

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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 APR -7 PM 5: 34

TO: Office of the Agency Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: April 19, 2005

**RE: REPORT AND RESOLUTION SUPPORTING A PUBLIC TRUST LAND EXCHANGE AT THE FORMER OAKLAND ARMY BASE BY AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A PURCHASE AND SALE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR A 6.5 ACRE PORTION OF THE PROPERTY KNOWN AS CITY-PORT MOA PARCEL NINE**

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**SUMMARY**

Staff is requesting authorization to negotiate and enter into a purchase and sale agreement and easement agreements with the State of California Transportation Department (Caltrans) to facilitate development of the Gateway Development Area (the former Oakland Army Base property).

The Oakland Base Reuse Authority (OBRA), the Oakland Redevelopment Agency, and the Oakland City Council have authorized staff to take necessary actions to support the public trust land exchange at the Army Base and to facilitate the development of the Gateway Development Area property, pursuant to OBRA Resolution No. 2004-01, Council Resolution No. 78461, and Agency Resolution No. 2004-19. Since that authorization was given, Caltrans has asserted its interest in acquiring a portion of the property subject to the exchange, and staff is now requesting authorization to negotiate and enter into a Purchase and Sale Agreement with Caltrans for a 6.5-acre portion of the property known as City-Port MOA Parcel Nine. The City-Port MOA Parcel Nine property is located south of I-80 across from the Bay Bridge Toll Plaza and adjacent to the former Oakland Army Base property. Caltrans intends to use the property to support its Bay Bridge project.

Last year, State Senator Don Perata introduced legislation (SB 1435) that would facilitate the tidelands trust exchange at the Army Base. Soon thereafter, Caltrans indicated an interest in acquiring City-Port MOA Parcel Nine, and staff entered negotiations with them. In August 2004, the state legislature unanimously approved SB 1435, but Governor Schwarzenegger vetoed the bill, citing the City's unresolved discussions with Caltrans. The Governor's veto message required the City of Oakland and Caltrans to reach an agreement that would meet the development needs of the City of Oakland, while ensuring inclusion of the state's rights in the public trust lands, and the transfer of property needed by the State to support the Bay Bridge Construction Project.

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Senator Perata has reintroduced the Oakland Army Base Land Exchange legislation (now SB 674). OBRA, the Agency and Caltrans staffs have reached general agreement on the terms and conditions of a transfer of City-Port MOA Parcel Nine to Caltrans to support the Bay Bridge Construction Project. With the proposed resolution of this outstanding issue, Caltrans staff is prepared to support SB 674.

Staff is requesting authorization to negotiate and enter into a Purchase and Sale Agreement with the State of California Department of Transportation for a 6.5-acre portion of the property known as City-Port MOA Parcel Nine to support the Bay Bridge Construction Project and the passage of SB 674 and the State Lands Exchange Agreement. The City-Port MOA Parcel Nine is property currently owned by the Port of Oakland that will be transferred to the Redevelopment Agency upon the Agency's election.

Staff is also requesting authorization to negotiate and enter into two easements in favor of OBRA and the Agency, and a quitclaim deed with Caltrans to implement past settlement agreements with Caltrans. In March 2002, the City of Oakland, the Redevelopment Agency, OBRA and the Port of Oakland jointly filed lawsuits in federal and state courts contesting three illegal property transfers made by the United States Federal Highway Administration (FHWA) and Caltrans that would have provided Caltrans with real property rights and interests in Oakland Army Base Property. On April 18, 2002 and July 30, 2003, the City, the Agency, OBRA, the Port and Caltrans executed settlement agreements to resolve the litigation concerning the three illegal deeds. The July 30, 2003 settlement agreement provides for Caltrans to execute: (1) easements in favor of the Agency and OBRA for approximately 11.75 acres of property located under the I-80/I-880 freeway connector overpass, and (2) a quitclaim deed relinquishing abandoned rights in the former 22<sup>nd</sup> Street (now West Grand Avenue). The Agency was briefed on the details of the settlement agreements at the time that they were executed.

#### **FISCAL IMPACT**

There is no fiscal impact to the City of Oakland or the Redevelopment Agency. The Oakland Base Reuse Authority will pay for all legal, transactional and other services related to this action.

#### **BACKGROUND**

In February 2002, the Federal Highway Administration (FHWA) conveyed three interests in property at the former Army Base to Caltrans: (i) a construction easement for Pier 7, (ii) an access easement for Burma Road, and (iii) fee title to approximately 21 acres of under-freeway land. The construction easement was to be used in relation to the Bay Bridge retrofit project; the

under-freeway parcels were to be used for maintenance and security of the new Cypress Freeway.

Soon thereafter in March 2002, the City of Oakland, Redevelopment Agency, Port of Oakland and OBRA filed lawsuits in both State and Federal Court challenging FHWA's conveyance of Army Base property interests. The conveyance violated the agreement between the U.S. Army and OBRA, in that the interests conveyed by FHWA were intended to be transferred as part of the original no-cost Economic Development Conveyance from the U.S. Army to OBRA.

In April 2002, the parties reached settlement on the Pier 7 and Burma Road conveyances, and in July 2003, the parties reached agreement on the conveyance of deed for the under-freeway land. The settlement agreement called for conveying the three-acre parcel underneath the freeway on the City-Port MOA Parcel Nine to Caltrans, instead of to OBRA, as agreed to the City-Port Memorandum of Agreement. The easement in favor of OBRA and the Agency will allow for un-laden truck parking, landscaping, roadway and utility improvements. The easements are to be no-cost and perpetual. The Agency approved the settlement at its Closed Session held on September 22, 2003. The negotiations of the specific terms were supervised by the Federal District Court.

While negotiations with Caltrans pursuant to the settlement agreement continued, a related issue arose with regard to an additional 6.5 acres that Caltrans wants to acquire as part of their Bay Bridge Seismic Upgrade Project. In 2004, the state legislature considered and passed legislation authorizing an exchange to take place for the OBRA and Port properties that are subject to the tidelands trust (SB 1435, sponsored by Senator Don Perata). On September 30, 2004, at the request of Caltrans, Governor Schwarzenegger vetoed the bill, stating that the Oakland parties needed to work out the remaining issues with Caltrans before the bill could become law.

Following the veto, Agency, OBRA and Caltrans staffs met several times regarding the trust exchange legislation, the final terms of the easements, and the terms by which the Agency and OBRA would transfer the additional 6.5 acres to Caltrans.

### **KEY ISSUES AND IMPACTS**

The passage and enactment of SB 674 is critical to the Redevelopment Agency's ability to develop the Gateway Development Area (GDA) property (former Oakland Army Base property) to its highest and best use. The inability to ensure successful passage of SB 674 will limit the Agency's future development options for the Gateway Development Area. The land would remain subject to the public trust and thus the land uses would be restricted to maritime or maritime related activities and functions.

As noted in the Governor's veto message for Oakland Army Base exchange legislation SB 1435, agreement between the City of Oakland and Caltrans is necessary for the passage and enactment

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of exchange legislation for the Oakland Army Base (re-introduced as SB 674). As noted above, OBRA, the Agency and Caltrans staffs have reached general agreement on the terms and conditions of a transfer of 6.5-acres to Caltrans to support the Bay Bridge Construction Project, and provide for Caltrans' support of SB 674.

The GDA site is bisected by the under freeway property acquired by Caltrans in 2002. The easements staff is requesting authorization to execute are necessary for developing the GDA property in a holistic manner, and for minimizing development costs. Without the ability to utilize the easements, the separated Gateway Development Area sub areas, will potentially require duplicative development efforts and costs, specifically in terms of utility infrastructure. Additionally, the separation of the development sites will potentially limit development options and scenarios.

### **SUSTAINABLE OPPORTUNITIES**

This report does not include approval of any specific projects addressing sustainable opportunities.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

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This report does not include the approval of any specific projects or programs.

### **RECOMMENDATION(S) AND RATIONALE**

Based on the importance and critical nature of passage and enactment of SB 674, the clear intent and direction given by Governor Schwarzenegger in his veto message for SB 1435, staff requests and recommends authorization for entering into and executing the purchase and sale agreement for a 6.5-acre portion of the property known as City-Port MOA Parcel Nine.

Additionally, based on the increased development options and potential cost reductions associated with securing perpetual easements for the property under the I-80/I-880 freeway connector overpass, staff requests and recommends authorization for entering into and executing easements in favor of the Agency and OBRA for approximately 11.75 acres of property located under the I-80/I-880 freeway connector overpass, and a quitclaim deed relinquishing abandoned rights in the former 22<sup>nd</sup> Street (now West Grand Avenue).

**ACTION REQUESTED OF THE REDEVELOPMENT AGENCY**

Staff is requesting authorization to negotiate and enter into a purchase and sale agreement, easement agreements with the State of California Transportation Department to facilitate development of the Gateway Development Area (the former Oakland Army Base property).

Respectfully submitted,

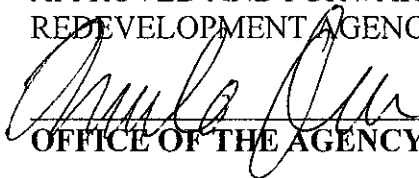


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Claudia Cappio  
Director of Development

Prepared by:  
Aliza Gallo/John Monetta  
Oakland Base Reuse Authority

APPROVED AND FORWARDED TO THE  
REDEVELOPMENT AGENCY:



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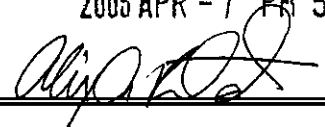
**OFFICE OF THE AGENCY ADMINISTRATOR**

OAKLAND REDEVELOPMENT AGENCY

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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

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**RESOLUTION SUPPORTING A PUBLIC TRUST LAND EXCHANGE AT THE FORMER OAKLAND ARMY BASE BY AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A PURCHASE AND SALE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR A 6.5 ACRE PORTION OF THE PROPERTY KNOWN AS CITY-PORT MOA PARCEL NINE**

**WHEREAS**, the Final Reuse Plan for the Oakland Army Base ("Reuse Plan") provides that most of the land west of Maritime Street and a portion of the land east of Maritime Street will be developed by the Redevelopment Agency with a variety of uses to stimulate job creation and economic development (the "Gateway Development Area"), while most of the land east of Maritime Street and a portion of the land west of Maritime Street will be developed by the Port of Oakland ("Port") to expand its maritime terminals and reconfigure and expand the Port's rail facility through its New Intermodal Facility project ("Port Development Area"); and

**WHEREAS**, some of the lands within and adjacent to the former Oakland Army Base are subject to the public trust for navigation, fisheries and commerce ("Public Trust"), which limits the redevelopment of those lands consistent with the Reuse Plan; and

**WHEREAS**, the intended use and development of the Gateway Development Area cannot be accomplished unless most of the land west of Maritime Street is freed from the Public Trust restrictions; and

**WHEREAS**, together, the Oakland Base Reuse Authority ("OBRA"), the Port, the City of Oakland, and the Agency are working together to accomplish a Public Trust exchange; and

**WHEREAS**, in 2004, state legislation entitled the Oakland Army Base Public Trust Exchange Act was introduced in the State Legislature as Senate Bill 1435 to authorize the State Lands Commission to negotiate and enter into a Public Trust boundary settlement and exchange agreement; and

**WHEREAS**, the State of California Department of Transportation ("Caltrans") has asserted its interest in acquiring a 6.5-acre portion of the property subject to the exchange, known as City-Port MOA Parcel Nine, located south of I-80 across from the Bay Bridge Toll Plaza and adjacent to the former Oakland Army Base property, in order to support its Bay Bridge Expansion Project; and

**WHEREAS**, in August 2004, the state legislature unanimously approved SB 1435, but Governor Schwarzenegger vetoed the bill, citing the City of Oakland's unresolved discussions with Caltrans, and requiring the parties to reach an agreement that would meet the development needs of the City of Oakland, while ensuring inclusion of the state's rights in the public trust lands, and the transfer of property needed by the State to support the Bay Bridge Construction Project; and

**WHEREAS**, the Oakland Army Base Land Exchange legislation has been reintroduced as SB 674; and

**WHEREAS**, OBRA, the Agency and Caltrans staffs have reached general agreement on the terms and conditions of a transfer of City-Port MOA Parcel Nine to Caltrans to support the Bay Bridge Construction Project; and

**WHEREAS**, staff is requesting authorization to negotiate and enter into a Purchase and Sale Agreement with Caltrans for a 6.5-acre portion of the property known as City-Port MOA Parcel Nine to support the Bay Bridge Construction Project and the passage of SB 674; and

**WHEREAS**, staff is also requesting authorization to negotiate and enter into two easements in favor of the Agency and OBRA for approximately 11.75 acres of property located under the I-80/I-880 freeway connector overpass, and a quitclaim deed relinquishing abandoned rights in the former 22<sup>nd</sup> Street (now West Grand Avenue) to implement related agreements with Caltrans; and

**WHEREAS**, it is in the best interests of the Agency to support passage of SB 674 by conveying City-Port MOA Parcel Nine to Caltrans for certain consideration, and to enter into related easements and a quitclaim deed; and

**WHEREAS**, the Oakland Army Base Redevelopment Project Area Environmental Impact Report ("EIR") was certified on July 31, 2002, by the City of Oakland, acting as a Lead Agency, and subsequently reviewed, considered and approved by the OBRA Governing Body, the Oakland Redevelopment Agency and the Port of Oakland, each acting as a Responsible Agency, and said EIR considered the foregoing Public Trust exchange and related matters; and

**WHEREAS**, the requirements of the California Environmental Quality Act of 1970, the CEQA Implementing Guidelines and the City of Oakland's Environmental Review Regulations have been satisfied with the previous certification of the EIR; now, therefore, be it

**RESOLVED:** That the Agency Administrator is hereby authorized to negotiate and enter into a Purchase and Sale Agreement with the State of California Transportation Department to convey to Caltrans the 6.5-acre City-Port MOA Parcel Nine property; and be it

**FURTHER RESOLVED:** That the Agency Administrator is hereby authorized to negotiate and enter into easements in favor of the Agency and OBRA for approximately 11.75 acres of property located under the I-80/I-880 freeway connector overpass, and a quitclaim deed relinquishing abandoned rights in the former 22<sup>nd</sup> Street (now West Grand Avenue); and be it

**FURTHER RESOLVED:** That the Agency Administrator is hereby authorized to take all necessary actions to support the passage of SB 674 and to accomplish the intent of this Resolution.

IN SESSION, OAKLAND, CALIFORNIA, APRIL 19, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
Interim Clerk of the Redevelopment  
Agency of the City of Oakland