

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

*Barry J. Parke*  
ORA Agency Counsel

**REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND**

**2009-0063**

Resolution No. \_\_\_\_\_ C.M.S.

**AGENCY RESOLUTION RESCINDING, PER COURT ORDER:**

**(1) AGENCY RESOLUTION NO. 2006-0084 (“A RESOLUTION AMENDING THE OAKLAND ARMY BASE FINAL REUSE PLAN”) REGARDING AN AUTO MALL PROJECT AS DESCRIBED IN RESOLUTION NO. 2006-0084**

**(2) APPROVAL OF THE 2007 AMENDMENT TO THE OAKLAND ARMY BASE FINAL REUSE PLAN (AMENDED REUSE PLAN) PER AGENCY RESOLUTION NO. 2007-0086 ONLY TO THE EXTENT THE AMENDED REUSE PLAN REFERS, RELATES OR APPLIES TO THE AUTO MALL PROJECT AND/OR RELATES TO (A) ANY DISCHARGES FROM NEW DEVELOPMENT INTO THE 15-INCH SEWER LINE AND/OR (B) VACATION AND/OR RELOCATION OF WAKE AVENUE**

**WHEREAS**, on July 31, 2002, the Oakland City Planning Commission certified the Oakland Army Base Redevelopment Plan Environmental Impact Report (“EIR”) and the Oakland City Council, Oakland Base Reuse Authority (“OBRA”) and Oakland Redevelopment Agency adopted all appropriate California Environmental Quality Act (“CEQA”) findings; and

**WHEREAS**, the OBRA Governing Body, at its meeting of July 31, 2002, passed Resolution No. 2002-17 adopting the Final Reuse Plan for the Oakland Army Base (“Reuse Plan”), thereby endorsing a conceptual reuse scenario entitled “Flexible Alternative,” which included a mix of land uses for the area, including waterfront, light industrial, maritime support, research and development, “flex-office”, selected retail and possibly a hotel; and

**WHEREAS**, the Agency wished to amend the Reuse Plan to include an auto mall as a reuse strategy and to relocate the AMS uses from the North Gateway to either the East Gateway or Central Gateway; and

**WHEREAS**, it was determined necessary to prepare a Supplemental EIR for the Project; and

**WHEREAS**, on December 5, 2006 the Oakland City Council certified the Supplemental Environmental Impact Report for the Oakland Army Base Auto Mall Project

(the “SEIR”), which analyzed the environmental impacts associated with the development of an auto mall and the relocation of ancillary maritime support services, and adopted all appropriate CEQA findings; and

**WHEREAS**, the Reuse Plan was amended by the Agency on December 5, 2006 by Resolution No. 2006-0084 to include an auto mall as an additional conceptual strategy for the North Gateway area of the Oakland Army Base (OARB) and to relocate 15 acres of ancillary maritime support uses to the East Gateway or Central Gateway; and

**WHEREAS**, East Bay Municipal Utility District (EBMUD), which operates a wastewater treatment plant adjacent to the proposed Auto Mall site, filed suit to challenge the adequacy of the SEIR and the authority of the City and Agency to proceed with the Project (Alameda Superior Court Case No. RG07326552); and

**WHEREAS**, while the suit was pending, the Agency wished to further amend the Reuse Plan to revise the layout and refine the proposed traffic circulation patterns for the Project; and

**WHEREAS**, a First Addendum to the SEIR analyzed changes to the site layout of the Project and provided additional information for traffic and wastewater; and

**WHEREAS**, on December 18, 2007 the Oakland City Council, by Resolution 81004 C.M.S., approved the Addendum to the SEIR; and

**WHEREAS**, on December 18, 2007, by Resolution No. 2007-0086, the Agency approved a superseding amendment to the Reuse Plan which includes a revised layout for the Auto Mall as well as AMS uses; and

**WHEREAS**, EBMUD amended its lawsuit to add a challenge to the validity of the Addendum and the 2007 Amendment to the Reuse Plan; and

**WHEREAS**, the Superior Court of California, hearing the suit, found in favor of EBMUD; and

**WHEREAS**, on March 23, 2009, the Superior Court of California entered a Judgment and issued a Peremptory Writ of Mandate in Case No. RG07326552 commanding the City of Oakland, the Oakland City Council, the Redevelopment Agency of the City of Oakland, and the Board of Directors of the Redevelopment Agency of the City of Oakland (1) to vacate and set aside the approval of the 2006 Amendment to the Final Reuse Plan and to (2) to vacate and set aside its approval of the 2007 Amendment to the Final Reuse Plan (the “Amended Reuse Plan”) *only to the extent* the Amended Reuse Plan applies to the Project or relate to (a) any discharges from new development into the 15-inch sewer line and/or (b) vacation or relocation of Wake Avenue; now, therefore, be it

**RESOLVED:** That in compliance with the Judgment and the Peremptory Writ of Mandate the Agency Board rescinds approval of the 2006 Amendment to the OARB Final Reuse Plan by Resolution No. 2006-0084; and be it

**FURTHER RESOLVED:** That in compliance with the Judgment and the Peremptory Writ of Mandate the Agency Board rescinds approval of the 2007 Amendment to the OARB Final Reuse Plan by Resolution No. 2007-0086, *only to the extent* the Amended Reuse Plan is applicable to the Project and/or relates to (a) any discharges from new development into the 15-inch sewer line and/or (b) vacation and/or relocation of Wake Avenue.

IN AGENCY, OAKLAND, CALIFORNIA, MAY 19 2009


**PASSED BY THE FOLLOWING VOTE:**

AYES - KERNIGHAN, NADEL, ~~QUAN~~, DE LA FUENTE, ~~BROOKS~~, ~~REID~~, KAPLAN, AND  
CHAIRPERSON BRUNNER - 5

NOES - 0

ABSENT - 0

ABSTENTION - 0  
Excused - Quan, Reid, Brooks - 3

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