

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C. M. S.

OFFICE OF THE CITY CLERK
OAKLAND

MS

INTRODUCED BY COUNCILMEMBER _____

2004 JAN 29 PM 1:02

A RESOLUTION GRANTING MANDELA GATEWAY ASSOCIATES, A CONDITIONAL REVOCABLE PERMIT FOR THE ENCROACHMENT OF SPECIALTY PAVERS INTO THE PUBLIC RIGHT-OF-WAY AREA ON 7TH ST. AND MANDELA PARKWAY (EAST)

WHEREAS, Mandela Gateway Associates, a long term lessee of the three parcels in the attached Memorandum of Ground Lease, ("**Permittee**"), owner of that certain property described in the Grant Deed, recorded April 3, 2002, Series No. 02-147156, at the Office of the County Recorder, Alameda County, California, commonly known as APN 004-00676-022-00 – 1350 7th Street, has made application for a conditional revocable permit to the Council of the City of Oakland for the encroachment of specialty pavers into the public right-of-way area of 7th Street and Mandela Parkway, and

WHEREAS, the location of said encroachments to be granted by this resolution is delineated in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, said encroachments will not interfere with the public use of 7th Street and Mandela Parkway, and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, the guidelines as prescribed by the Secretary of Resources, and the Provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the CEQA: City of Oakland, have been satisfied, and that in accordance with the provisions of the California Environmental Quality Act, this project has already received clearance in the Environmental Impact Report No. ER02-0003; now therefore,

BE IT RESOLVED: That this resolution complies with the CEQA, and be it

FURTHER RESOLVED: That the Permittee is hereby granted a conditional revocable permit for the encroachment of specialty pavers in the public right-of-way area of 7th Street and Mandela Parkway, and be it

FURTHER RESOLVED: That the Council of the City of Oakland, in granting this permission prescribes as special conditions thereof, the following:

1. That the Permittee is responsible for the relocation of all existing public utilities including fire alarm cable, master signal cable, street lighting and intersection signal cable, as required.

S-10.17CC

ORA/COUNCIL

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2. That, after notice to Permittee, this permit shall be revocable at the reasonable discretion of the Council of the City of Oakland, expressed by resolution of said Council.
3. That the Permittee, by the acceptance, either expressed or implied, of this revocable permit hereby disclaims any right, title, or interest in or to any portion of the public right-of-way area, underlying the said encroachment or the air space above and agrees that said temporary use of said area does not constitute an abandonment on the part of the City of Oakland of any of its rights for street purposes and otherwise.
4. The Permittee shall maintain in force and effect at all times that said encroachment occupies said public sidewalk area, good and sufficient public liability insurance in the amount of \$300,000 for each occurrence, and property damage insurance in the amount of \$50,000 for each occurrence both including contractual liability insuring the City of Oakland, its officers and employees, against any and all claims arising out of the existence of said encroachments in said right-of-way area, and that a certificate of such insurance and subsequent notices of the renewal thereof, shall be filed with the Director of Building Services of Community of Economic Development Agency of the City of Oakland and that such certificate shall state that said insurance coverage shall not be canceled or be permitted to lapse without thirty (30) days' written notice to said Director of Building Services. The Permittee also agrees that the City may review the type and amount of insurance required every five (5) years and may require the Permittee to increase the amount of and/or change the type of insurance coverage required, if such is reasonably necessary as determined by the City.
5. That the Permittee, by the acceptance, either expressed or implied of this revocable permit agrees and promises to defend and hold harmless and indemnify the City of Oakland, its agents, officers, and employees, from any and every claim, demand, lawsuit and judgment for damages of any kind and nature whatsoever arising out of or caused by the existence, installation or maintenance of said encroachment to said right-of-way area and street area and regardless of responsibility for negligence. The liability insurance referred to in the preceding paragraph shall cover this contractual liability, provided that nothing herein shall be interpreted as limiting the Permittee's defense, hold harmless and indemnification obligations to the amount set forth in the preceding paragraph.
6. That Permittee shall make no changes to the encroachment hereby allowed either structurally, with regard to dimension, or with respect to use, without the written consent of the Director of Building Services and understands that the City may impose reasonable fees and considerations for processing permits required for such proposed changes. Permittee also understands that the City is not obligated to grant any changes proposed by said Permittee.
7. That the Permittee, by the acceptance, either expressed or implied, of this revocable permit shall be solely and fully responsible for the repair or replacement of any portion or all of said improvements in the event that said improvements shall have failed or have been damaged to the extent of creating a menace or of becoming a

hazard to the safety of the general public; and that the Permittee shall be liable for the expenses connected therewith.

8. That upon the termination of the permission herein granted, Permittee shall immediately remove said encroachment from the right-of-way area, and any damage resulting therefrom shall be repaired to the satisfaction of the Director of Building Services.
9. The Permittee shall file with the City of Oakland for recordation, a disclaimer and agreement that Permittee accepts and shall comply with and shall be bound by each and all of the terms, conditions and provisions of this resolution. Said disclaimer and agreement shall be subject to the approval of the City Attorney and the Director of Building Services.
10. That the plans and exact location of said encroachment hereby granted are subject to the review and approval of the Community and Economic Development Agency, Building Services Division and that the Permittees shall obtain all necessary permits prior to commencing said work. Generally, said encroachment shall be located as set forth in Exhibit "A".
11. That the Permittees acknowledge that the City makes no representations or warranties as to the conditions beneath said encroachment. By accepting this revocable permit, Permittees agree that it will use the encroachment area at its own risk, are responsible for the proper coordination of its activities with all other permittees, underground utilities, contractors, or workmen operating within the encroachment area and for the safety of itself and any of its personnel in connection with its entry under this revocable permit.
12. That the Permittees acknowledge that the City is aware of the existence of any hazardous substances beneath the encroachment area, and hereby waive and fully release and forever discharge the City and its officers, directors, employees, agents, servants, representatives, assigns and successors from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition, or required remediation of the excavation area or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401-1450), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substance Control Act (15 U.S.C. Sections 2601-2629), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (

California Health and Safety Code Section 25249.5 et seq.). Notwithstanding the above provisions of this Paragraph 12, Permittee shall be liable to the City for any hazardous substances on, in or beneath the encroachment area that was not caused by the Permittees, its agents, employees, tenants or service providers.

13. Permittees further acknowledge that they understand and agree that they hereby expressly waive all rights and benefits which they now have or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."
14. Permittees recognize that by waiving the provisions of this section, Permittees will not be able to make any claims for damages that may exist, and to which, if known, would materially affect their decision to execute this encroachment agreement, regardless of whether Permittees' lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.
15. That the Permittees, by the acceptance of this revocable permit, agree and promise to indemnify, defend, and hold harmless the City of Oakland, its officers, agents, and employees, to the maximum extent permitted by law, from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or be in any way connected with the Permittees' use, installation or maintenance of the encroachment, or required remediation of the excavation area or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401-1450), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substance Control Act (15 U.S.C. Sections 2601-2629), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).
16. That the hereinabove conditions shall be binding upon the Permittee and its successive owners and assigns thereof; and be it

FURTHER RESOLVED: That this resolution shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Attorney and the Director of Building Services of the City of Oakland and shall become null and void upon the failure of the Permittee to comply with the conditions hereinabove set forth after notice and failure to cure such conditions in a reasonable manner.

FURTHER RESOLVED: The City Clerk is hereby directed to have a certified copy of this resolution recorded at the Office of the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2002

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

5-10.17CC

ORA/COUNCIL
FEB 17 2004

~~5.
COMMUNITY ECONOMIC
DEVELOPMENT CMTE~~

~~FEB 10 2004~~

EXHIBIT A

REAL PROPERTY IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL A, AS SAID PARCEL IS SHOWN ON PARCEL MAP NO. 8059, FILED FEBRUARY 11, 2003, IN BOOK 270, OF PARCEL MAPS, PAGES 12 THROUGH 13, INCLUSIVE, ALAMEDA COUNTY RECORDS.

PARCEL TWO:

PARCEL B, AS SAID PARCEL IS SHOWN ON PARCEL MAP NO. 8058, FILED FEBRUARY 11, 2003, IN BOOK 270, OF PARCEL MAPS, PAGES 14 THROUGH 17, INCLUSIVE, ALAMEDA COUNTY RECORDS.

PARCEL THREE:

EASEMENTS APPURTENANT TO PARCEL B OF PARCEL MAP NO. 8058, AS SET FORTH AND FURTHER DEFINED IN THAT CERTAIN INSTRUMENT ENTITLED "MANDELA GATEWAY DECLARATION ESTABLISHING RECIPROCAL EASEMENTS AND COVENANTS RUNNING WITH THE LAND", EXECUTED BY THE HOUSING AUTHORITY OF THE CITY OF OAKLAND, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED FEBRUARY 11, 2003, AS SERIES NO. 2003-084088, OFFICIAL RECORDS OF SAID COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WITHIN PARCEL C, AS SAID PARCEL IS SHOWN ON PARCEL MAP NO. 8058, FILED FEBRUARY 11, 2003, IN BOOK 270, OF PARCEL MAPS, PAGES 14 THROUGH 17, INCLUSIVE, ALAMEDA COUNTY RECORDS.

RECORDING REQUESTED BY:
Housing Authority of the City of Oakland

CERTIFIED TO BE A TRUE COPY OF DOCUMENT
RECORDED 2.14.03
AT SERIES NO. 2003-090483
OFFICIAL RECORDS OF ALAMEDA COUNTY FOR
Chicago Title Company
By: [Signature]

WHEN RECORDED MAIL TO:
Housing Authority of the City of Oakland
1619 Harrison Street
Oakland, CA 94612
Attn: Executive Director

No fee for recording pursuant to
Government Code Section 27383

Mail Tax Statements As Directed Above

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

MEMORANDUM OF GROUND LEASE
(Residential)

THIS MEMORANDUM OF GROUND LEASE (the "Memorandum") is made as of February 1, 2003, by and among the Housing Authority of the City of Oakland, California a public body, corporate and politic, ("Lessor") and Mandela Gateway Associates, a California limited partnership ("Lessee") with respect to that certain Ground Lease dated as of February 1, 2003 (the "Lease"), between Lessor and Lessee.

Pursuant to the Lease, Lessor hereby leases to Lessee and Lessee leases from Lessor that certain real property, more particularly described in Exhibit A, attached hereto and incorporated herein, (the "Property") and Lessor grants to Lessee, all the improvements constructed or to be constructed on the Property for the term of the Lease which improvements are and shall remain real property. The Lease commenced on February 1, 2003, and shall continue from such date until the expiration of seventy-five (75) years thereafter, or sooner termination pursuant to the terms of the Lease.

This Memorandum shall incorporate herein all of the terms and provisions of the Lease as though fully set forth herein.

This Memorandum and the Lease are and shall remain unconditionally junior and subordinate to that certain Declaration of Trust and Restrictive Covenants by and between Lessor and Lessee, in favor of the United States Department of Housing and Urban Development, and recorded concurrently herewith.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Lease, of which this is a memorandum.

B

IN WITNESS WHEREOF, the parties have caused this Memorandum to be duly executed as of the date first above written.

LESSOR:

HOUSING AUTHORITY OF THE CITY OF
OAKLAND, CALIFORNIA, a public body,
corporate and politic

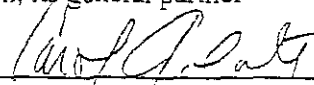
By: 

Jon Gresley, Executive Director

LESSEE:

MANDELA GATEWAY ASSOCIATES, a
California Limited Partnership

By: BRIDGE Housing Ventures, Inc., a
California nonprofit public benefit
corporation, its general partner

By: 

Carol Galante, President

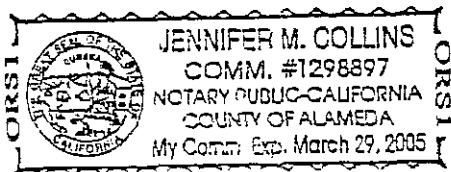
[SIGNATURES MUST BE NOTARIZED]

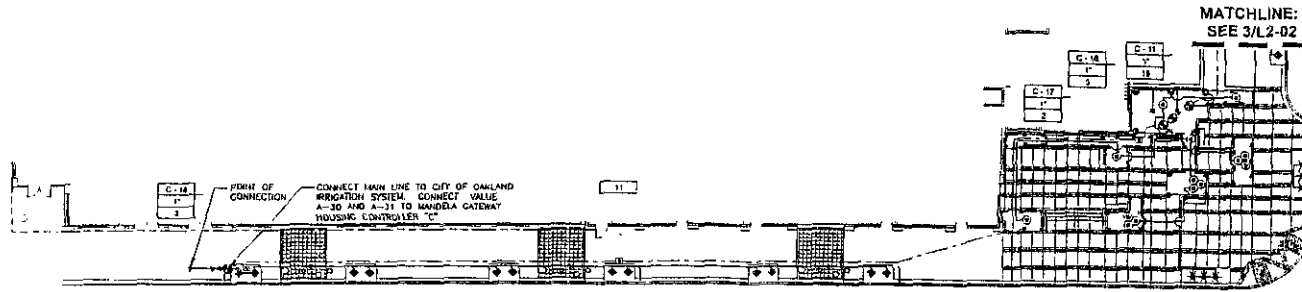
STATE OF CALIFORNIA)
)ss.
COUNTY OF ALAMEDA)

On February 11, 2003, before me, the undersigned, a Notary Public, personally appeared Jon
Gresley, personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

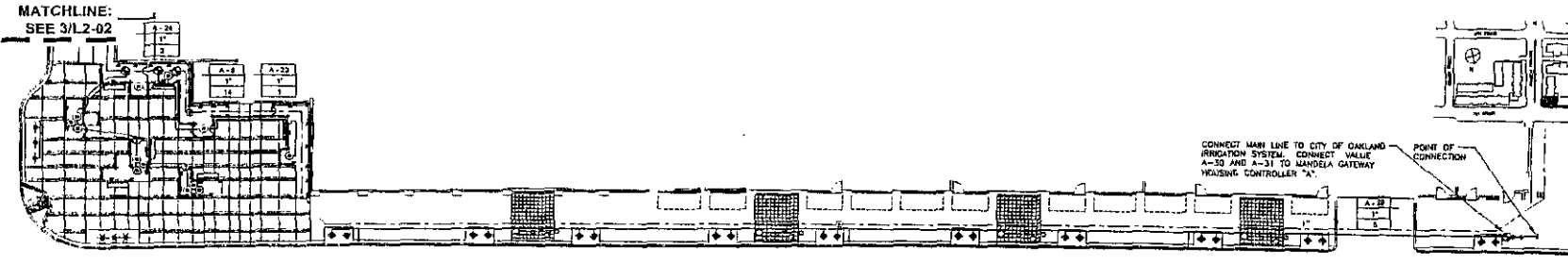
WITNESS my hand and official seal.

J. M. Collins

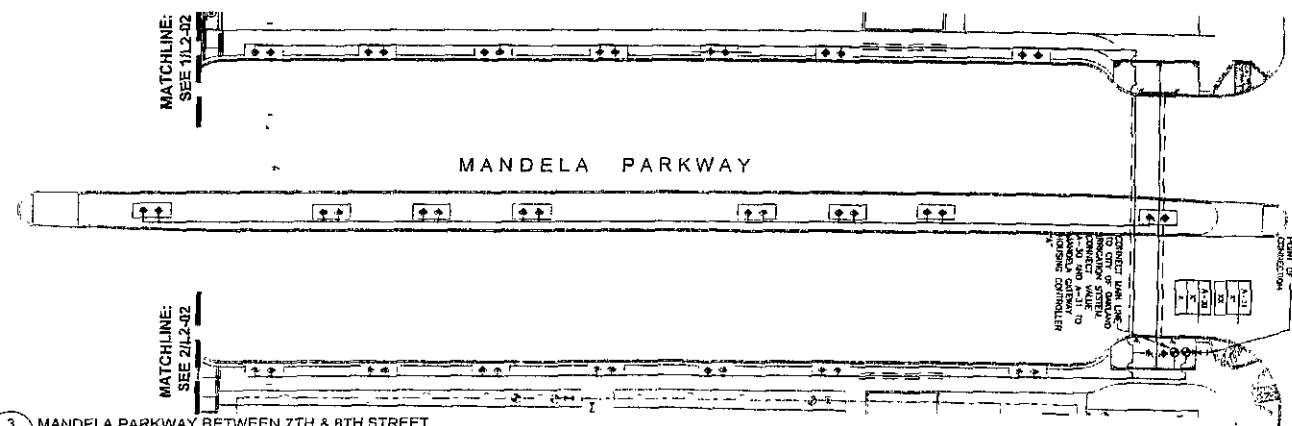




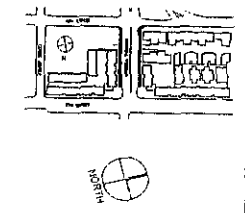
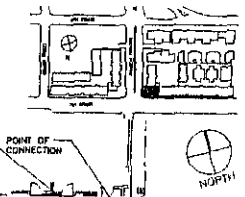
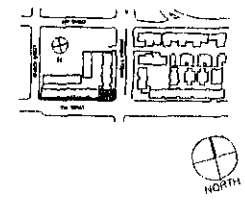
1 7TH STREET BETWEEN MANDELA PARKWAY & CENTER STREET
SCALE: 1/16"=1'-0"



2 7TH STREET BETWEEN MANDELA PARKWAY & CENTER STREET
SCALE: 1/16"=1'-0"



3 MANDELA PARKWAY BETWEEN 7TH & 8TH STREET
SCALE: 1/16"=1'-0"



Michael
Wille
Architects

471 9th Street
Oakland, CA
94607
tel: (510) 837-9110
fax: (510) 282-9713



PGA design
LANDSCAPE ARCHITECTS

211 17th Street, Suite 301
Oakland, CA 94612
Tel: 510 461 1111
Fax: 510 461 1112

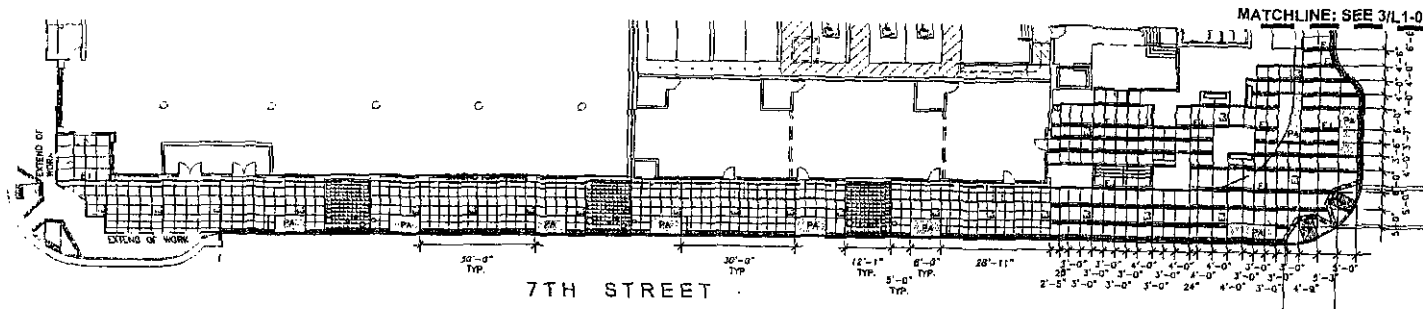
All work and services are subject to the terms and conditions of the contract documents. The client is responsible for obtaining all necessary permits and approvals from the appropriate authorities. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

Client:	
Contract No.:	
Project Name:	
Site Address:	
Scale:	
Date:	

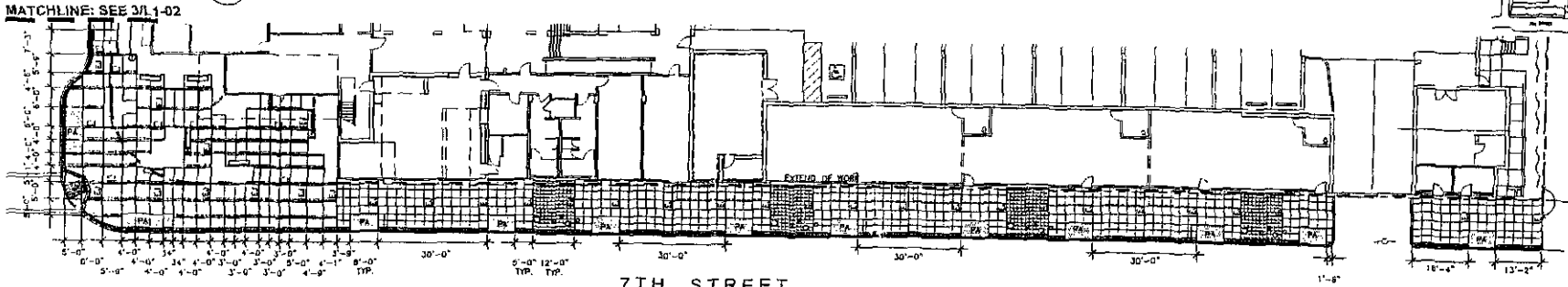
Mandela Gateway
Housing Authority of the City of Oakland
HUID Project Number: CA 38 USD ORR 09

Issue Date:	01/27/2003
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Drawn:	AT
Checked:	CGJ/P
By Name:	
Job Number:	
Working:	IRRIGATION LAYOUT
Sheet Number:	

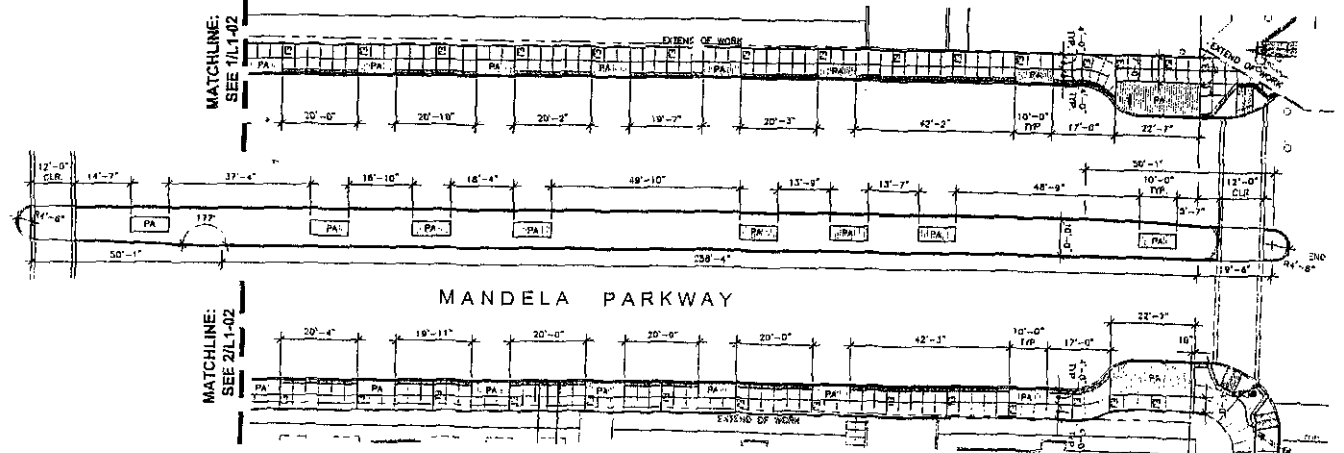
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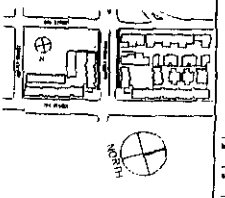
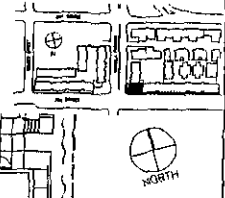
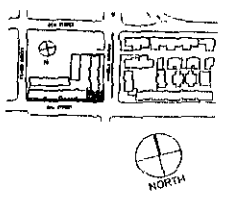
1 7TH STREET BETWEEN MANDELA PARKWAY & CENTER STREET
SCALE: 1/16"=1'-0"



2 7TH STREET EAST OF MANDELA PARKWAY
SCALE: 1/16"=1'-0"



3 MANDELA PARKWAY BETWEEN 7TH & 8TH STREET
SCALE: 1/16"=1'-0"



Michael
Willis
Architects

710 S. 3rd
Oakland, CA
94607-1199
Tel: (510) 832-1199
Fax: (510) 832-1199

LANDSCAPE ARCHITECTURE
U.S. & CANADA

PGA design
LANDSCAPE ARCHITECTS

10000 Wilshire Blvd. #1
Los Angeles, CA 90024
Tel: (310) 204-1100
Fax: (310) 204-1101

REVISIONS

All errors and omissions remain the responsibility of the user. The user shall be responsible for the accuracy of the information provided and for the proper use of the information. The user shall be responsible for the accuracy of the information provided and for the proper use of the information.

Number	Date

Mandela Gateway

Housing Authority of the City of Oakland
HUD Project Number: CA 33 HUD 0081 99

Sheet Date	01/27/2000
Title	AS SHOWN
Drawn	AT
Checked	CO/JP
By name	
Job number	
Drawn	
Checked	
By name	

CONSTRUCTION LAYOUT

L1-02

