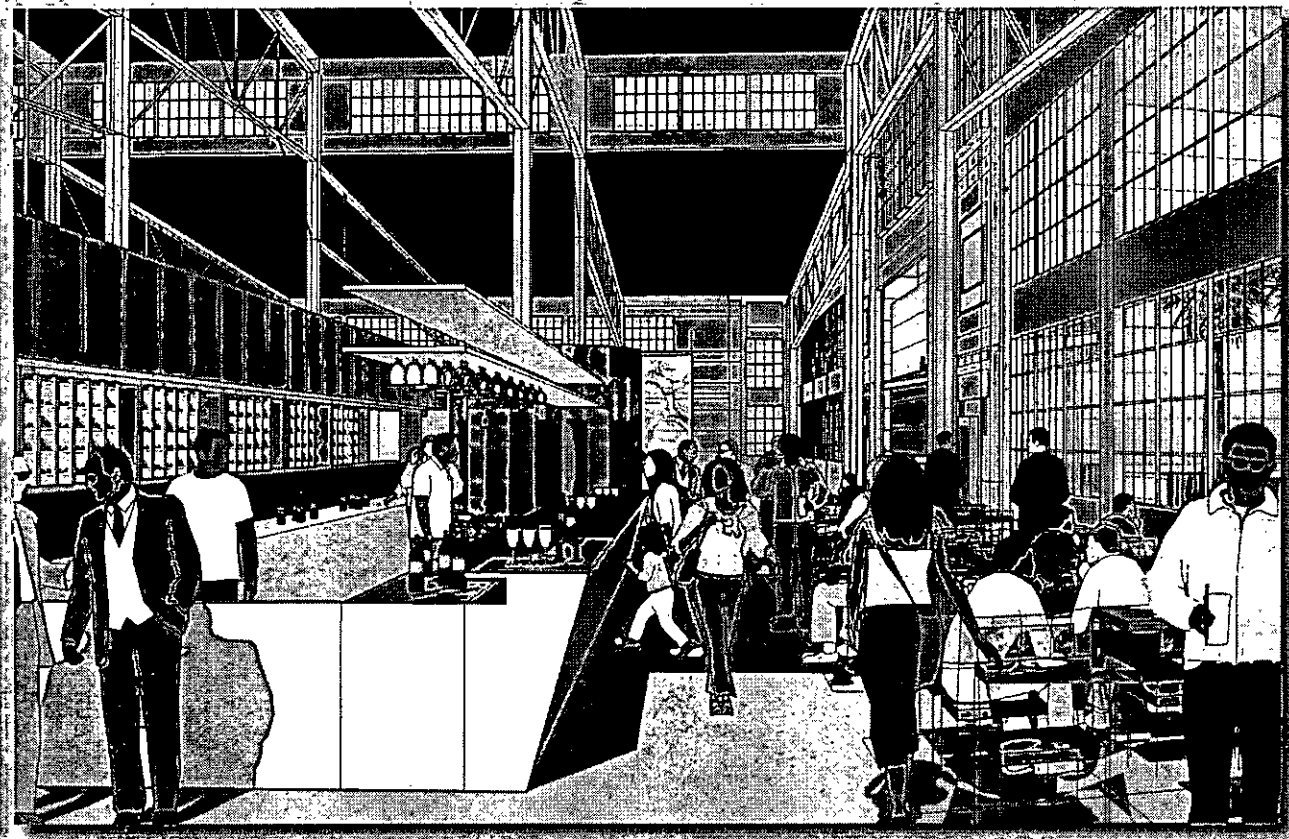
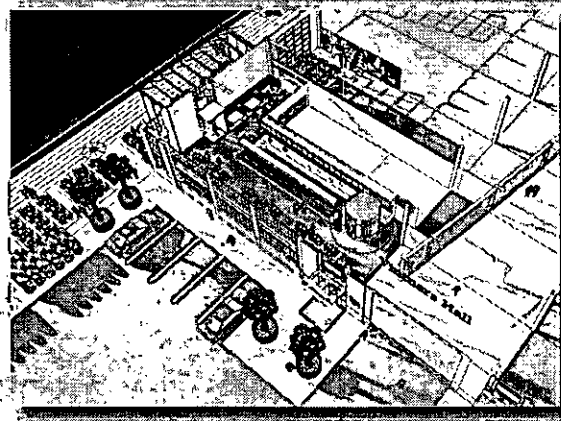
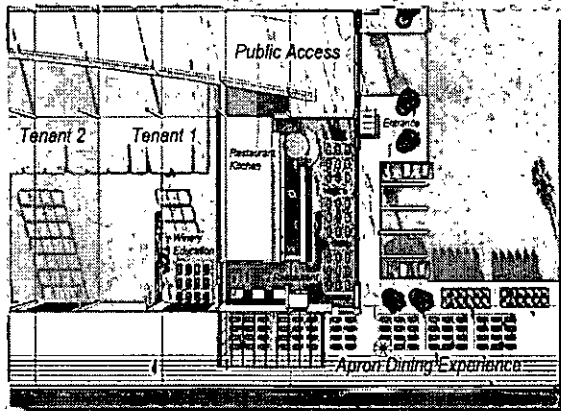
*The Ramp is a Bay Area treasure similarly tucked into an industrial zone on the waterfront. Our sun drenched, industrial wharf-side setting makes for a perfect casual dining and people watching perch. The Ninth Avenue Terminal commands a wonderful view of a wide spot in the Estuary. It's a place people will love to visit, like The Ramp and like Sam's in Tiburon: both beloved establishments in their communities.*

*The Terminal building isn't a faux replica, it's true National-Register-eligible waterfront history. The interior spaces have historic details and large windows that look out toward the production area. The "Less Refined" nature of the environment is an advantage...it is a discovered gem removed from the day to day trappings of the Bay Area, yet right in the middle...Perfect! The tasting room and restaurant will be housed in the Southeast corner space in the Ninth Avenue Terminal and along protected areas of the apron.*



*Pictures of The Ramp restaurant*

## *Vintners' Hall, on Oakland's Estuary*



*The restaurant will have excellent views of the water and the dining area will benefit from the dramatic high wood-plank ceiling and steel truss roof supports.*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

## ***A Fun Place to Experience and Learn:***

*The production area of the Vintners' Hall will be visible to the public.*

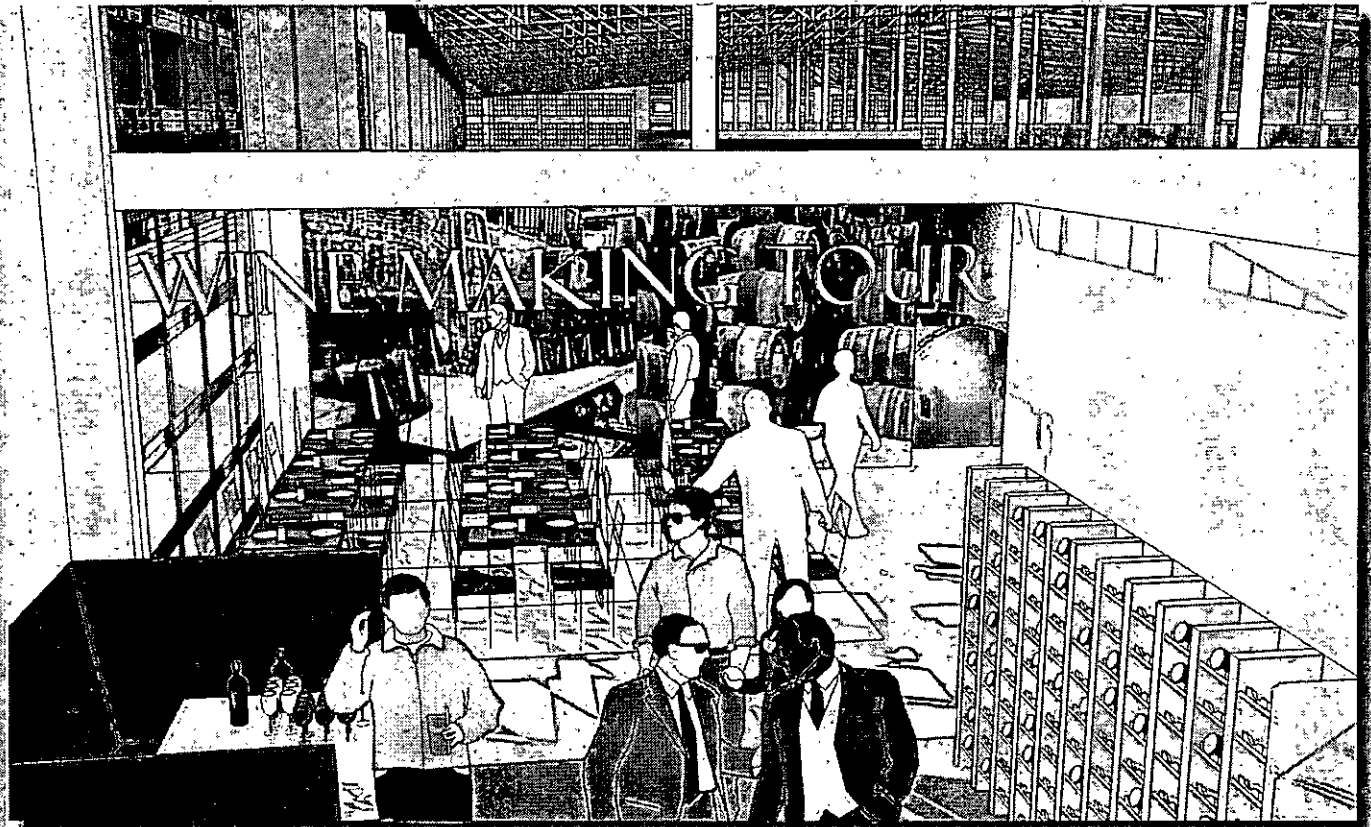
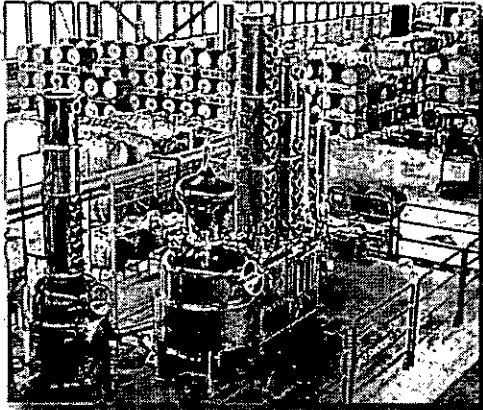
*In addition to free guided tours of the winery and artisan food production areas, there will be permanent public access that will be available to visitors to the Terminal. This public access will bring people into the building, and offer a view of the vaulted interior of the building and the activity taking place in it.*

*Interpretive signage will illuminate the history of the Ninth Avenue Terminal and Oakland's waterfront.*

*The Vintners' Hall will be an interesting and educational place to visit for people of all ages.*

*It will provide an opportunity for the public to learn of the many Sustainable Benefits inherent in the buildings re-use, the recapture of an industrial property for public use, become an attraction on the Bay Trail, and create one of the Bay Area's largest Solar Energy Installations.*

***Vintners' Hall, on Oakland's Estuary***



*The production area of the Vintners' Hall will be visible to the public.*

*In addition to free guided tours of the winery, there will be permanent public access that will be available to visitors to the Terminal.*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

## ***Bringing the Bay Trail to Life:***

*Our proposal brings an active destination to the water's edge.*

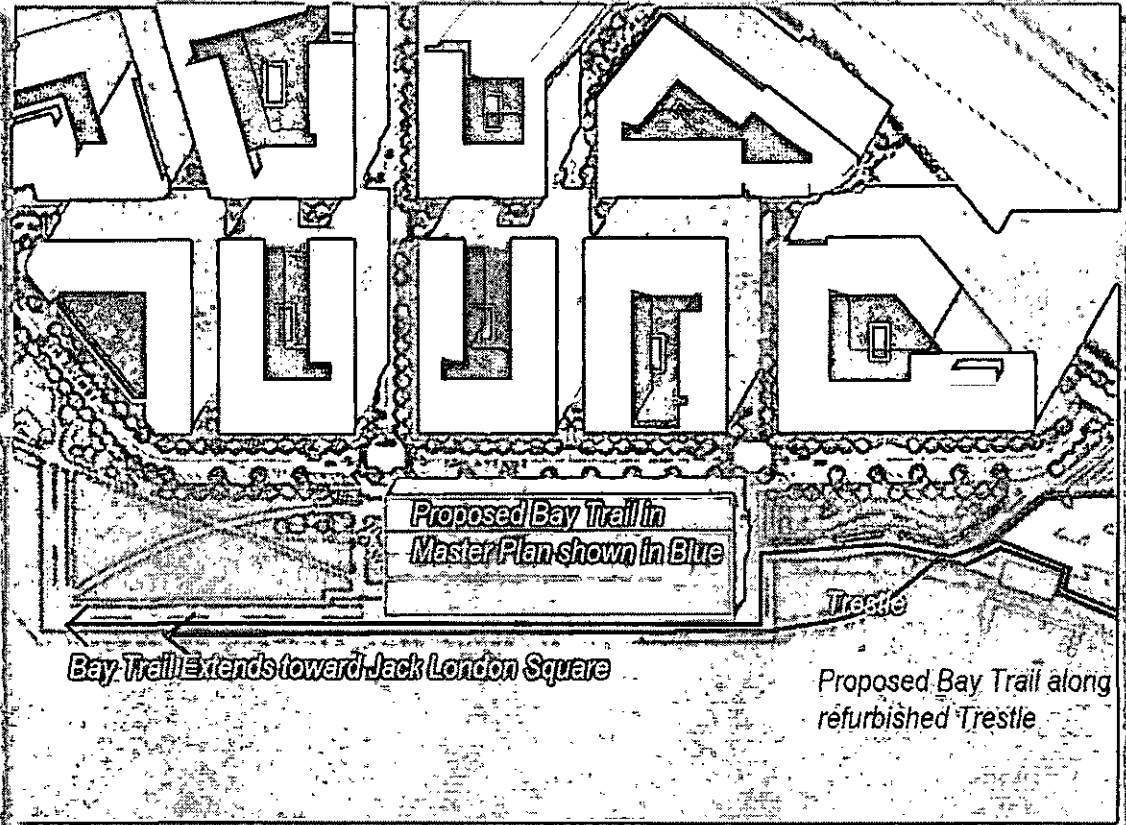
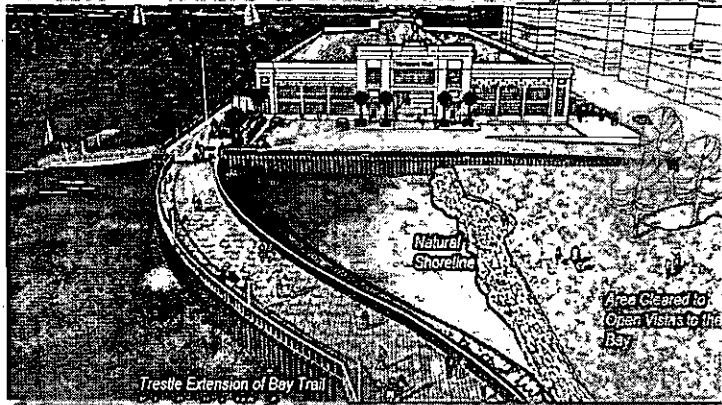
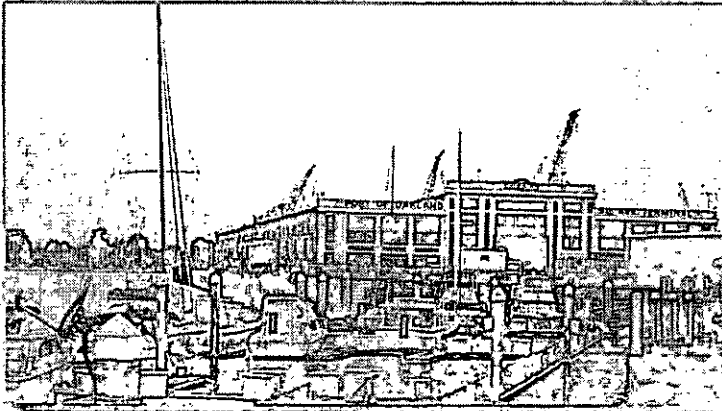
*Open spaces that are activated by exciting uses are more successful. The wonderful promenade along the south edge of the Ninth Avenue Terminal will be made part of the Bay Trail. We propose retaining the wood apron.*

*Why tear down such a wonderful asset?*

*The Wood Train Trestle should also be preserved. The trestle - a railway bridge over a portion of the water - extends eastward from the apron alongside the terminal building and is part of that rich history. If preserved it would offer a unique Bay Trail experience of being out over and surrounded by the bay waters. Additionally, the trestle connects directly to a portion of existing Bay Trail near the Oyster Reef Restaurant.*

*The trestle shows considerable distress. Many of the pilings are rotted. Key pilings need to be replaced to make the trestle into a pedestrian bridge. Funds are available to find solutions and fix the trestle. Ninth Avenue Terminal Partners is willing to provide the coordination to rehab the trestle.*

***Vintners' Hall, on Oakland's Estuary***



*The Bay Trail provides all citizens and visitors access to the natural beauty and unique wonders that characterize San Francisco Bay. By its nature, the Bay Trail is varied, affording the traveler a chance to experience the Bay Area's storied past of which the Ninth Avenue Terminal plays a part.*

***a Waterfront Food and Wine Experience***

***Ninth Avenue Terminal Partners, January 2010***

## ***Ways to Engage the Community and Create Identity Now:***

### ***Announce that a unique experience exists here!***

#### ***Temporary Art Park:***

*An empty lot next to the freeway is a perfect opportunity to change the character of the Oak to Ninth district now! In an effort to enhance visibility of this industrial zone within the community and provide additional reasons to explore Oakland's waterfront we envision the creation of a temporary "Arts-District" for sculpture at the entry to the site.*

*Highly visible from the freeway an idea like this not only leverages an energetic part of the local community but also has the potential to pique curiosity and encourage a later visit.*

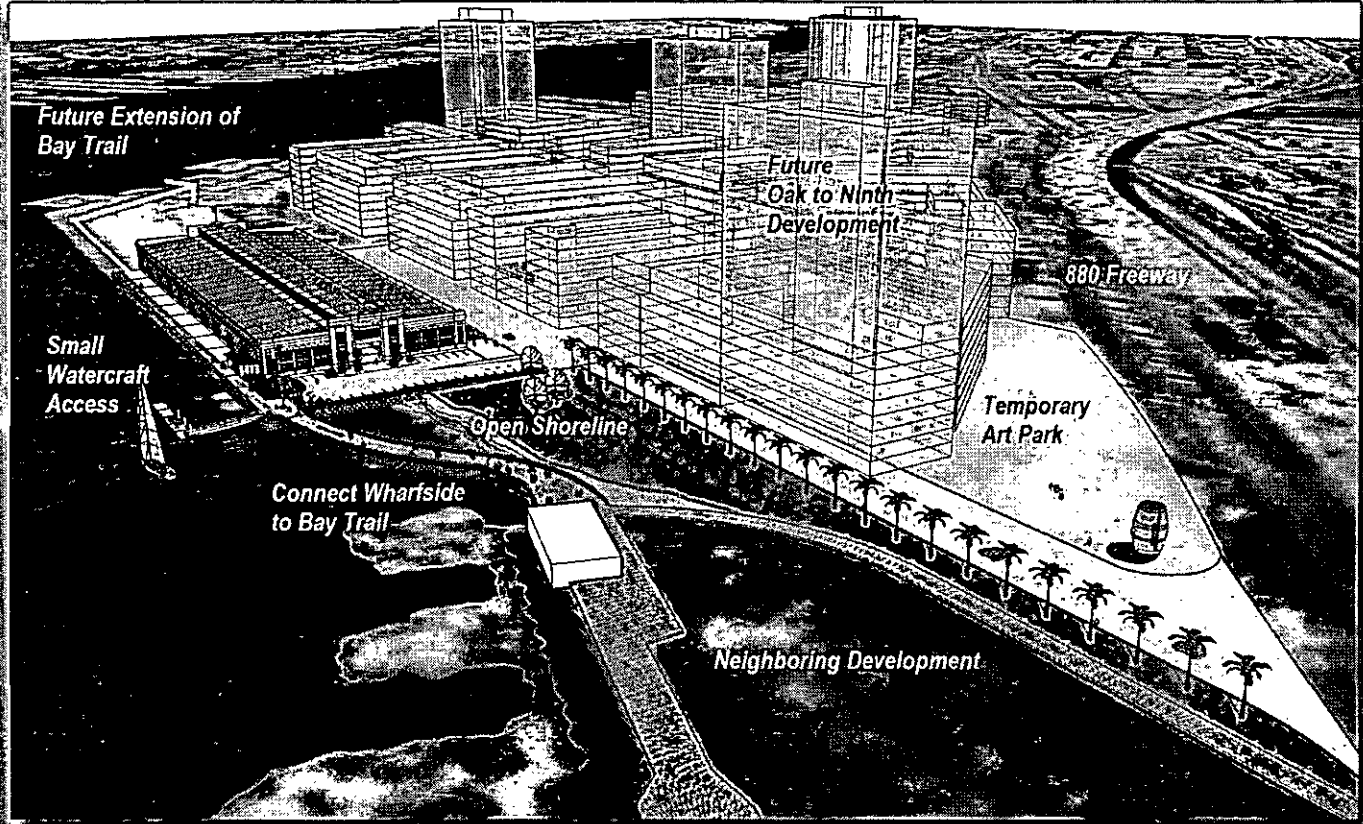
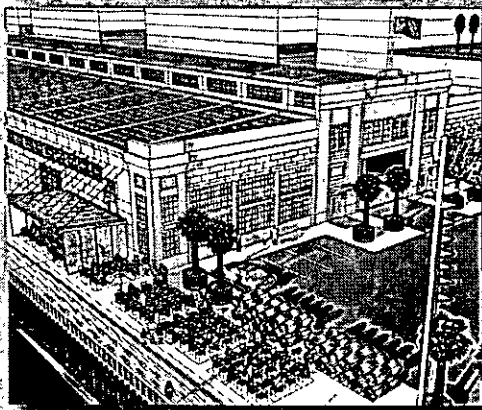
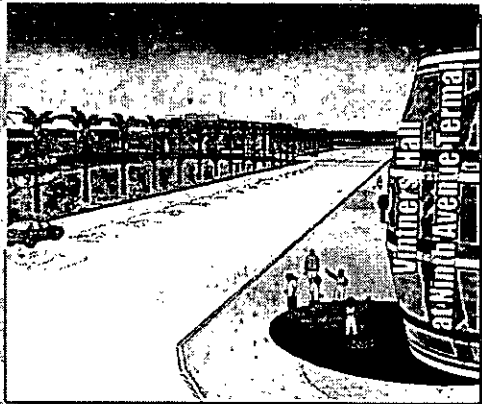
*Our goal is to slowly begin to increase awareness within the general public utilizing fresh ideas as well as existing means like "Oakland's Food Trail / Tour".*

#### ***Open the Shoreline Area:***

*A jumble of derelict structures currently blocks the views of the Estuary and contributes to a sense of unwelcome. We can open up the view, remove the blighted structures and invite access to the site with signage and trees.*

***Vintners' Hall, on Oakland's Estuary***





*Art can begin a transformation...that, along with the history, the dramatic space, and the variety of uses proposed in the Terminal building, promise to make the Vintners Hall a destination that is unique to Oakland and a focal point for the region and for the local community.*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

## **Urban Green Power Production:**

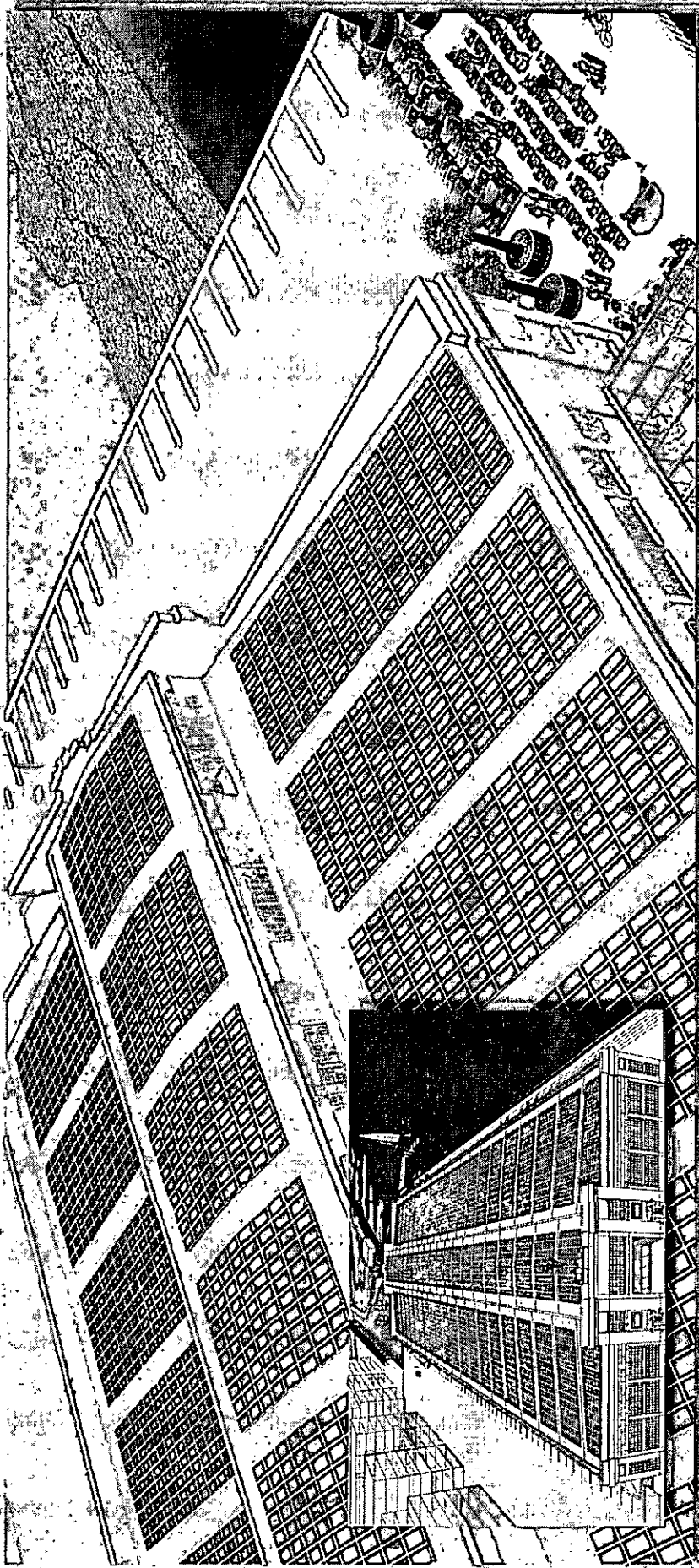
### *The Ninth Avenue Terminal*

*has a 90,000sf roof area ideal for Photo Voltaic solar power production.*

*Dr. Dan Kammen of UC Berkeley's Renewable and Appropriate Technology Laboratory (RAEL), along with a team of graduate students, has studied the installation of solar panels at NAT. Allowing for a loss of 12% for access and spacing, we can place a 79,200sf (790KW) system on the main roof.*

*We would produce more than 1,500,000 KWH per year, with almost 1,200,000 KWH to be sold back to the grid, significantly reducing greenhouse gas emissions.*

*Vintners' Hall, on Oakland's Estuary*



*Oakland has received a first place Solar City Awards for "Most watts installed." Oakland has almost 6 megawatts installed. Our project would increase Oakland's total solar output almost 1 megawatt, increasing solar power by approximately 1.5%*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

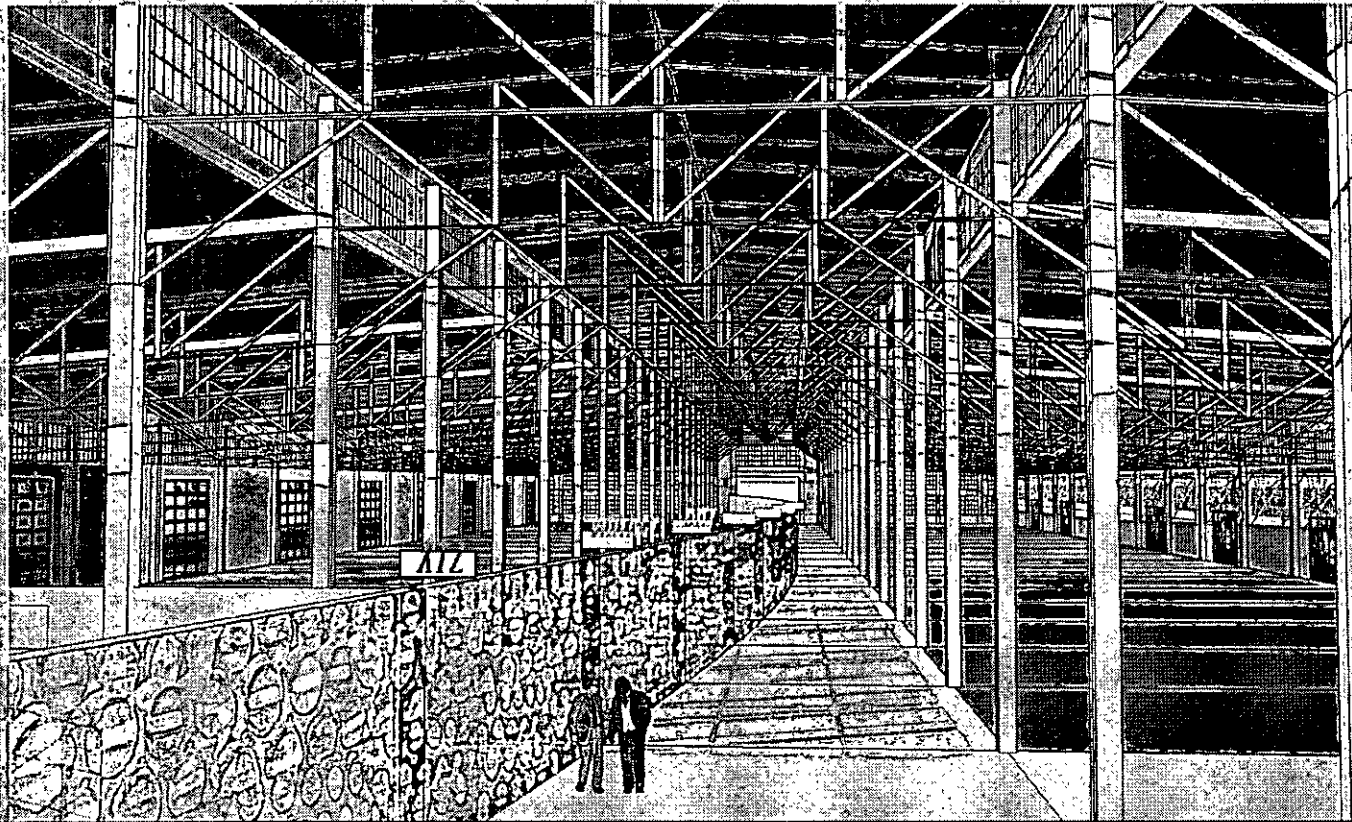
## ***The Vintners' Hall will Promote Oakland's Sustainable Business Development:***

*The Slow Food Nation celebration of good, clean, and fair food, held in San Francisco in 2008, drew some 85,000 participants — all there to learn about and taste sustainably grown, hand-crafted foods and beverages. Food production and transportation are key factors of energy use that affect the earth's climate, and interest in reducing one's carbon footprint by eating locally is at an all-time high. The Vintners' Hall capitalizes on this positive trend:*

- *Allowing the small independent vintners to reduce costs by sharing production equipment and providing them with a prominent location to market their wine,*
- *In a building that is very well suited for wine making due to a natural cool, consistent temperature.*
- *It offers an opportunity to recruit complementary artisan food producers, such as charcuterie, cheese, fermentation, chocolate, jams/jellies, olive oil, and bread production,*
- *and reinforces Oakland's leadership in food production.*

*Local community colleges want to leverage the Vintners' Hall for education and job training, and the chamber's 2007 McKinsey Study of Oakland's economy recommended developing artisan food manufacturing as an important core strength.*

***Vintners' Hall, on Oakland's Estuary***



*Direct employment from Vintners' Hall is 58 employees (not including owner-workers). The combined direct, indirect, and induced impact on the Alameda County economy is 394 jobs and about \$43 million annually (Conley report 2008).*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

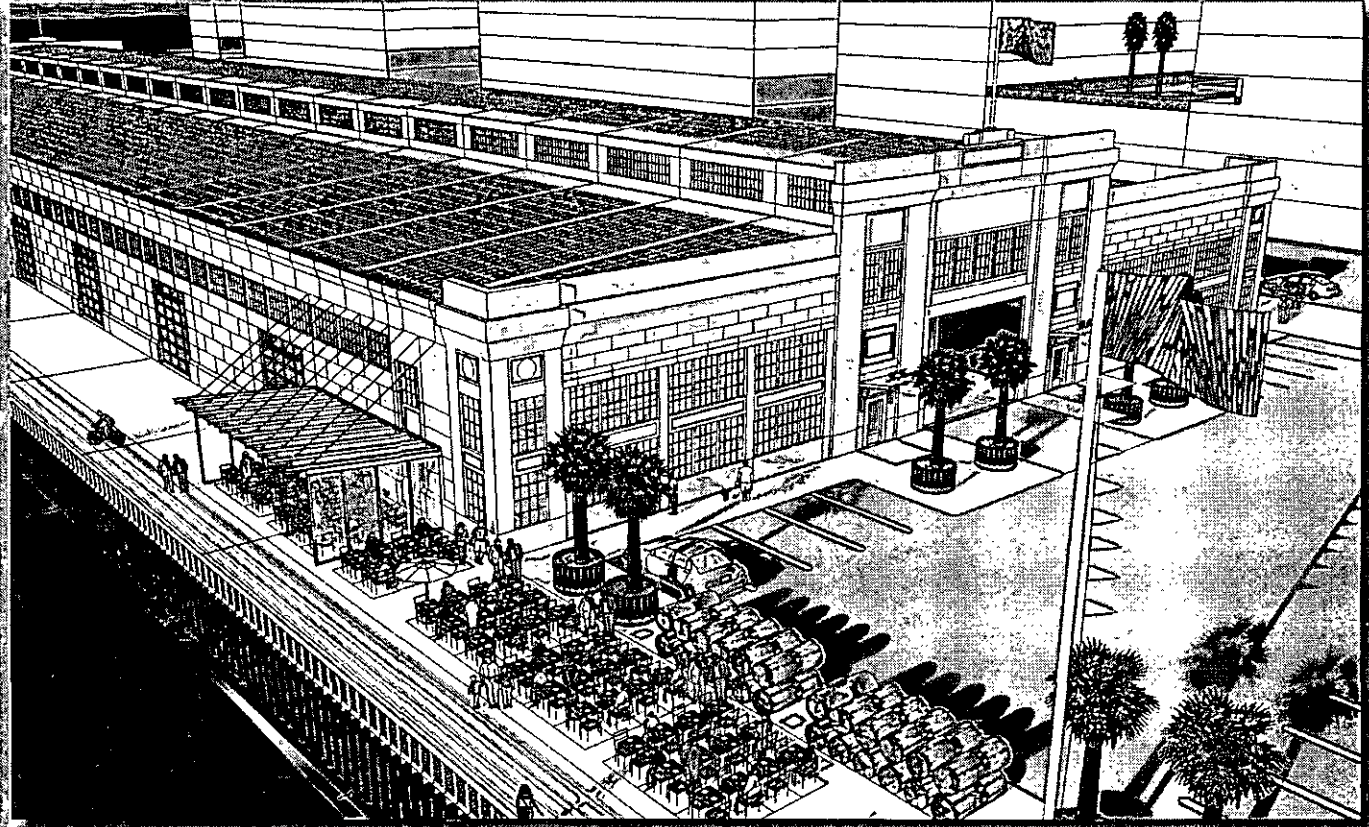
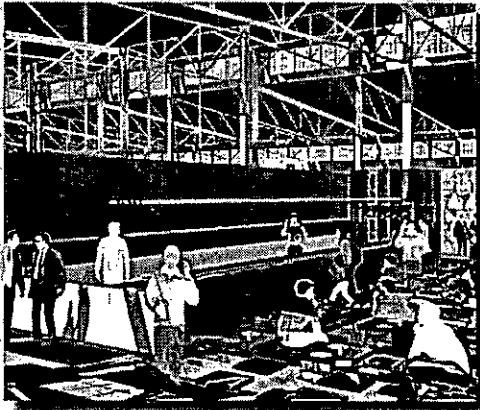
## ***Increase City Revenues:***

***Tax Revenues:*** A third party consultant, Denise Conley, analyzed three kinds of City of Oakland tax revenues: business license, sales tax, and property tax. This analysis shows that the City of Oakland will earn more than \$200,000 per year from the renovated Ninth Avenue Terminal.

***Ground Lease Revenues:*** Without the Vintners' Hall, the city of Oakland would earn \$1 per year in rent from the property. With the Vintners' Hall, the city of Oakland can share in the success of the project and obtain rent that increases over time. The amount of investment that needs to be made is substantial. There needs to be a return on the initial investment made in the building. For this reason, the City ground lease rent needs to be nominal initially.

We propose that the City of Oakland will share in revenues after NATP recoups its initial investment and a reasonable return on its investment. This arrangement is commonly found in public-private partnerships and helps bring about an alignment of interests. The revenue share can, over time, become a substantial additional source of income for the City of Oakland.

***Vintners' Hall, on Oakland's Estuary***



*A third-party financial study shows the Vintners' Hall will require NO CITY SUBSIDY and will generate substantial general fund tax revenue for the City of Oakland. In addition, our proposal includes paying rent to the City of Oakland for the building.*

*a Waterfront Food and Wine Experience*

*Ninth Avenue Terminal Partners, January 2010*

## ***Economic Feasibility:***

*Two studies prepared at the request of City staff have confirmed the economic feasibility of the Vintners' Hall.*

*The National Development Council issued a letter at City staff's request in April 2007. This letter, written by Scott Rodde, an expert in wineries who reviewed the project financials, found that the Vintners' Hall is "financially viable."*

*Conley Consulting Group, an economic consulting firm with deep experience in Oakland, prepared a market study and financial analysis in July 2008. This comprehensive study reviewed the winery industry, trends in wine consumption, and local urban wineries. It carefully analyzed the project financials and found the Vintners' Hall "economically feasible" without subsidies.*

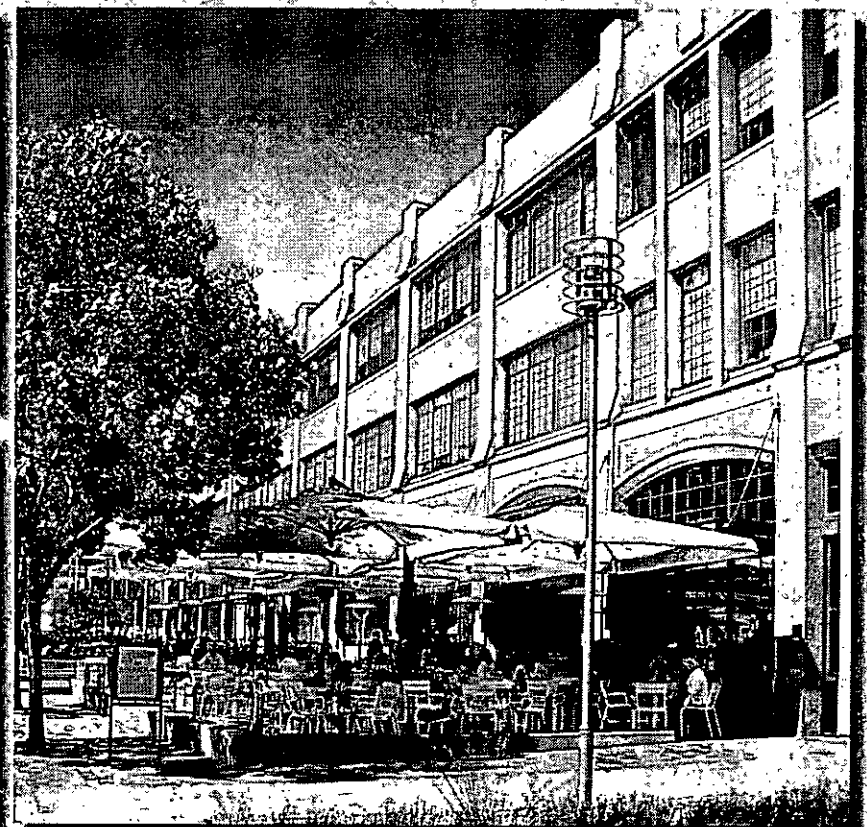
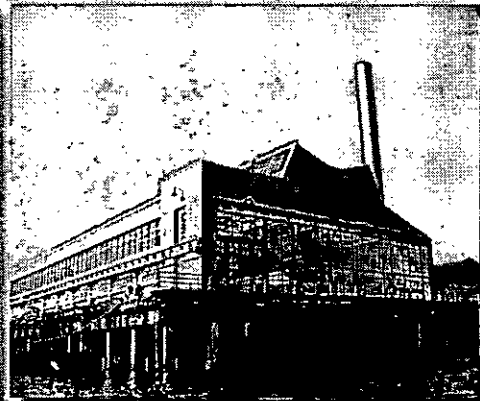
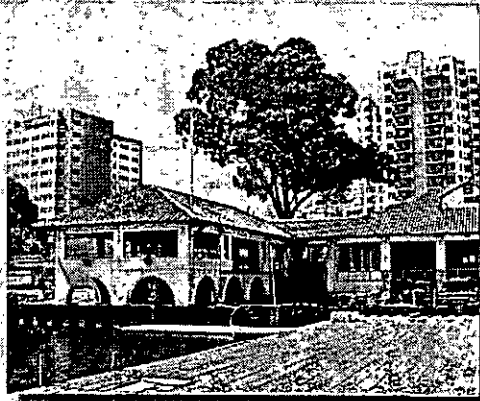
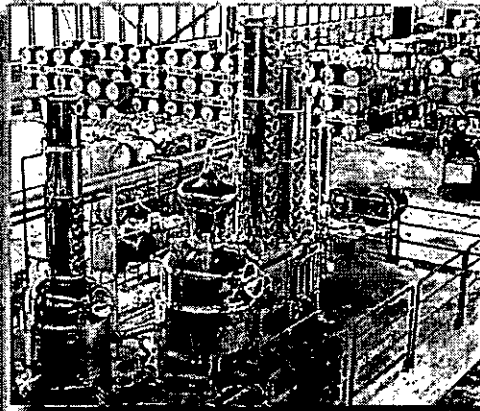
*Our commitment to the Vintners' Hall is driven by enthusiasm for the possibilities for this extraordinary place and by our detailed analysis of revenues and costs - we have committed our efforts because we believe in the opportunity to make a reasonable return on investment.*

*Other successful Bay Area Historical Adaptive Re-Use Projects:*

- 1. Rosenblum Cellars, Alameda*
- 2. Sun Power Corporation (Richmond Ford Plant)*
- 3. Hangar One, Alameda*
- 4. 66 Franklin at Jack London Square*
- 5. Boat House / Lake Chalet*

***Vintners' Hall, on Oakland's Estuary***





*There is a great deal of excitement among small vintners in the East Bay for a place with a strong identity at which to market their product. As an "incubator" the Vintners' Hall gives these small businesses an excellent opportunity for success.*

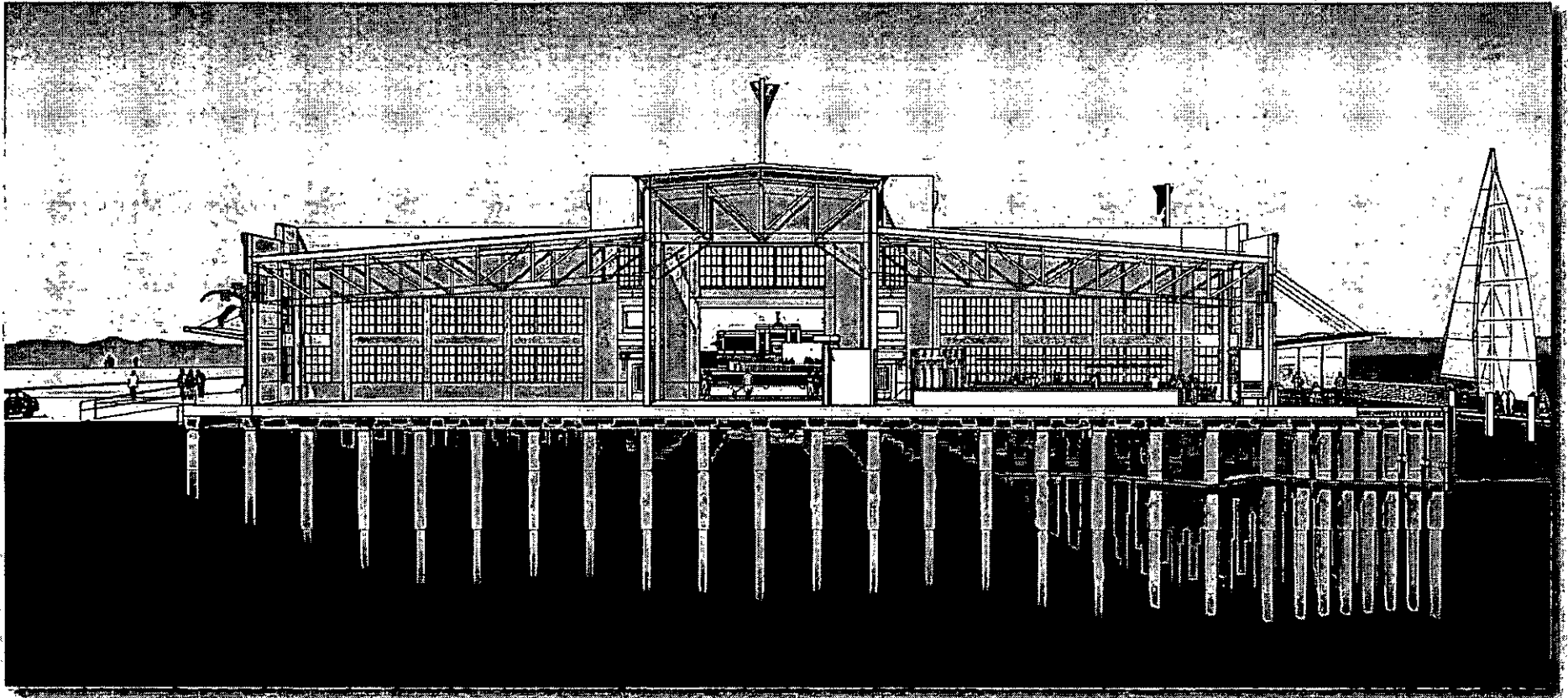
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*Ninth Avenue Terminal Partners, January 2010*

## ***Building Code Analysis:***

- *NATP proposes to re-use the terminal building as an operating winery, restaurant, retail area for wine tasting and sales as well as associated education about wine and food. These uses were submitted to Rolf Jensen & Associates for Building Code review. This review found that the building is Type III-N, fully sprinklered and it will have code compliant set backs from other buildings. These factors allow a maximum floor area of 96,000 square feet with no occupancy separations given the proposed uses.*
- *The California State Historic Building Code is mandated by state law to apply to the Ninth Avenue Terminal and the wharf. This code was developed to address the renovation of historic structures.*
- *The Ninth Avenue Terminal and the wharf have been inspected and studied by Degenkolb Engineers and the wood apron has been inspected by Applied Materials and Engineering. In addition to visual inspection of the building the engineering firms had access to detailed original construction drawings of all structures. We have included their recommendations for structural retrofit in our proposal.*

***Vintners' Hall, on Oakland's Estuary***



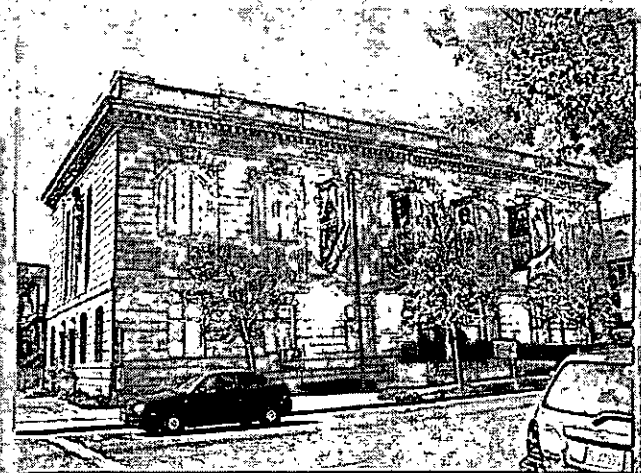
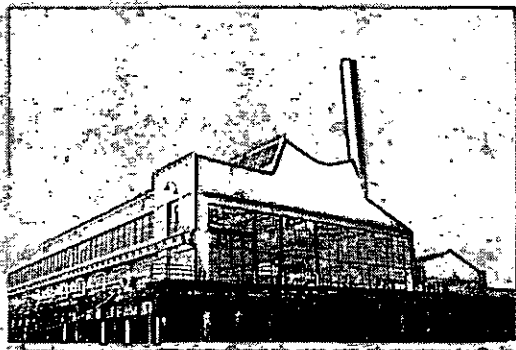
*NATP proposes to bring the building up to the standards required by the California State Historic Building code.*

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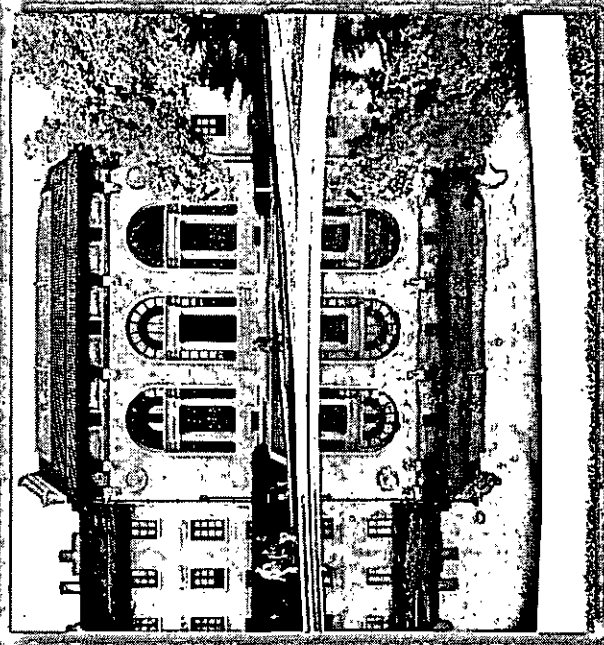
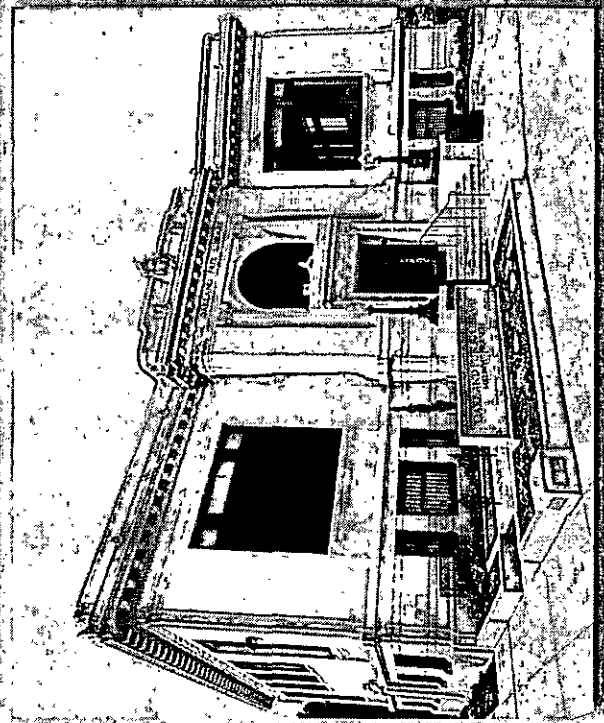
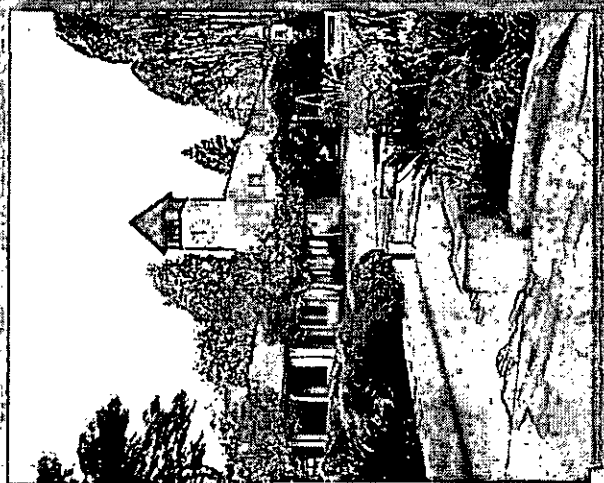
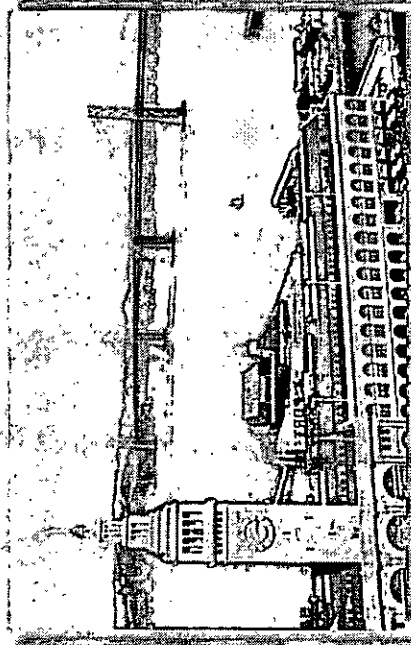
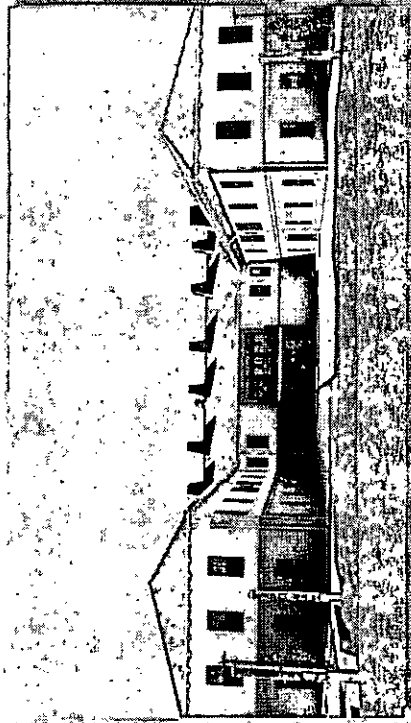
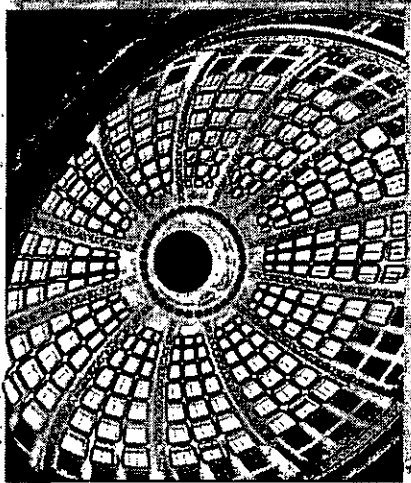
*Ninth Avenue Terminal Partners, January 2010*

## *Local Examples of Projects Using State Historic Building Code:*

- *San Francisco Ferry Building*
- *Hearst Mining, Berkeley*
- *Ford Plant, Richmond*
- *Studio One, Oakland*
- *Fox Theatre, Oakland*
- *Clark Kerr campus, Oakland*
- *Rotunda Building, Oakland*
- *African American Library and Museum, Oakland*



*Vintners' Hall, on Oakland's Estuary*



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*Ninth Avenue Terminal Partners, January 2010*

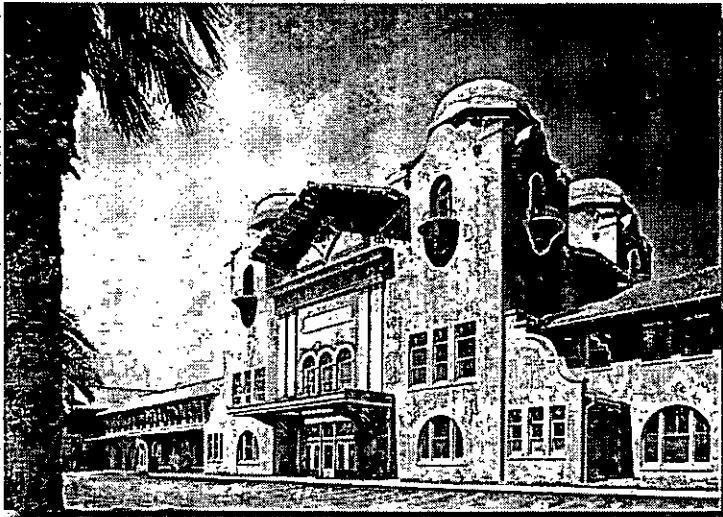
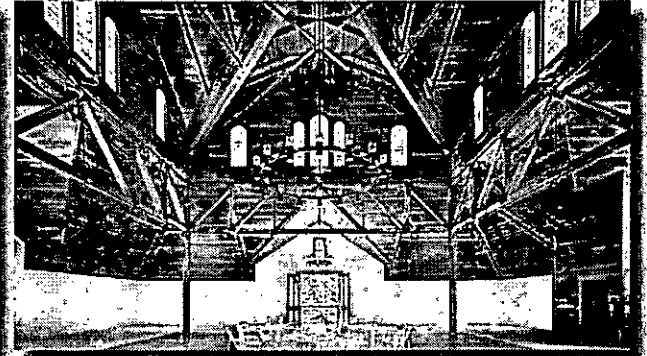
## ***Degenkolb Engineers:***

*Established in 1940, Degenkolb is the nation's oldest and largest earthquake engineering firm. They have offices in Oakland, San Francisco, Los Angeles, San Diego, Portland, and Seattle. Its principals are recognized as experts worldwide and have served thousands of clients on tens of thousands of projects.*

*Degenkolb has preserved, restored and seismically strengthened hundreds of buildings throughout the western states. Their practice is renowned for sensitively preserving important architectural features and finding effective solutions to seismic weaknesses that do not impact the architectural and historic integrity of the building. They have won numerous awards from historic preservation organizations such as the National Trust for Historic Preservation, California Preservation Foundation, and The Foundation for San Francisco's Architectural Heritage.*

*Degenkolb is also recognized by their peers as a leader in the field of structural engineering. Among many other awards, they won two of the "Top Ten Seismic Upgrades of the Decade" awards from the Applied Technology Council/Structural Engineering Institute.*

***Vintners' Hall, on Oakland's Estuary***



*Projects clockwise from top left: Fire Station and Jeff Morris Fire Museum, Walt Disney Museum in the San Francisco Presidio, Charles Krug Winery interior, Charles Krug Winery exterior, San Bernardino Depot.*

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## **Summary of Required Improvements:**

*Terminal Building:* The main elements of the structural upgrade to the building are:

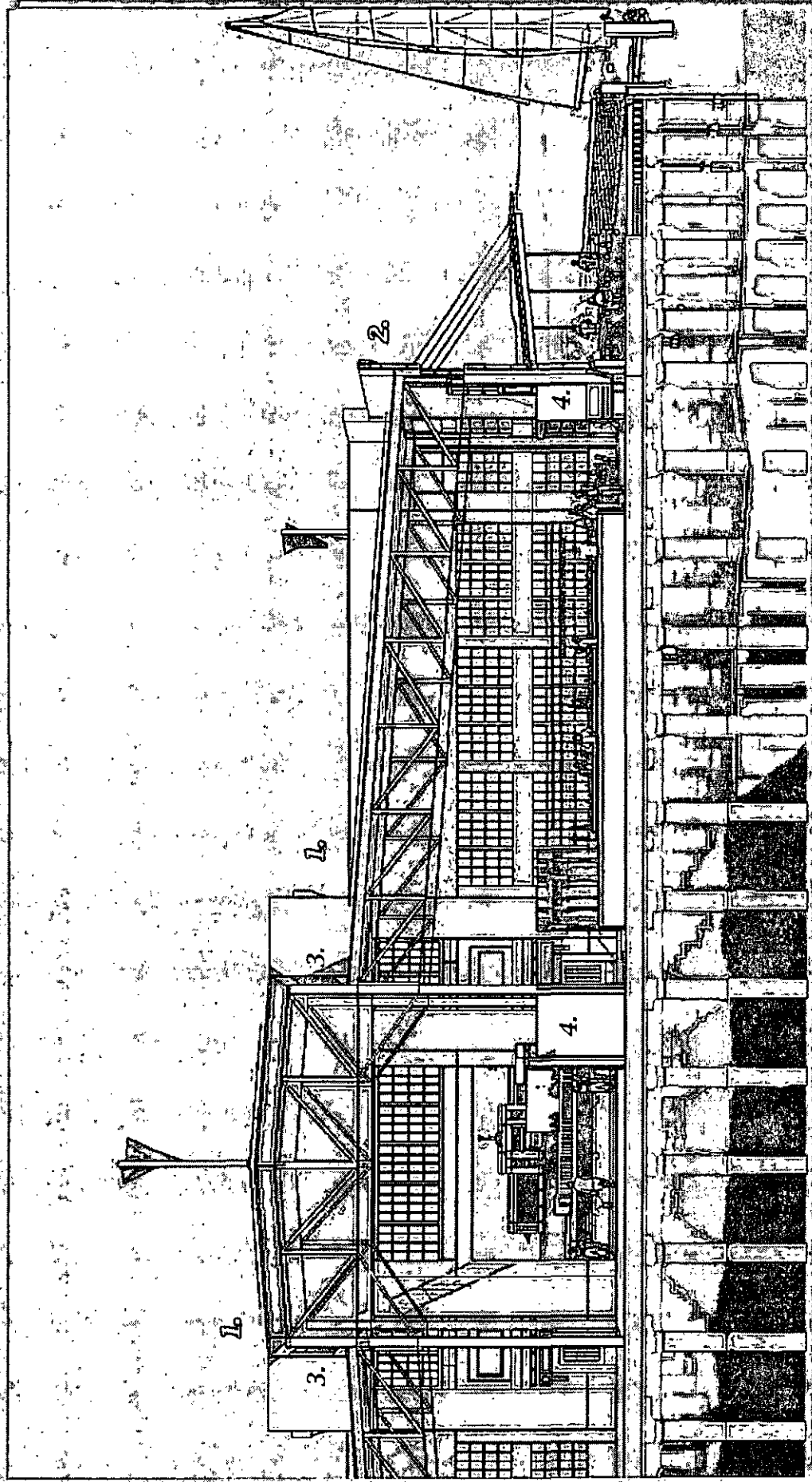
1. Addition of a plywood shear diaphragm on the main roofs.
2. Tie roof and trusses to exterior walls
3. Add cross bracing at clerestory windows
4. Add shear components at East wall and at line of windows on the North and South walls
5. Add steel brace frames at two locations at about 1/3 points in the long dimension of the building

### **Wharf Structure:**

The concrete and wood wharf structure currently complies with the California Historic Building Code and does not need additional structural improvements. Degenkolb determined this by creating a computer model of the wharf. Their conclusion: "a check of pile capacity ... indicates that the piles are not overstressed for the applied loads." The wharf is supported by a forest of columns that were designed to support heavy warehouse loads. The strength of the wharf is due to the substantial capacity of each pile and the fact that they work together in a redundant system.

**Vintners' Hall, on Oakland's Estuary**





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*Ninth Avenue Terminal Partners, January 2010*

## *Team Experience Working Together:*

*Ninth Avenue Terminal Partners LLC is a partnership of Tom McCoy, Stuart Rickard, Steve Worthington, and Morris "Moe" Wright. Our experience with historic preservation and commitment to quality development in Oakland is substantial.*

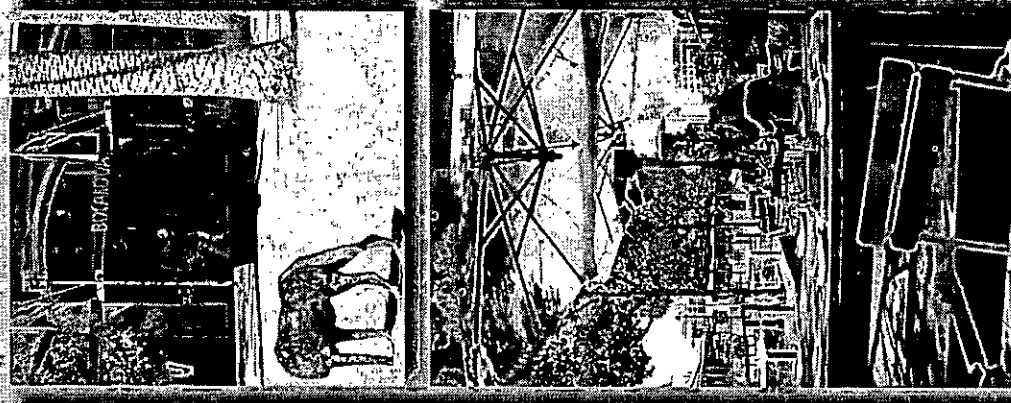
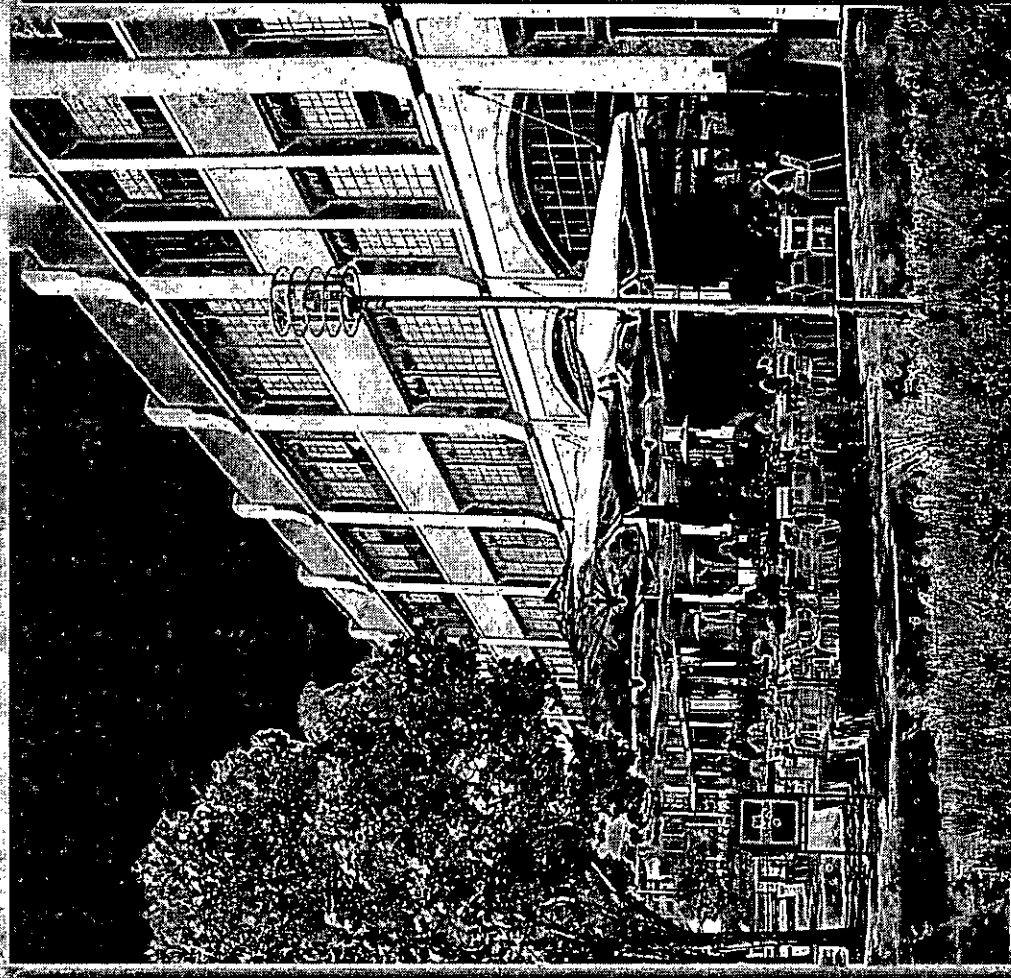
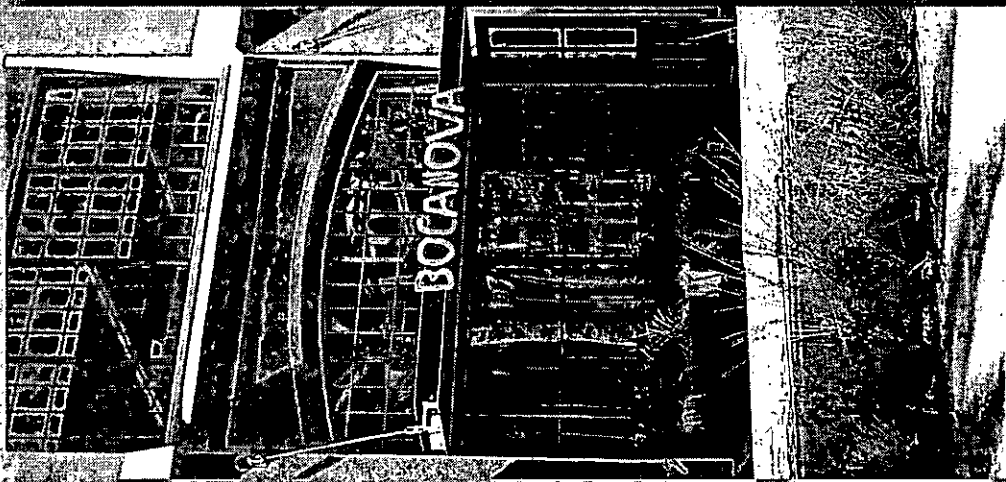
*Case study: 66 Franklin at Jack London Square*

*Every member of our team played a key role in this Ellis Partners development that bears striking similarities to our Vintners' Hall renovation:*

- *66 Franklin is an historic warehouse building*
- *Converted to a higher use inviting visitors to the building*
- *On Oakland's Estuary*
- *Built on piers, and*
- *Seismically upgraded*

*Our team has come together because we strongly believe in the potential of the Ninth Avenue Terminal to become an extraordinary waterfront destination that benefits all involved: the City of Oakland, the diverse and vibrant East Bay community, Vintners and artisan foodmakers, and Oakland Harbor Partners.*

*Vintners' Hall, on Oakland's Estuary*

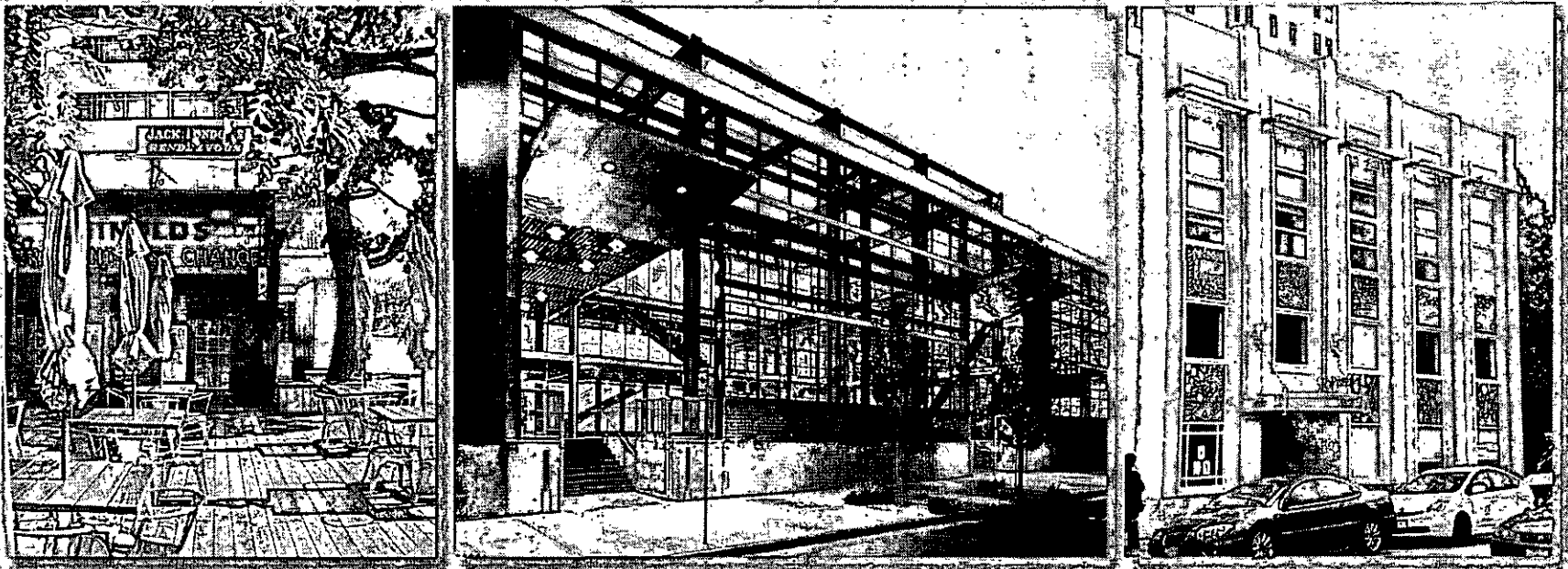


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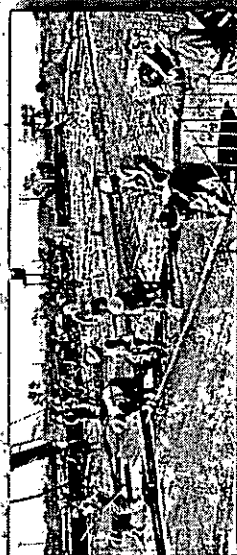
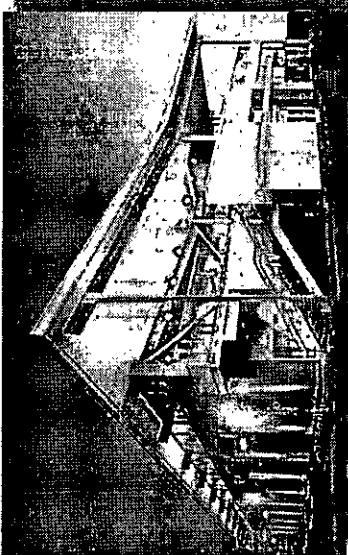
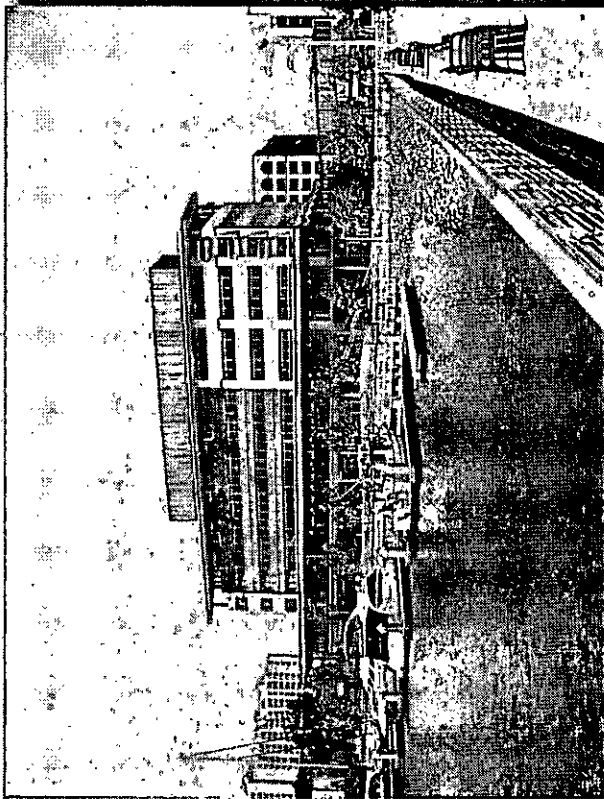
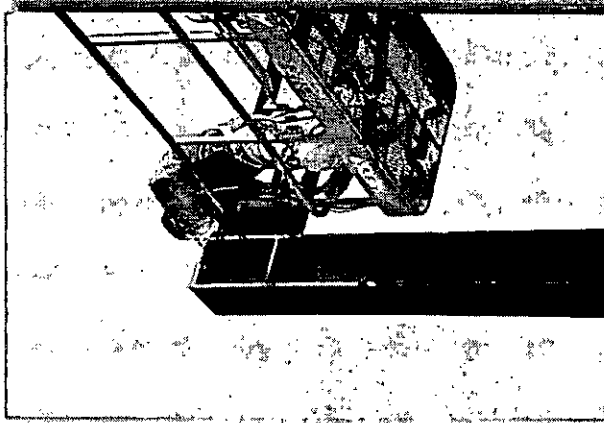
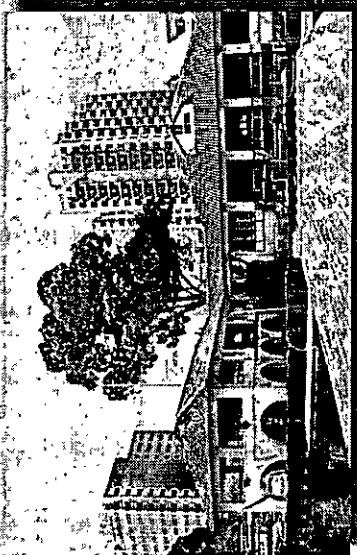
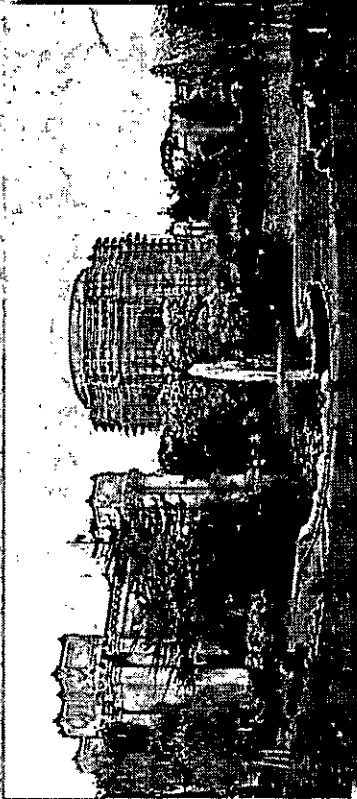
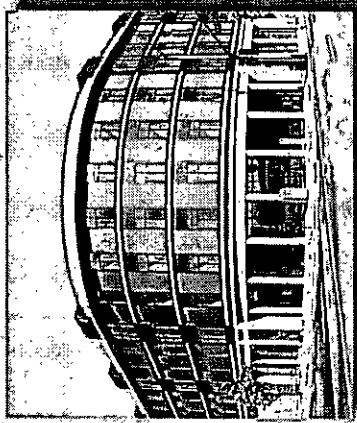
*Ninth Avenue Terminal Partners, January 2010*

## *Our Track Record:*

*Our work is visible throughout the East Bay and we are very proud of our track record of quality projects. We have a truly remarkable team that combines knowledge of waterfront development, historic preservation, design and planning, and public/private partnership.*

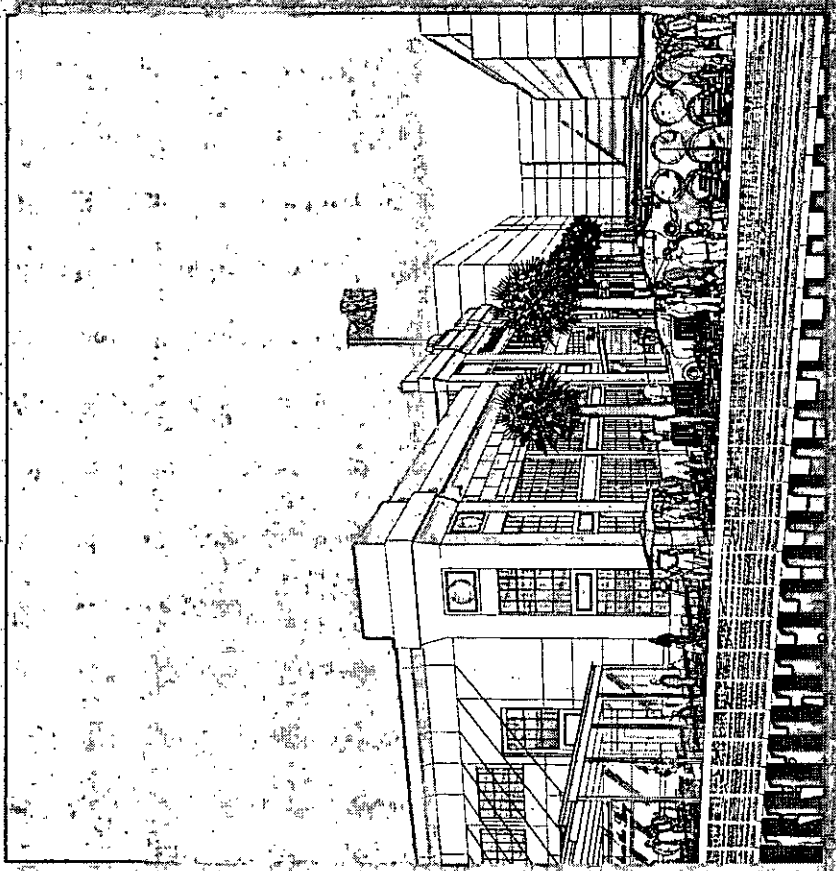


*Vintners' Hall, on Oakland's Estuary*



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*Ninth Avenue Terminal Partners, January 2010*



# Vintners' Hall, on Oakland's Estuary

.....a Waterfront Food and Wine Experience

Ninth Avenue Terminal Partners, January 2010

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**DRAFT**

DEPUTY CITY ATTORNEY

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OFFICE OF THE CITY CLERK  
OAKLAND

2010 SEP -1 PM 4:51

**OAKLAND CITY COUNCIL****RESOLUTION NO. \_\_\_\_\_ C. M. S.****RESOLUTION TO NOT ACCEPT NINTH AVENUE TERMINAL PARTNERS' PROPOSAL FOR REUSE OF THE NINTH AVENUE TERMINAL**

**WHEREAS**, on June 20, 2006 and July 18, 2006, the City Council and the Oakland Redevelopment Agency held public meetings on the Oak to Ninth Avenue Mixed Use Development Project (the Project) and considered certification of the Environmental Impact Report, SCH No. 2004062013, consisting of the Draft EIR, the Final EIR, and the Addendum to the EIR (the EIR) for the Project, various approvals for the Project, and an appeal of the Planning Commission's certification of the EIR and recommendations and approval actions with respect to the Project; and

**WHEREAS**, on June 20, 2006 and July 18, 2006, the City Council and the Oakland Redevelopment Agency took the following actions with respect to the approval of the Project: (1) approved Resolution 79981 C.M.S. denying an administrative appeal of the Planning Commission actions and certifying the EIR; (2) approved Resolution 79982 C.M.S. amending the General Plan Estuary Policy Plan; (3) approved Resolution 2006-0045 C.M.S. regarding amending the Central City East Redevelopment Plan; (4) adopted Ordinance 12756 C.M.S. amending the Central City East Redevelopment Plan; (5) approved Resolution 2006-0046 C.M.S. regarding amending the Central District Urban Renewal Plan; (6) adopted Ordinance 12757 C.M.S. amending the Central District Urban Renewal Plan; (7) adopted Ordinance 12758 C.M.S. the Planned Waterfront Zoning District-4 (PWD-4); (8) adopted Ordinance 12759 C.M.S. rezoning property in the Project site; (9) approved Resolution 79984 C.M.S. for the vesting tentative map; (10) approved Resolution 79984 C.M.S. for the preliminary development plan and design guidelines; (11) approved Resolution 2006-0047 C.M.S. authorizing the development agreement; (12) adopted Ordinance 12760 C.M.S. approving a development agreement; (13) approved Resolution 2006-0060 C.M.S. authorizing a cooperation agreement; (14) adopted Exhibits A through D to the approval documents, consisting of the CEQA Findings and Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program, Conditions of Approval, and General Findings; and

**WHEREAS**, following the City's certification of the EIR and approval of the Project two lawsuits were filed in Alameda County Superior Court (the Court) challenging, among other claims, the City's certification of the EIR, Case No. RG06-280345, Oakland Heritage Alliance v. City of Oakland et al., and Case No. RG06-280471, Coalition of Advocates for Lake Merritt v. City of Oakland et al.; and

**WHEREAS**, on February 27, 2008, the Court entered a Judgment and issued a Peremptory Writ of Mandate in Case No. RG06-280345 (Oakland Heritage Alliance v. City of Oakland) commanding the City of Oakland, the Oakland City Council and the Oakland

Redevelopment Agency (a) to vacate and set aside its Resolution Certifying the Final EIR for the Oak to Ninth Mixed Use Redevelopment Project and adopting CEQA Findings and Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program (No. 79981 C.M.S) and (b) to suspend all of the other Project approvals listed above pending further order of the Court, and directing that the matter be remanded to the City for further action as set forth in the Court Order; and

**WHEREAS**, on January 20, 2009, the City Council fully reviewed, considered, and independently evaluated the Revisions to the EIR, the Response to Comments, the staff report and attachments thereto, the public testimony, and all other documents and evidence in the public record on the Project, the EIR, and the Revisions to the EIR; and

**WHEREAS**, on January 20, 2009 the City Council recertified the EIR as revised by the Revisions to the EIR and Response to Comments, as in compliance with CEQA and the CEQA Guidelines and the Court Order; and

**WHEREAS**, on August 17, 2009 the Court issued an Order accepting the Recertification of the EIR; and

**WHEREAS**, the EIR and record on the Oak to Ninth Project fully established that preserving more of the Ninth Avenue Terminal Building is not economically feasible, and the City Council made statements of overriding consideration regarding such environmental impact, finding that specific economic, legal, social, technological, environmental and other considerations, including benefits of the project outweighed this and other significant adverse impacts of the project; and

**WHEREAS**, on June 20, 2006 and July 18, 2006, the City Council and Oakland Redevelopment Agency approved the Oak to Ninth Project and in compliance with Condition of Approval (COA) 25c issued a Request for Proposals (RFP) for possible greater reuse of the Ninth Avenue Terminal (NAT); and

**WHEREAS**, in response to the RFP, the Ninth Avenue Terminal Partners proposed to use 90,000 square feet of the NAT's total 180,000 square feet for a vintner's hall with associated commercial activities; and

**WHEREAS**, the COA requires that proposed uses be Trust consistent and the Ninth Avenue Terminal Partners' proposal does not address Trust consistency or compliance; and

**WHEREAS**, the Ninth Avenue Terminal Partners' proposed use of the NAT (1) is not consistent with the adopted zoning for the Oak to Ninth Project, (2) may require additional CEQA work because the proposed commercial activities may have different traffic patterns than the currently approved public park, and (3) will require further application from the Bay Conservation and Development Commission and the State Lands Commission, thus leading to an entitlement process likely to take at least 18 months to complete; and

**WHEREAS**, the State Lands Commission requires that Trust properties be leased at fair market value, the City of Oakland Real Estate Department has determined that \$0.19 per square foot per month is the fair market value for the NAT, and the Ninth Avenue Terminal Partners proposal offers a rent of \$0.13 per square foot per month; and



**WHEREAS**, the COA states, "that the City does not have the financial capacity to contribute to this effort" and the Ninth Avenue Terminal Partners' proposal requires a financial subsidy in the form of below market rent, representing a \$64,800 reduction annually; and

**WHEREAS**, none of the circumstances in CEQA Guidelines section 15162 and 15163 necessitating further environmental review are present in that there are no substantial changes to the project or the circumstances under which the project is undertaken that will require major revisions to the EIR or involve new significant impacts or a substantial increase in the severity of a previously identified significant effect, nor new information of substantial importance regarding new significant impacts, mitigation measures or alternatives; now, therefore, be it

**RESOLVED:** That the City Council does not accept the Ninth Avenue Terminal Partners' proposal in that is not responsive to RFP criteria and the COA.

IN COUNCIL, OAKLAND CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES

ABSENT

ABSTENTION

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

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