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**REDEVELOPMENT AGENCY
AND THE CITY OF OAKLAND
AGENDA REPORT**

To: Office of the City/Agency Administrator
Attn: Dan Lindheim
From: Community and Economic Development Agency
Date: December 15, 2009

Re: City and Agency Resolutions Approving the Residential and Commercial Relocation Plans for the MacArthur Transit Village Project

An Agency Resolution Approving the Replacement Housing Plan for the MacArthur Transit Village Project

SUMMARY

This item is a request for Redevelopment Agency and City Council approval of the Replacement Housing Plan and Commercial and Residential Relocation Plans for MacArthur Transit Village Project. Relocation plans are required under State Law whenever residential units or commercial tenants will be permanently displaced and a replacement housing plan is required when the a redevelopment agency project will result in the removal from the housing market of housing units housing low and moderate income households. In addition, an approved residential relocation plan is required for disbursement of the State Proposition 1C funds. To proceed, the MacArthur Transit Village project will require the demolition of two motels and the permanent relocation of the current commercial and low-income residential tenants. In addition, the MacArthur Transit Village project will require the demolition of five other properties that collectively contain six commercial tenants.

Although the City and Agency are required to approve the Replacement Housing and Relocation Plans, the project developer is solely responsible for the relocation of existing tenants and owner-occupants displaced by the project, including the payment of relocation benefits.

FISCAL IMPACT

There is no cost for approval of the Replacement Housing and Relocation Plans. Approval of these plans are for the eventual development of the MacArthur Transit Village Project. The City and Redevelopment Agency are committed to provide, as part of the Owner Participation Agreement (OPA) for the MacArthur Transit Village, a total of \$17.6 million in Agency funds for the public infrastructure and \$16.4 million of Low and Moderate Housing Funds to assist with the affordable housing component of the project.

Approval of the Relocation Plans does not require the City or Agency to pay relocation expenses.

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The developer is responsible for paying all of these expenses.

BACKGROUND

In July 2008, MacArthur Transit Community Partners, LLC (MTCP) received planning entitlements for the redevelopment of the 7.76 acre site adjacent to the MacArthur BART Station. Additionally, in July 2009, the City and Agency approved an Owner Participation Agreement (OPA) and a Development Agreement (DA) for the project. The MacArthur Transit Village includes demolition of the existing BART surface parking lot and all existing buildings to allow for the construction of a mixed-use, transit oriented development. When completed the MacArthur Transit Village will include 624 housing units (of which 108 will be below market rate), 42,500 square feet of neighborhood serving retail, 5,000 square feet of community space, and a 400 space replacement parking garage for BART patrons. MTCP is a partnership between McGrath Properties and BUILD (BRIDGE Urban Infill Land Development, LLC).

The MacArthur Transit Village project is located in North Oakland, within the area bounded by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and State Route 24. The project site includes the BART parking lot, the BART plaza, Frontage Road between West MacArthur Boulevard and 40th Street, and seven privately owned parcels fronting on Telegraph and West MacArthur Boulevard. As many as seven properties that are currently under private ownership are anticipated to be acquired for this project. These seven properties contain as many as eight commercial occupants, two low-income residential tenants, and one very-low income residential owner occupant that will have to be permanently displaced in order for the MacArthur Transit Village to be constructed.

The attached Commercial Relocation Plan addresses all seven properties that may be acquired for this project. The Residential Relocation Plan and the Replacement Housing Plan address the three residential units occupied by low and very-low income residents in the two motels located at 526 and 544 West MacArthur Boulevard that will be acquired and demolished as part of the project. One of the units is a managers' unit, one unit is occupied by the owner of the motel and the third unit is a long-term tenant of one of the motels.

KEY ISSUES AND IMPACTS

The Relocation Plans and Replacement Housing Plan are available for public review at both the City Clerk's Office and the Community and Economic Development Agency at 250 Frank Ogawa Plaza on the 5th floor. In addition, notices regarding the availability of these plans are being sent to all property owners and tenants that will be relocated by the MacArthur Transit Village Project.

Relocation Plans

California relocation law requires that public agencies adopt a written relocation plan whenever a substantial number of commercial or residential occupants are displaced by government activity. The Agency is providing financing assistance for the MacArthur Transit Village project that will necessitate the relocation of both residential and commercial tenants.

MTCP is solely responsible for the relocation of existing residential and commercial tenants and residential owner-occupants displaced by the MacArthur Transit Village project, including the payment of relocation benefits. Although the City and Agency are required to approve the Relocation Plans, neither the City nor the Agency is responsible to pay the relocation expenses. MTCP has retained Autotemp, an Oakland-based relocation consultant, to survey tenants and owner-occupants and develop the relocation plans for City and Agency approval. MTCP decided to complete a separate plan for the commercial and residential relocations to avoid confusion about their eligible benefits to the eligible recipients. Autotemp has completed its survey and prepared the Residential Relocation Plan which is included in this report as *Attachment A* and the Commercial Relocation Plan which is included in this report as *Attachment B*.

The Relocation Plans summarize the results of the survey of current commercial and residential tenants and owner-occupants and calls for paying relocation benefits, making referrals to available new locations, and providing advisory assistance— all as required under state relocation statutes and regulations. The Relocation Plans set forth an appeals process for disputes about eligibility or other matters and set forth policies and procedures necessary to conform with statutes and regulations established by the Uniform Relocation Act (46 U.S.C. § 4600 et seq.), its implementing regulations (49 C.F.R.) Part 24), the California Relocation Assistance Law, California Government Code Section 7260 et seq (the “CRAL”) and the California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, Chapter 6, Section 6000 et seq. (the "Guidelines") for residential and commercial displacements.

Replacement Housing Plan

California redevelopment law (Section 33413 and 33413.5, California Health and Safety Code) requires that redevelopment agencies provide for the replacement, within four years, of any housing units occupied by low or moderate income households that are removed from the housing market because of projects an agency undertakes or assists. Replacement units must be equal in terms of number of bedrooms and number of units and must be affordable at levels corresponding to the income levels of the occupants of the units at the time removal of the units is approved. The law also requires that a written replacement plan be prepared and be made available for review and comment by affected agencies and the general public.

Replacement housing plans must include the following:

- Location of the proposed replacement units
- Proposed financing for development of the units
- Reasons why Article XXXIV of the California Constitution (approval by a public vote) does not apply
- Number of units to be developed
- Timetable for the development

Staff has completed the Replacement Housing Plan which is included in this report as *Attachment C*.

The motel properties that contain the residential units will be demolished as part of the first phase of construction for the project. However, the 90-unit low and very-low income housing units proposed as part of this project will not be constructed until the second phase. Since these units may not be complete within four years of the demolition of the original units, the replacement housing units attributed to this project are located off-site.

SUSTAINABLE OPPORTUNITIES

Sustainable development guidelines are not directly related to this staff report, where the objective is formal approval of legally-required plans. That approval is needed to begin the development of the MacArthur Transit Village, which in turn allows the following sustainable opportunities for the City:

Economic: The project would encourage economic revitalization of nearby commercial and residential districts in North Oakland by increasing the residential and commercial population in the immediate area thereby expanding the home ownership and consumer base for neighborhood businesses. The project would also create new permanent employment opportunities, as well as, temporary construction-related work in the short-term which would create both immediate and secondary benefits for the local economy and workforce since the project is required to comply with the City's Small/Local Business and Local Employment and Apprenticeship requirements.

Environmental: The project is a compact, infill development in an already urbanized area, that will reduce the need for development in environmentally sensitive areas located at the edge of the city. The developer has committed to sustainable development practices and will be required to achieve at minimum Gold level certification under the LEED Neighborhood Development Pilot Program for the project site configuration and 70 points under the Buildit Green's Green Point Checklist for the building construction. In addition, the project involves the remediation of on-site soil contaminants.

Social Equity: The Agency is requiring that the development team provide below market rate housing units as part of the housing that is included in the development proposal. The project proposal includes 108 below market rate units. The total number of below market rate units in the project will be equal to 20% of the number of market rate units in the project.

DISABILITY AND SENIOR CITIZEN ACCESS

The MacArthur Transit Village project, when constructed, will be required to comply with state and federal accessibility requirements, including Federal Americans with Disability Act Accessibility Guidelines, the Fair Housing Act and the State of California's Title 24 Accessibility regulations.

RECOMMENDATION(S) AND RATIONALE

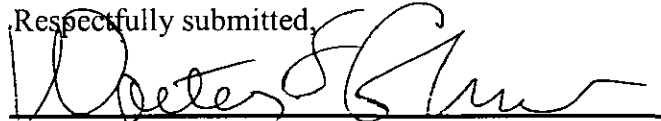
Staff recommends approval of the Replacement Housing Plan and the Residential and Commercial Relocation Plans to provide the state-required framework for replacement of the low

income housing units and relocation of the residents and commercial tenants that may be displaced by this project.

ACTION REQUESTED OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY


Staff requests that the City Council and Redevelopment Agency approve the resolutions attached to this report approving the Replacement Housing Plan and the Residential and Commercial Relocation Plans for the MacArthur Transit Village Project.

Respectfully submitted,



Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:

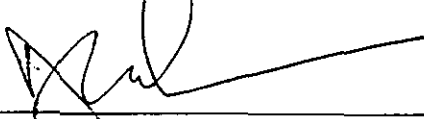


Gregory D. Hunter, Deputy Director
Economic Development & Redevelopment

Prepared by:

Kathy Kleinbaum, Urban Economic Analyst IV
Redevelopment Division

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:



Office of the City/Agency Administrator

- Attachment A: Residential Relocation Plan
- Attachment B: Commercial Relocation Plan
- Attachment C: Replacement Housing Plan

Attachment "A"

A U T O



T E M P

**MACARTHUR TRANSIT VILLAGE
RESIDENTIAL RELOCATION PLAN**

PREPARED FOR

**MacArthur Transit Community Partners, LLC
345 Spear Street, Suite 700
San Francisco, CA 94105**

By

**AUTOTEMP
373 4TH STREET, SUITE 2A
OAKLAND, CA 94607
510.238.9386**

November 15, 2009

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INTRODUCTION

In July 2008 MacArthur Transit Community Partners, LLC (MTCP) received approvals for the redevelopment of the 7.76 acre site adjacent to the MacArthur BART Station. MacArthur Transit Village includes demolition of the existing BART surface parking lot and all existing buildings to allow for the construction of a new mixed-use, transit oriented development. When completed, the MacArthur Transit Village will include 624 units, 42,500 square feet of neighborhood serving retail, 5,000 square feet of community space and a 400 space replacement parking garage for BART patrons. MTCP is a partnership between McGrath Properties and BUILD (BRIDGE Urban Infill Land Development, LLC). The project is a public/private partnership between BART, the City of Oakland Redevelopment Agency ("Agency") and MTCP.

The project site is located in North Oakland, within the area bounded by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and State Route 24. The project site includes the BART parking lot, the Bart plaza, Frontage Road between West MacArthur Boulevard and 40th Street, and seven privately owned parcels. The project area includes the majority of the block on Telegraph Avenue between West MacArthur Boulevard and 40th Street: however several parcels on the south end of the block are not included within the project site.

As a result of future development, as many as seven properties that are currently under private ownership may be acquired for this project. These seven properties contain as many as eight commercial occupants, two residential tenants and one residential owner occupant that will have to be permanently displaced in order for the development to move forward. This Plan only addresses the residential displacements. A second Plan addresses the commercial displacements.

The project complies with all of the General Plan guidelines and zoning requirements and conforms to the adjacent land uses. There is no foreseen negative impact on the surrounding neighborhood.

This relocation plan addresses two of the seven properties that may be acquired for this project which contain residential occupants. As a result of the proposed acquisition and subsequent demolition, two commercial occupants (motels), two residential tenants and one owner-occupant will have to be permanently

MacArthur Transit Village Relocation Plan

displaced for this Project to go forward. In the future, when and if one or more of the remaining five parcels are added to the project, the remaining commercial occupants, which include a surgery center, auto detail shop, restaurant, retail market, hair salon and women's spa may be displaced.

The Project site which is the subject of this Relocation Plan is located in the City of Oakland in the County of Alameda. The subject properties for the first phase are located at 544 and 526 W. MacArthur Blvd., east of Highway 24, North of Hwy 580 west of Telegraph, in downtown Oakland. The second phase properties are located at 3875 through 3921 Telegraph, also in Oakland.

Please see **Attachment 1** for the project site location:

Autotemp an experienced acquisition and relocation firm, has been selected to prepare this residential Relocation Plan (the 'Plan'), and will provide all subsequently required relocation assistance. In compliance with statutory requirements, the Plan has been prepared to evaluate the present circumstances and replacement housing requirements of the current Project occupants.

This Plan provides for the results of a needs assessment survey, their incorporation into the planning process, and details of the Partner's proposed residential relocation plan. This Plan sets forth policies and procedures necessary to conform to statutes and regulations established by the Uniform Relocation Act (46 U.S.C. § 4600 et seq.), its implementing regulations (49 C.F.R.) Part 24), the California Relocation Assistance Law, California Government Code Section 7260 et seq (the "CRAL") and the California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, Chapter 6, Section 6000 et seq. (the "Guidelines") for residential displacements.

Funding sources include the City of Oakland Redevelopment Agency and the State of California Proposition 1C.

No mandatory displacement activities will take place prior to the required reviews and approval of this Plan.

MacArthur Transit Village Relocation Plan

A. METHODOLOGY AND ASSESSMENT OF NEEDS

To obtain information necessary for the preparation of this Plan, personal interviews were conducted with the three residential households that would be impacted by the implementation of the prospective project.

All information of a statistical nature supplied by the occupants was anecdotal and not validated by documentary evidence that otherwise may be required to comply with mandatory relocation and eligibility qualifying criteria.

Three households will be permanently displaced, in order for construction to begin. Inquiries made of the residential occupants included household size and composition, ages of occupants, rental and income information, length and type of occupancy, ethnicity, primary language in the home, disabilities and health problems, and preferences related to replacement housing and location.

The interview process was used to determine housing preferences or reported need to be close to public transportation, employment, schools, public/social services and agencies, recreational services, parks, community centers, or shopping. In addition, health needs, which would require special consideration for accessibility and perhaps proximity to medical facilities, were identified. The interviews were performed by staff and confidentiality will be maintained.

The following table represents the replacement housing needs to properly house the three permanently displaced households.

Residential Relocation Resources (For Rent or Sale) - Units Required vs. Current Units		
Units by Bedroom Count	Current Units	Required Units
One-bedroom/Studio/SRO	1	1
Two-bedroom apartment	1	1
Two-Bedroom condominium (for sale)	1	1
All Units	3	3

Based upon the Federal Department of Housing and Urban Development's (HUD's) income categories two of the households fall within the 'Low' income category, while one falls within the Very-Low" income category.

B. REPLACEMENT RESOURCES

A resource survey will be conducted prior to any mandatory displacement to identify available comparable, decent, safe and sanitary units, which are adequate in size and contain the required number of bedrooms for each household, in close proximity to the Project site. Referrals will be made to open market housing. A housing survey was performed during the week of September 05, 2009 to identify available comparable, decent, safe and sanitary units in proximity to the Project site.

These potential replacement housing resources offer full amenities, with prices ranging from \$595 to \$762 for a studio apartment; \$650 to \$850 for a one-bedroom apartment; and for a two-bedroom apartment, \$810 to \$1400. Two-bedroom condominiums sell from \$100,000 to \$280,000. There are numerous vacant rental properties and for-sale properties available in the local area.

Based on the results of that survey, an adequate number of available market-rate units were found to meet the potential needs of the households that will be permanently displaced.

MacArthur Transit Village Relocation Plan

This Relocation Plan outlines the requirements for moving the households being displaced, and demonstrates the level of advisory and financial assistance that will be provided.

C. CONCURRENT DISPLACEMENT

Based on the anticipated needs of the Project, there is no known concurrent displacement at this time which may impact, negatively, upon the ability to relocate the occupants of the site.

D. TEMPORARY RELOCATION

There is no *anticipated* requirement for temporary relocation.

E. PROGRAM ASSURANCES AND STANDARDS

Adequate funds shall be made available to relocate the two commercial, the two residential tenants, and one owner-occupant on the site.

Relocation assistance services will be provided to ensure that displacement does not result in different or separate treatment of occupants based on race, color, religion, national origin, sex, marital status, familial status, disability or any other basis protected by the federal Fair Housing Amendments Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the California Fair Employment & Housing Act, and the Unruh Act, as well as any arbitrary or unlawful discrimination.

No households will be displaced without at least 90 days notice and unless comparable replacement housing can be located. Comparable housing includes standards such as: decent, safe and sanitary (as defined in § 6008[d] of the Guidelines); comparable as to the number of bedrooms, living space, and type and quality of construction of the acquired unit, but not lesser in rooms or living space than necessary to accommodate the displaced household; in an area that does not have unreasonable environmental conditions; not generally less desirable than the acquired unit with respect to proximity to schools, employment, health and medical facilities, and other public and commercial

MacArthur Transit Village Relocation Plan

facilities and services; and within the financial means of the displaced household as defined in Section 6008, subdivision (c)(5) of the Guidelines.

The relocation program to be implemented by the Partners conforms with the standards and provisions set forth in Government Code section 7260 et seq., the Guidelines, California Health and Safety Code section 33410 et seq., if applicable, and all other applicable regulations and requirements.

F. RELOCATION ASSISTANCE PROGRAM

Autotemp staff will be available to assist tenants being displaced with questions about relocation and, actual assistance in relocating. Relocation staff may be contacted, at **510.238.9386**, between the hours of 8:30 AM. to 6:00 PM, Monday through Friday, and also available on-site by appointment.

The Relocation Office is located at **373 4th Street, Suite 2A, Oakland, CA**. A comprehensive relocation assistance program, with technical and advisory assistance, will be provided to the tenants being displaced.

Specific activities will include:

1. Distribution of informational statements. **Attachment 2** contains a *sample* of the informational notices that will be given to the displaced residential occupants;
2. Timely referrals to residential dwelling units; and,
3. Assistance with completion and filing of relocation claims and appeals forms, if necessary.
4. To fully inform eligible project occupants of the nature of, and procedures for, obtaining relocation assistance and benefits;
5. To determine the needs of each displacee eligible for assistance;

MacArthur Transit Village Relocation Plan

6. To provide assistance that does not result in different or separate treatment due to race, color, religion, national origin, sex, sexual orientation, marital status or other arbitrary circumstances;
7. To assist each eligible person to complete applications for benefits.
8. To make relocation benefit payments in accordance with the Guidelines, where applicable;
9. To inform all persons subject to displacement of MTCP's policies with regard to eviction and property management; and,
10. To establish and maintain a formal grievance procedure for use by displaced persons seeking administrative review of MTCP's decisions with respect to relocation assistance.

Because of the nature of a permanent displacement, the following services will be provided to the households in addition to those outlined above:

1. To provide an adequate number of referrals.
2. To provide current and continuously updated information concerning replacement housing opportunities.

G. CITIZEN PARTICIPATION

Copies of this Plan will be provided to the project site occupants to promote review and participation.

MTCP will ensure the following:

1. Full and timely access to documents relevant to the relocation program;
2. Providing technical assistance necessary to interpret elements of the relocation program and other pertinent materials;

MacArthur Transit Village Relocation Plan

3. A general notice of this Plan shall be provided to all displacees of the proposed project. This Plan shall be made available for circulation for information and review by interested citizen groups, state and county agencies, and all persons affected by the project;
4. The Plan will be reviewed to ensure that it is feasible and complies with locally-adopted rules and regulations governing relocation.

H. RELOCATION BENEFIT CATEGORIES

Benefits will be provided in accordance with the URA, the CRAL, the Guidelines, and all other applicable regulations and requirements. Benefits will be paid upon submission of required claim forms and documentation in accordance with approved procedures as outlined in **Attachment 3**. The MTCP will provide appropriate benefits for the site tenants/displacees as required by the above laws and requirements.

Residential tenants are considered eligible for relocation assistance and benefits if they lawfully occupied the subject property with continued occupancy 90 days prior to the "Initiation of Negotiations"; with residential owner-occupants, it is 180 days prior; this date is defined as the later of the date upon which the Developer acquired the property or obtained funding approval. The date of 'Initiation of Negotiations' for this Project is estimated to be February 2010.

Pursuant to this definition of dwelling, both primary residents and any part-time residents are entitled to the moving expenses detailed in §6090 as long as they meet the eligibility requirements of §6034. Part-time residents are not entitled to rental assistance payments. If the displaced person was paying little or no rent, the base rent will be calculated on the amount they would have to pay for a similar dwelling in a comparable area.

Specific eligibility requirements, residency of 90 days prior to the Initiation of Negotiations for a residential tenant and 180 day prior to the Initiation of Negotiations for an owner-occupant, and benefit plans will be detailed on an

MacArthur Transit Village Relocation Plan

individual basis with each displaced household. In the course of personal interviews and follow-up visits, each displaced household will be counseled as to available options and the consequences of any choice with respect to financial assistance.

Residential Moving Expense Payments

All permanently displaced households will be eligible to receive a payment for moving expenses or compensation therefor. The payment will be made based upon either a fixed room count schedule or an invoice for actual reasonable moving expenses from a licensed professional mover. Moving expenses will be based on one of the following options:

1. **Fixed Payment** – A fixed payment for moving expenses based on the number of rooms containing furniture or other personal property to be moved. The fixed moving payment will be based upon the most recent Federal Highway Administration (FHA) schedule maintained by the California Department of Transportation (Attachment 3);

- Or -

2. **Actual Reasonable Moving Expense Payments** - The displaced tenants may elect to have a licensed, professional mover perform the move; if so, MTCP will pay for the actual cost of the move up to 50 miles and all reasonable charges for packing, unpacking, insurance, and utility connection charges. The payment will be made directly to the mover or as a reimbursement to the displaced tenants

Residential Tenants

Rental Assistance/Down Payment Assistance

For permanent residential displacee households – *except* in the case of 'Last Resort Housing' situations, as defined below – a Rental Assistance Payment (RAP) will be limited to a maximum of five thousand two hundred fifty dollars (\$5,250.00), based upon the

MacArthur Transit Village Relocation Plan

households monthly housing need over a forty-two (42) month period. In addition, such tenants may opt to apply the amount to which they are entitled toward the purchase of a replacement unit.

Last Resort Housing

Based on a housing resource survey which was conducted concurrent with the preparation of this Plan, it would appear that an adequate number of “comparable replacement housing” units would be available – *if* the time of displacement were imminent – to meet the needs of any displaced tenants *however*, a combination of factors – including the income level of the particular project occupant; the project rent; and, the prospectively higher cost of replacement units – may create the need for a ‘Last Resort Housing Payment’.

“Last Resort Housing” payments are authorized by statute if affordable “comparable replacement housing” cannot be located for the displaced tenant household (i.e., housing renting for not more than 30% of the household’s gross monthly income). In such an instance, payments may be made beyond the \$5,250.00 statutory cap, up to forty-two (42) months’ worth of rental assistance. Any supplemental increment beyond \$5,250.00 *may* be paid in installments or, a lump sum, at the MTCP’s discretion.

Owner-Occupants

Replacement Housing Payments to Owner-Occupants

Residential owner-occupants who have occupied the dwelling *from which they are displaced for at least 180 days prior to the initial offer to purchase* may be eligible for a Replacement Housing Payment *up to* twenty two thousand five hundred dollars (\$22,500.00). To be eligible for a Replacement Housing Payment, a displaced person must have purchased, and occupied decent, safe and sanitary replacement housing *not less than one (1) year prior to either: (1) the date a final acquisition payment is received; or, just compensation is*

MacArthur Transit Village Relocation Plan

deposited in court; or, (2) the MTCP makes at least one comparable replacement unit available, whichever is later.

The Replacement Housing Payment will be determined on the basis of three separate elements: (a) a 'Purchase Price Differential'; (b) the 'Mortgage Interest Differential'; and (c) 'Incidental Expenses'.

a. Purchase Price Differential

A Purchase Price Differential is an amount that takes into consideration the MTCP's acquisition price relative to the actual purchase price and the cost of a comparable replacement dwelling.

b. Mortgage Interest Differential

This element of the overall Replacement Housing Payment is meant to compensate homeowners for the *loss* of favorable financing.

c. Incidental Expenses (Closing Costs)

This amount covers those extra costs typically charged when one buys real property. It does *not* cover prepaid expenses, such as property taxes and insurance.

3. Rental Assistance Option:

If a displaced homeowner household, which has purchased and occupied its current unit *at least* 180 days prior to the "initiation of negotiations," desires to *rent* instead of purchase a replacement unit, the household is eligible for all the benefits and assistance that is available to tenant households. However, such replacement housing payments may not exceed the payments the household *would* have been entitled to if it had elected to purchase a replacement unit.

MacArthur Transit Village Relocation Plan

I. PAYMENT OF RELOCATION BENEFITS

Relocation benefit payments will be made expeditiously. Claims and supporting documentation for relocation benefits must be filed with the MTCP within eighteen (18) months from the date the claimant moves from the displacement property. Procedures for preparing and filing of claims and processing and delivering of payments are included in this Plan as **Attachment 3**.

J. EVICTION POLICY

At any time after the acquisition of the property, the occupants became tenants of the MTCP. The MTCP recognizes that eviction is permissible only as a last resort and that relocation records must be documented to reflect the specific circumstances surrounding any eviction. Eviction will only take place in cases of nonpayment of rent; serious violation(s) of the rental agreement; a dangerous or *illegal act performed by Lessee, its employees, invitees or, any combination thereof* in the unit; or, if the lessee/displacee refuses all reasonable offers to move. Eviction will not affect the eligibility of a person legally entitled to relocation benefits.

K. APPEALS POLICY

The appeals policy will follow the standards described in Section 6150 et seq. of the Guidelines. Briefly stated, displaced tenants will have the right to ask for review when there is a perceived grievance regarding any of a displacee's rights to relocation, and relocation assistance, such as a determination as to eligibility, the amount of a payment, or the failure to provide a comparable replacement housing referral.

L. PROJECTED DATES OF DISPLACEMENT

The residential occupants will receive a 90 day notice to vacate before they are required to move. For the first phase, this notice is expected to be issued on or about February 01, 2010, with the property vacated by April 30, 2010.

MacArthur Transit Village Relocation Plan

M. ESTIMATED RELOCATION COSTS

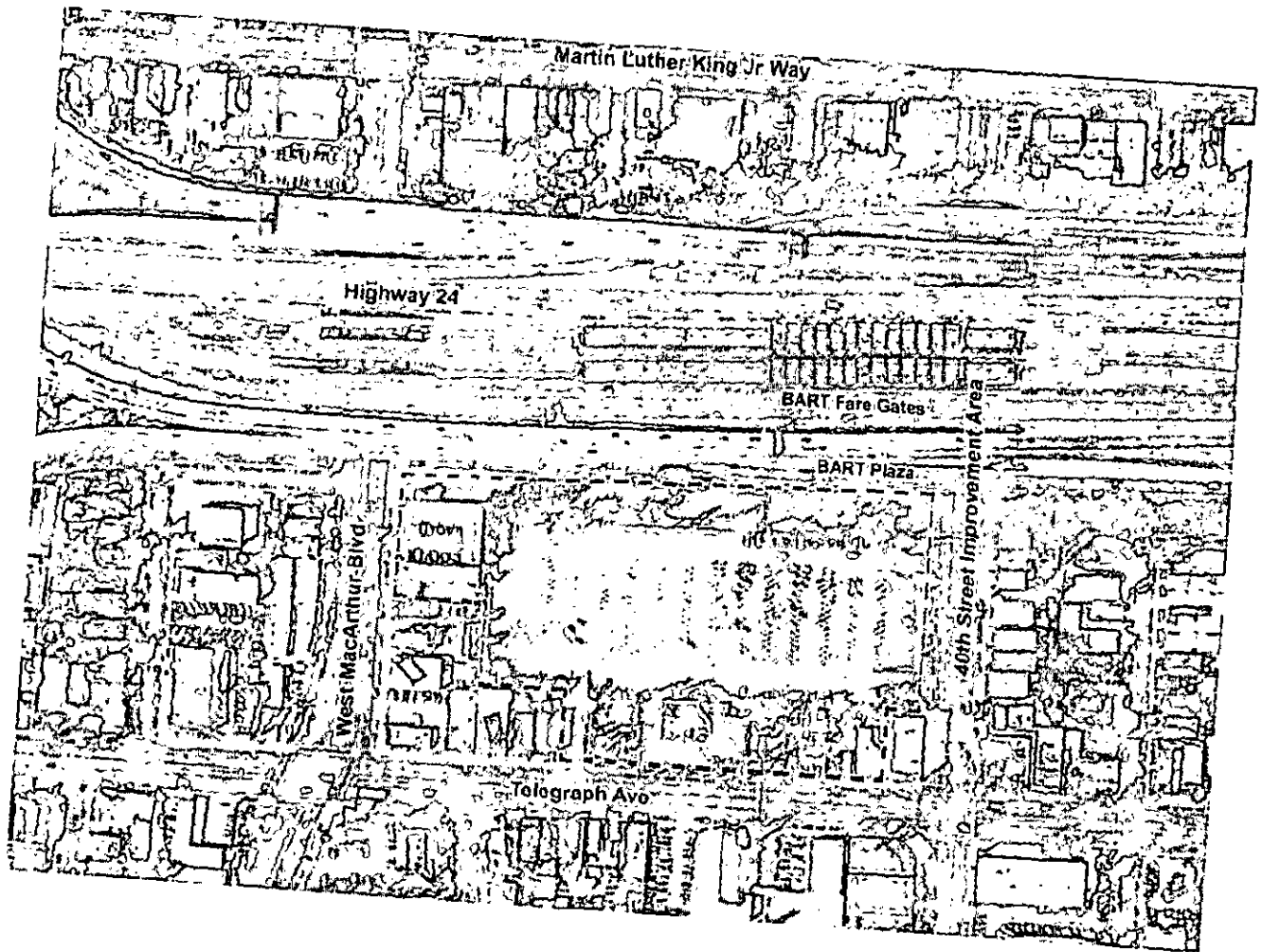
MTCP pledges to appropriate the necessary funds, on a timely basis, to ensure the successful completion of the project. Any and all required financial assistance will be provided.

TABLE OF ATTACHMENTS

- Attachment 1:** Project Site Maps
- Attachment 2:** Sample Informational Statement – Residential Occupants
- Attachment 3:** Relocation Payment Policy and Procedures for Relocation Payments and Assistance

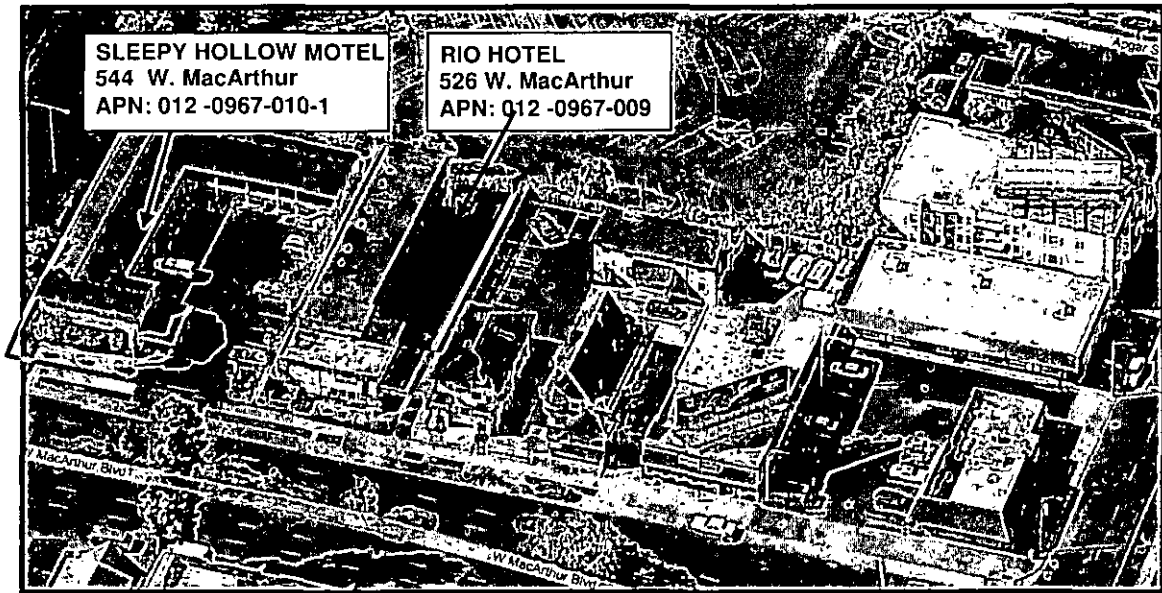
ATTACHMENT 1: PROJECT SITE MAPS

Figure 1. Regional Location



PREPARED BY AUTOTEMP

Figure 2. General Site-specific Location



ATTACHMENT 2: SAMPLE INFORMATIONAL STATEMENT FOR FAMILIES AND INDIVIDUALS

1. GENERAL INFORMATION

The dwelling in which you now live is in a project area to be improved by MacArthur Transit Community Partners, LLC ("MTCP") with the assistance of the Oakland Redevelopment Agency. If and when the project proceeds, and it is necessary for you to move from your dwelling, you may be eligible for certain benefits. You will be notified in a timely manner as to the date by which you must move. Please read this information, as it will be helpful to you in determining your eligibility and the amount of the relocation benefits you may receive under the state law. You will need to provide adequate and timely information to determine your relocation benefits. The information is voluntary, but if you don't provide it, you may not receive the benefits or it may take longer to pay you. We suggest you save this informational statement for reference.

The MTCP has retained the professional firm of **Autotemp** to provide relocation assistance to you. The firm is available to explain the program and benefits. Their address and telephone number is:

**Autotemp
373 4th Street Suite 2A
Oakland, CA 94607
Telephone: 510.238.9386**

PLEASE DO NOT MOVE PREMATURELY. THIS IS NOT A NOTICE TO VACATE YOUR DWELLING. However, if you desire to move sooner than required, you must contact your representative with Autotemp so you will not jeopardize any benefits. This is a general informational brochure only, and is not intended to give a detailed description of either the law or regulations pertaining to the MTCP's relocation assistance program.

Please continue to pay your rent to your current landlord, otherwise you may be evicted and jeopardize the relocation benefits to which you may be entitled to receive. Once the MTCP acquires the property, you will also be required to pay rent to the MTCP.

2. ASSISTANCE IN LOCATING A REPLACEMENT DWELLING

The MTCP, through its representatives, will assist you in locating a comparable replacement dwelling by providing referrals to appropriate and available housing units. You are encouraged to actively seek such housing yourself.

When a suitable replacement dwelling unit has been found, your relocation consultant will carry out an inspection and advise you as to whether the dwelling unit meets decent, safe and sanitary housing requirements. A decent, safe and sanitary housing unit provides adequate space for its occupants, proper

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weatherproofing and sound heating, electrical and plumbing systems. Your new dwelling must pass inspection before relocation assistance payments can be authorized.

3. MOVING BENEFITS

If you must move as a result of displacement by the MTCP, you will receive a payment to assist in moving your personal property. The actual, reasonable and necessary expenses for moving your household belongings may be determined based on the following methods:

- A Fixed Moving Payment based on the number of rooms you occupy (see below); or
- A payment for your Actual Reasonable Moving and Related Expenses based on at least two written estimates and receipted bills; or
- A combination of both (in some cases).

For example, you may choose a Self Move, receiving a payment based on the Fixed Residential Moving Cost Schedule shown below, plus contract with a professional mover to transport your grand piano and /or other items that require special handling. In this case, there may be an adjustment in the number of rooms which qualify under the Fixed Residential Moving Cost Schedule.

A. Fixed Moving Payment

A Fixed Moving Payment is based upon the number of rooms you occupy and whether or not you own your own furniture. The payment is based upon a schedule approved by the MTCP, and ranges, for example, from \$400.00 for one furnished room to \$2,150.00 for eight rooms in an unfurnished dwelling. (For details see the table). Your relocation representative will inform you of the amount you are eligible to receive, if you choose this type of payment.

If you select a fixed payment, you will be responsible for arranging for your own move, and the MTCP will assume no liability for any loss or damage of your personal property. A fixed payment also includes utility hook-up, credit check and other related moving fees.

Fixed Moving Schedule CALIFORNIA (Effective 2008)	
Occupant Owns Furniture:	
1 room	\$625
2 rooms	\$800
3 rooms	\$1,000
4 rooms	\$1,175
5 rooms	\$1,425
6 rooms	\$1,650
7 rooms	\$1,900
8 rooms	\$2,150
Each additional room	\$225
Occupant does NOT Own Furniture:	
1 room	\$400
Each additional room	\$65

B. Actual Moving Expense (Professional Move)

If you wish to engage the services of a licensed commercial mover and have the MTCP pay the bill, you may claim the ACTUAL cost of moving your personal property up to 50 miles. Your relocation representative will inform you of the number of competitive moving bids (if any) which may be required, and assist you in developing a “mover” scope of services for MTCP approval.

4. REPLACEMENT HOUSING PAYMENT - TENANTS AND CERTAIN OTHERS

You may be eligible for a payment of up to \$5,250.00 to assist you in renting or purchasing a comparable replacement dwelling. In order to qualify, you must either be a tenant who has occupied the

present dwelling for at least 90 days prior to the initiation of negotiations or an owner who has occupied the present dwelling between 90 and 180 days prior to the initiation of negotiations.

A. **Rental Assistance.** If you qualify, and **wish to rent** your replacement dwelling, your maximum rental assistance benefits will be based upon the difference over a forty-two (42) month period between the rent you must pay for a comparable replacement dwelling and the lesser of your current rent and estimated utilities or thirty percent (30%) of your gross monthly household income. You will be required to provide your relocation representative with monthly rent and household income verification prior to the determination of your eligibility for this payment.

- OR -

B. **Down-payment Assistance.** If you qualify, and **wish to purchase** a home as a replacement dwelling, you can apply up to the total amount of your rental assistance payment towards the down-payment and non-recurring incidental expenses. Your relocation representative will clarify procedures necessary to apply for this payment.

Where a tenant is sharing a dwelling with an owner-occupant and paying the owner-occupant rent for the privilege, the tenant shall not be entitled to more than one-half of the rental assistance otherwise payable.

5. SECTION 8 TENANTS

When you do move, you may be eligible to transfer your Section 8 eligibility to a replacement site. In such cases, a comparable replacement dwelling will be determined based on your family composition at the time of displacement and the current housing program criteria. This may not be the size of the unit you currently occupy. Your relocation representative will provide counseling and other advisory services along with moving benefits.

6. REPLACEMENT HOUSING PAYMENT - HOMEOWNERS

A. If you own and occupy a dwelling to be purchased by the MTCP for **at least 180 days** prior to the initiation of negotiations, you may be eligible to receive a payment of up to \$22,500.00 to assist you in purchasing a comparable replacement unit. This payment is intended to cover the following items:

1. **Purchase Price Differential** - An amount which, when added to the amount for which the MTCP purchased your property, equals the lesser of the actual cost of your replacement dwelling; **or** the amount determined by the MTCP as necessary to purchase a comparable replacement dwelling. Your relocation representative will explain both methods to you.
2. **Mortgage Interest Differential** - The amount which covers the increased interest costs, if any, required to finance a replacement dwelling. Your relocation representative will explain limiting conditions.
3. **Incidental Expenses** - Those one time incidental costs related to purchasing a replacement unit, such as escrow fees, recording fees, and credit report fees. Recurring expenses such as prepaid taxes and insurance premiums are not compensable.

B. **Rental Assistance Option** - If you are an owner-occupant and choose to rent rather than purchase a replacement dwelling, you may be eligible for a rental assistance payment of up to the amount that you could have received under the Purchase Price Differential, explained above.

The payment will be based on the difference between an economic rent of the dwelling you occupy and the rent you must pay for a comparable replacement dwelling.

If you receive a rental assistance payment, as described above, and later decide to purchase a replacement dwelling, you may apply for a payment equal to the amount you would have received if you had initially purchased a comparable replacement dwelling, less the amount you have already received as a rental assistance payment.

7. QUALIFICATION FOR, AND FILING OF, RELOCATION CLAIMS

To qualify for a Replacement Housing Payment, you must rent or purchase and occupy a comparable replacement unit **within one year from the following**:

- For a tenant, the date you move from the displacement dwelling.
- For an owner-occupant, the latter of:
 - a. The date you receive final payment for the displacement dwelling, or, in the case of condemnation, the date the full amount of estimated just compensation is deposited in court.;
 - or**
 - b. The date you move from the displacement dwelling.

All claims for relocation benefits must be filed with the MTCP **within eighteen (18) months** from the date on which you receive final payment for your property, or the date on which you move, whichever is later.

8. LAST RESORT HOUSING ASSISTANCE

If comparable replacement dwellings are not available when you are required to move, or if replacement housing is not available within the monetary limits described above, the MTCP will provide Last Resort Housing assistance to enable you to rent or purchase a replacement dwelling on a timely basis. Last Resort Housing assistance is based on the individual circumstances of the displaced person. Your relocation representative will explain the process for determining whether or not you qualify for Last Resort assistance.

If you are a tenant, and you choose to purchase rather than rent a comparable replacement dwelling, the entire amount of your rental assistance and Last Resort eligibility must be applied toward the downpayment and eligible incidental expenses of the home you intend to purchase.

9. RENTAL AGREEMENT

As a result of the MTCP's action to purchase the property where you live, you may become a tenant of the MTCP. If this occurs, you will be asked to sign a rental agreement which will specify the monthly rent to be paid, when rent payments are due, where they are to be paid and other pertinent information.

10. EVICTIONS

Any person, who occupies the real property and is not in unlawful occupancy, is presumed to be entitled to relocation benefits. *Except for the causes of eviction set forth below, no person lawfully occupying property to be purchased by the Agency will be required to move without having been provided with at*

least 90 days written notice from the Agency. Eviction will be undertaken only in the event of one or more of the following reasons:

- Failure to pay rent; except in those cases where the failure to pay is due to the lessor's failure to keep the premises in habitable condition, is the result of harassment or retaliatory action or is the result of discontinuation or substantial interruption of services;
- Performance of dangerous illegal act in the unit;
- Material breach of the rental agreement and failure to correct breach within the legally prescribed notice period;
- Maintenance of a nuisance and failure to abate within a reasonable time following notice;
- Refusal to accept one of a reasonable number of offers of replacement dwellings; or
- The eviction is required by State or local law and cannot be prevented by reasonable efforts on the part of the public entity.

11. APPEAL PROCEDURES - GRIEVANCE

Any person aggrieved by a determination as to eligibility for a relocation payment, or the amount of a payment, may have the claim reviewed or reconsidered in accordance with the MTCP's appeals procedure. Complete details on appeal procedures are available upon request from the MTCP.

12. TAX STATUS OF RELOCATION BENEFITS

California Government Code Section 7269 indicates no relocation payment received shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 170 01) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. Furthermore, federal regulations (49 CFR Part 24, Section 24.209) also indicate that no payment received under this part (Part 24) shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986. No federal dollars are anticipated for this project. Therefore, federal regulations may not apply and the IRS may consider relocation payments as income. The preceding statement is not tendered as legal advice in regard to tax consequences, and displacees should consult with their own tax advisor or legal counsel to determine the current status of such payments.

(IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting marketing or recommending to another party any matters addressed herein)

13. NON-DISCRIMINATION AND FAIR HOUSING

No person shall on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the MTCP's relocation assistance program pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and other applicable state and federal anti-discrimination and fair housing laws. You may file a complaint if you believe you have been subjected to discrimination. For details contact the MTCP.

14. ADDITIONAL INFORMATION AND ASSISTANCE AVAILABLE

Those responsible for providing you with relocation assistance hope to assist you in every way possible to minimize the hardships involved in relocating to a new home. Your cooperation will be helpful and greatly appreciated. If you have any questions at any time during the process, please do not hesitate to contact your relocation representative at Autotemp.

ATTACHMENT 3: RELOCATION PAYMENT POLICY AND PROCEDURES FOR OBTAINING RELOCATION ASSISTANCE AND PAYMENTS

Claims and supporting documentation for relocation benefits must be filed with the MTCP within eighteen (18) months from the date the claimant moves from the acquired property.

The procedure for the preparation and filing of claims and the processing and delivery of payments will be as follows:

1. Claimant(s) will provide all necessary documentation to substantiate eligibility for assistance.
2. Assistance amounts will be determined in accordance with the provisions of the California Relocation Law and Guidelines.
3. Required claim forms will be prepared by relocation personnel in conjunction with claimant(s). Signed claims and supporting documentation will be submitted by relocation personnel to the MTCP.
4. The MTCP will review and approve claims for payment or request additional information.
5. The MTCP will issue benefit checks which will be available for pick-up by Claimants, unless circumstances dictate otherwise.
6. Final payments will be issued after confirmation that the Project area premises have been completely vacated and actual residency at replacement unit is verified.
7. Receipts of payment will be obtained and maintained in the relocation case file.

Attachment "B"

A U T O



T E M P

**MACARTHUR TRANSIT VILLAGE
COMMERCIAL RELOCATION PLAN**

PREPARED FOR

**MacArthur Transit Community Partners, LLC
345 Spear Street, Suite 700
San Francisco, CA 94105**

By

**AUTOTEMP
373 4TH STREET, SUITE 2A
OAKLAND, CA 94607
510.238.9386**

November 15, 2009

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INTRODUCTION

In July 2008 MacArthur Transit Community Partners, LLC (MTCP) received approvals for the redevelopment of the 7.76 acre site adjacent to the MacArthur BART Station. MacArthur Transit Village includes demolition of the existing BART surface parking lot and all existing buildings to allow for the construction of a new mixed-use, transit oriented development. When completed, the MacArthur Transit Village will include 624 units, 42,500 square feet of neighborhood serving retail, 5,000 square feet of community space and a 400 space replacement parking garage for BART patrons. MTCP is a partnership between McGrath Properties and BUILD (BRIDGE Urban Infill Land Development, LLC). The project is a public/private partnership between BART, the City of Oakland Redevelopment Agency ("Agency") and MTCP.

The project site is located in North Oakland, within the area bounded by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and State Route 24. The project site includes the BART parking lot, the Bart plaza, Frontage Road between West MacArthur Boulevard and 40th Street, and up to seven privately owned parcels. The project area includes the majority of the block on Telegraph Avenue between West MacArthur Boulevard and 40th Street: however several parcels on the south end of the block are not included within the project site.

As a result of future development, up to seven properties that are currently under private ownership are anticipated to be acquired for this project. These seven properties contain as many as eight commercial occupants, two residential tenants and one residential owner occupant that will have to be permanently displaced in order for the development to move forward. This Plan addresses only the commercial occupants. A second Plan addresses the residential displacements.

The project complies with all of the General Plan guidelines and zoning requirements and conforms to the adjacent land uses. There is no foreseen negative impact on the surrounding neighborhood.

This relocation plan addresses as many as seven properties that may be acquired for this project. As a result, two commercial occupants (motels) will have to be permanently displaced for this Project to go forward. In the future,

MacArthur Transit Village Relocation Plan

when and if one or more of the remaining five parcels are added to the project, the remaining commercial occupants, which include a surgery center, auto detail shop, restaurant, retail market, hair salon and women's spa may be displaced.

The Project site which is the subject of this Relocation Plan is located in the City of Oakland in the County of Alameda. The subject properties for the initial phase are located at 544 and 526 W. MacArthur Blvd., east of Highway 24, North of Hwy 580 west of Telegraph, in downtown Oakland. The proposed subsequent phase properties are located at 3875 through 3921 Telegraph, also in Oakland.

Please see **Attachment 1** for the project site location:

Autotemp an experienced acquisition and relocation firm, has been selected to prepare this commercial Relocation Plan (the 'Plan'), and will provide all subsequently required relocation assistance. In compliance with statutory requirements, the Plan has been prepared to evaluate the present circumstances and replacement housing requirements of the current Project occupants.

This Plan provides for the results of a needs assessment survey, their incorporation into the planning process, and details of the Partner's proposed relocation plan. This Plan sets forth policies and procedures necessary to conform to statutes and regulations established by the Uniform Relocation Act (46 U.S.C. § 4600 et seq.), its implementing regulations (49 C.F.R.) Part 24), the California Relocation Assistance Law, California Government Code Section 7260 et seq (the "CRAL") and the California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, Chapter 6, Section 6000 et seq. (the "Guidelines") for commercial displacements.

Funding sources include the City of Oakland Redevelopment Agency and the State of California Proposition 1C.

No mandatory displacement activities will take place prior to the required reviews and approval of this Plan.

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A. METHODOLOGY AND ASSESSMENT OF NEEDS

To obtain information necessary for the preparation of this Plan, personal interviews were conducted with the two commercial entities and visual inspections were conducted with the remaining commercial entities that would be impacted by the implementation of the prospective project.

All information of a statistical nature supplied by the occupants was anecdotal and not validated by documentary evidence that otherwise may be required to comply with mandatory relocation and eligibility qualifying criteria.

The two commercial entities to be prospectively displaced by implementation of the first phase of the project are motel operators. The second phase may include a surgery center, auto detail shop, restaurant, retail market, hair salon and women's spa. Inquiries and observations made of the commercial occupants included existing conditions, such as type of business or service provided; type of occupancy; current monthly lease/rental amounts; description and size of needs/operations; special requirements, if any; and, area/facility preferences for replacement locations. The table below represents some of the needs of the potentially displaced commercial entities.

Commercial			
Type of Business	Approximate Current Square footage	Ownership Type	Special Needs/ Equipment
Motel	n/a	for-profit	none
Motel	n/a	for-profit	none
Surgery Center	12,800	for-profit	Infrastructure/planning
Restaurant	1000	for-profit	Zoning; equipment installation
Detail shop and school	1,100	for-profit	Wash bay/trap zoning/parking
Hair salon	1,000	for profit	none
Retail Market	3,000	for-profit	zoning
Women's Spa	1,000	for-profit	none

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B. REPLACEMENT RESOURCES

While there is no specific requirement under California or Federal Relocation Law or Guidelines mandating that alternate relocation sites be made available to commercial occupants at the time of displacement, the MTCP is committed to making every reasonable effort to satisfactorily relocate the businesses.

This Relocation Plan outlines the requirements for moving the businesses being displaced, and demonstrates the level of advisory and financial assistance that will be provided.

C. CONCURRENT DISPLACEMENT

Based on the anticipated needs of the Project, there is no known concurrent displacement at this time which may impact, negatively, upon the ability to relocate the occupants of the site.

D. TEMPORARY RELOCATION

There is no *anticipated* requirement for temporary relocation.

E. PROGRAM ASSURANCES AND STANDARDS

Adequate funds shall be made available to relocate the commercial occupants on the site.

Relocation assistance services will be provided to ensure that displacement does not result in different or separate treatment of occupants based on race, color, religion, national origin, sex, marital status, familial status, disability or any other basis protected by the federal Fair Housing Amendments Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the California Fair Employment & Housing Act, and the Unruh Act, as well as any arbitrary or unlawful discrimination.

The occupants of the site will not be permanently displaced without Ninety (90) days advance written notice. The relocation program to be implemented by the

MacArthur Transit Village Relocation Plan

Partners conforms with the standards and provisions set forth in Government Code section 7260 et seq., the Guidelines, California Health and Safety Code section 33410 et seq., if applicable, and all other applicable regulations and requirements.

F. RELOCATION ASSISTANCE PROGRAM

Autotemp staff will be available to assist tenants being displaced with questions about relocation and, actual assistance in relocating. Relocation staff may be contacted, at **510.238.9386**, between the hours of 8:30 AM. to 6:00 PM, Monday through Friday, and also available on-site by appointment.

The Relocation Office is located at **373 4th Street, Suite 2A, Oakland, CA**. A comprehensive relocation assistance program, with technical and advisory assistance, will be provided to the tenants being displaced.

Specific activities will include:

1. Distribution of informational statements. **Attachment 2** contains a *sample* of the informational notices that will be given to the displaced businesses occupants;
2. Timely referrals to commercial property units; and,
3. Assistance with completion and filing of relocation claims and appeals forms, if necessary.
4. To fully inform eligible project occupants of the nature of, and procedures for, obtaining relocation assistance and benefits;
5. To determine the needs of each displacee eligible for assistance;
6. To provide assistance that does not result in different or separate treatment due to race, color, religion, national origin, sex, sexual orientation, marital status or other arbitrary circumstances;

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7. To assist each eligible person to complete applications for benefits.
8. To make relocation benefit payments in accordance with the Guidelines, where applicable;
9. To inform all persons subject to displacement of MTCP's policies with regard to eviction and property management; and,
10. To establish and maintain a formal grievance procedure for use by displaced persons seeking administrative review of MTCP's decisions with respect to relocation assistance.

G. CITIZEN PARTICIPATION

Copies of this Plan will be provided to the project site occupants to promote review and participation.

MTCP will ensure the following:

1. Full and timely access to documents relevant to the relocation program;
2. Providing technical assistance necessary to interpret elements of the relocation program and other pertinent materials;
3. A general notice of this Plan shall be provided to all displacees of the proposed project. This Plan shall be made available for circulation for information and review by interested citizen groups, state and county agencies, and all persons affected by the project;
4. The Plan will be reviewed to ensure that it is feasible and complies with locally-adopted rules and regulations governing relocation.

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H. RELOCATION BENEFIT CATEGORIES

Benefits will be provided in accordance with the URA, the CRAL, the Guidelines, and all other applicable regulations and requirements. Benefits will be paid upon submission of required claim forms and documentation in accordance with approved procedures as outlined in **Attachment 3**. The MTCP will provide appropriate benefits for the site tenants/displacees as required by the above laws and requirements.

Commercial occupants are considered eligible for relocation assistance and benefits if they lawfully occupied the subject property on the date of the "Initiation of Negotiations" for acquisition of the property. The date of 'Initiation of Negotiations' for the first phase of this Project is estimated to be February 2010.

Commercial Moving Expense Payments

Relocation benefits will be provided to the commercial occupants pursuant to State, and Federal law. Benefits will be paid upon submission of required claim forms and documentation in accordance with the procedures outlined in **Attachment 3**.

Pursuant to Relocation Law, eligible businesses may receive a relocation payment to cover the reasonable cost of moving their personal property from the Project site, to the selected replacement site.

There are two (2) options:

- A. Payment for Actual Reasonable and Necessary Moving and Related Expenses; or,**
- B. A Fixed Payment Not to Exceed \$20,000.**

Payment for Actual Reasonable and Necessary Moving and Related Expenses:

This payment may include the following:

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1. Transportation of personal property. Transportation costs for a distance beyond fifty (>50) miles are not eligible unless MTCP determines that relocation beyond fifty (>50) miles is justified;
2. Packing, crating, unpacking, and uncrating of the personal property;
3. Disconnecting, dismantling, removing, re-assembling, and re-installing relocated machinery, equipment, and other personal property, and certain substitute personal property.

This includes connection to utilities available within the replacement building. It also includes modifications to the personal property, including those modifications mandated by Federal, State or, local law, code or, ordinance, necessary to adapt the personal property to the replacement structure, the replacement site or, the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property;

4. Storage of personal property not to exceed twelve (12) months, unless MTCP determines that a longer period is necessary;
5. Insurance for the replacement value of the personal property in connection with the move and necessary storage;
6. The replacement value of property lost, stolen or, damaged in the process of moving, though not through the fault or negligence of the displaced business owner, his or her agent or employee, *if* insurance coverage for such loss, theft or, damage, is not reasonably available;
7. Any license, permit or certification required of the business at the replacement location. However, the payment may be based on the remaining *useful* life of the *existing* license, permit or, certification;
8. Professional services as MTCP determines to be actual, reasonable and, necessary for: (i) Planning the move of the

MacArthur Transit Village Relocation Plan

personal property; (ii) Moving the personal property; and, (iii) Installing the relocated personal property at the replacement location;

9. Re-lettering signs and, replacement stationary on hand at the time of displacement that is made obsolete as a result of the move;
10. Actual direct loss of tangible personal property incurred as a result of moving, or discontinuing the business.

The payment will consist of the **lesser of**:

- (i) The fair market value of the item, **as is**, for continued use at the displacement site, **less** the proceeds from its sale. (To be eligible for payment, the business owner must make a good faith effort to sell the personal property, unless MTCP determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value will be based upon the cost of the goods to the business, not the prospective selling price); **or**,
 - (ii) The estimated cost of moving the item, **as is**, but with no allowance for storage, or for re-connecting a piece of equipment if the equipment is in storage or not being used at the replacement site. (If the business operator elects to *discontinue his/her business*, the estimated cost will be based on a moving distance of fifty (50) miles;
11. The reasonable cost incurred in attempting to sell an item that is not to be relocated;
 12. Purchase of substitute property. If an item of personal property which is used *as part of a business* is not moved, but is *promptly* replaced with a substitute item that performs a comparable function at the replacement site, the business owner will be entitled to payment for the **lesser of**:

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- (i) The cost of the substitute item, including installation costs at the replacement site, if any, minus any proceeds from the sale of trade-in value of the replaced item; or,
- (ii) The estimated cost of moving and re-installing the replaced item, but with no allowance for storage.

At MTCP's discretion, the estimated cost for a low cost, or uncomplicated move may be based on a single bid or estimate;

- 13. Searching for a replacement location. The displaced business is entitled to reimbursement for actual expenses, not to exceed one thousand dollars (\$1,000.), as MTCP determines to be reasonable, which are incurred in searching for a replacement location, including:
 - I. Transportation expenses;
 - II. Meals and lodging away from home;
 - III. Time spent searching for a replacement location, based on reasonable salary or earnings;
 - IV. Reasonable fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase or lease of such site;
- 14. Other related moving expenses as MTCP determines to be reasonable and necessary, including:
 - Connection to available nearby utilities from the right-of-way to improvements at the replacement site;
 - Professional services performed prior to the purchase or lease of a replacement site to determine its (the site's) suitability for the business operation including, but not limited to soil testing, feasibility, and marketing studies (excluding

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any fees or commissions directly related to the purchase or lease of such replacement site). At MTCP's discretion, a reasonable, *pre*-approved hourly rate may be established; and,

- Impact fees or one-time assessments for anticipated heavy utility usage, as determined by MTCP;

15. Actual and reasonable expenses necessary to re-establish a displaced small business at its new location, not-to-exceed ten thousand dollars (\$10,000.). Examples of expenses that may be considered for reimbursement include advertising, redecoration and, certain increased costs of operation at the new location.

Fixed payment in Lieu of a Payment for Actual Reasonable Moving and Related Expenses:

The amount of this payment shall be based on the average, annual net earnings of the business. The payment to an eligible business may not be less than \$1,000.00, or more than \$20,000.

To qualify, for this payment a displaced business:

- a) Cannot be a part of a commercial enterprise having at least three (3) other establishments which are not being displaced by the MTCP as part of this project, and which is under the same ownership and engaged in the same, or similar business activities; and,
- b) Must not be able to relocate without substantial loss of patronage; and,
- c) Must have contributed at least 33.33% of the owner's total gross income during each of the two (2) taxation years prior to displacement, or meet specific earnings criteria.

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I. PAYMENT OF RELOCATION BENEFITS

Relocation benefit payments will be made expeditiously. Claims and supporting documentation for relocation benefits must be filed with the MTCP within eighteen (18) months from the date the claimant moves from the displacement property. Procedures for preparing and filing of claims and processing and delivering of payments are included in this Plan as **Attachment 3**.

J. EVICTION POLICY

At any time after the acquisition of the property, the occupants became tenants of the MTCP. The MTCP recognizes that eviction is permissible only as a last resort and that relocation records must be documented to reflect the specific circumstances surrounding any eviction. Eviction will only take place in cases of nonpayment of rent; serious violation(s) of the rental agreement; a dangerous or illegal act performed by Lessee, its employees, invitees or, any combination thereof in the unit; or, if the lessee/displacee refuses all reasonable offers to move. Eviction will not affect the eligibility of a person legally entitled to relocation benefits.

K. APPEALS POLICY

The appeals policy will follow the standards described in Section 6150 et seq. of the Guidelines. Briefly stated, displaced tenants will have the right to ask for review when there is a perceived grievance regarding any of a displacee's rights to relocation, and relocation assistance, such as a determination as to eligibility, the amount of a payment, or the failure to provide a comparable replacement housing referral.

L. PROJECTED DATES OF DISPLACEMENT

The commercial occupants will receive a 90 day notice to vacate before they are required to move. For the initial phase, this notice is expected to be issued on or about February 01, 2010, with the property vacated by April 30, 2010. For the *second phase, if applicable, this notice is expected to be issued in late 2010.*

MacArthur Transit Village Relocation Plan

M. ESTIMATED RELOCATION COSTS

MTCP pledges to appropriate the necessary funds, on a timely basis, to ensure the successful completion of the project. Any and all required financial assistance will be provided.

TABLE OF ATTACHMENTS

- Attachment 1:** Project Site Maps
- Attachment 2:** Sample Informational Statement – Commercial Occupants
- Attachment 3:** Relocation Payment Policy and Procedures for Relocation Payments and Assistance

ATTACHMENT 1: PROJECT SITE MAPS

Figure 1. Regional Location

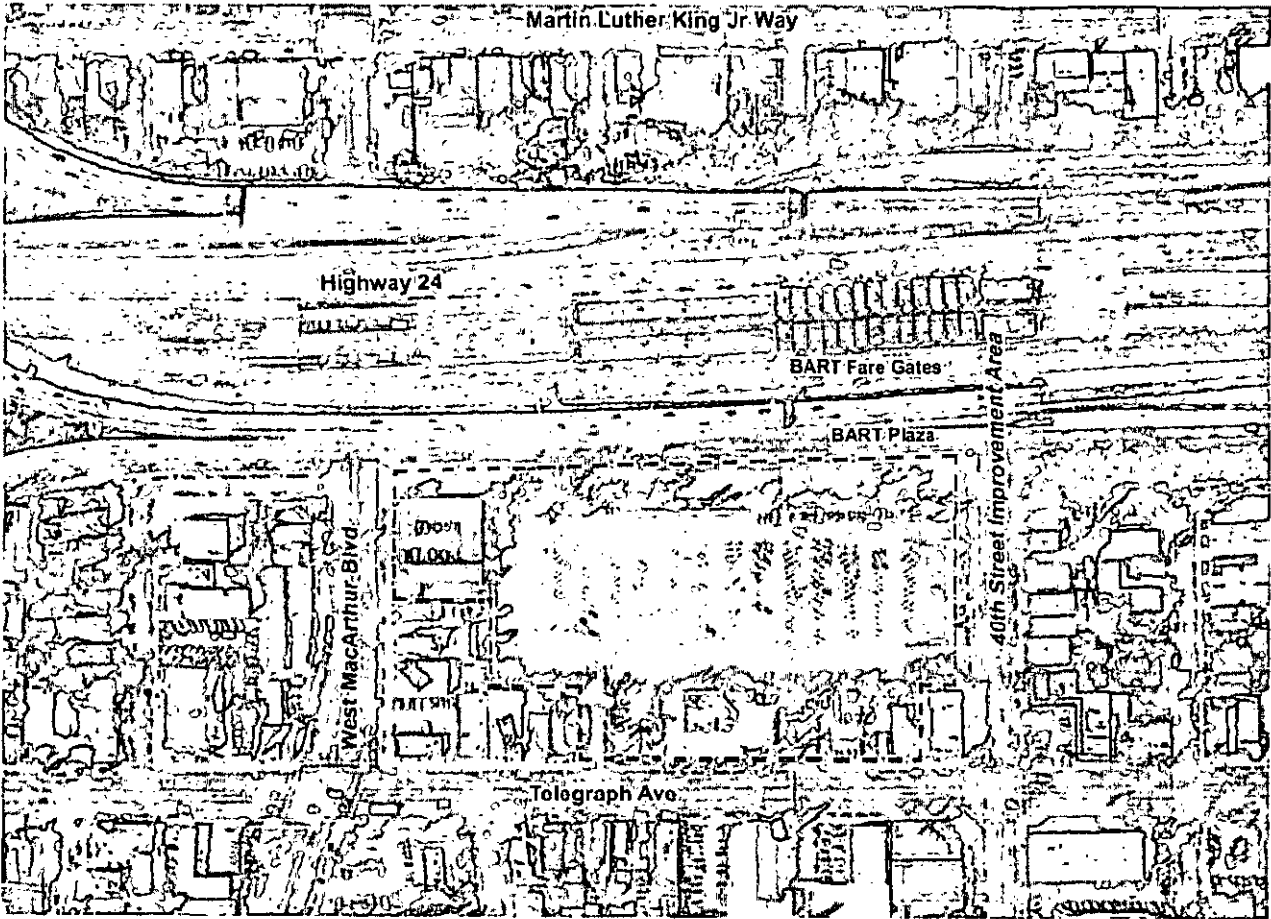
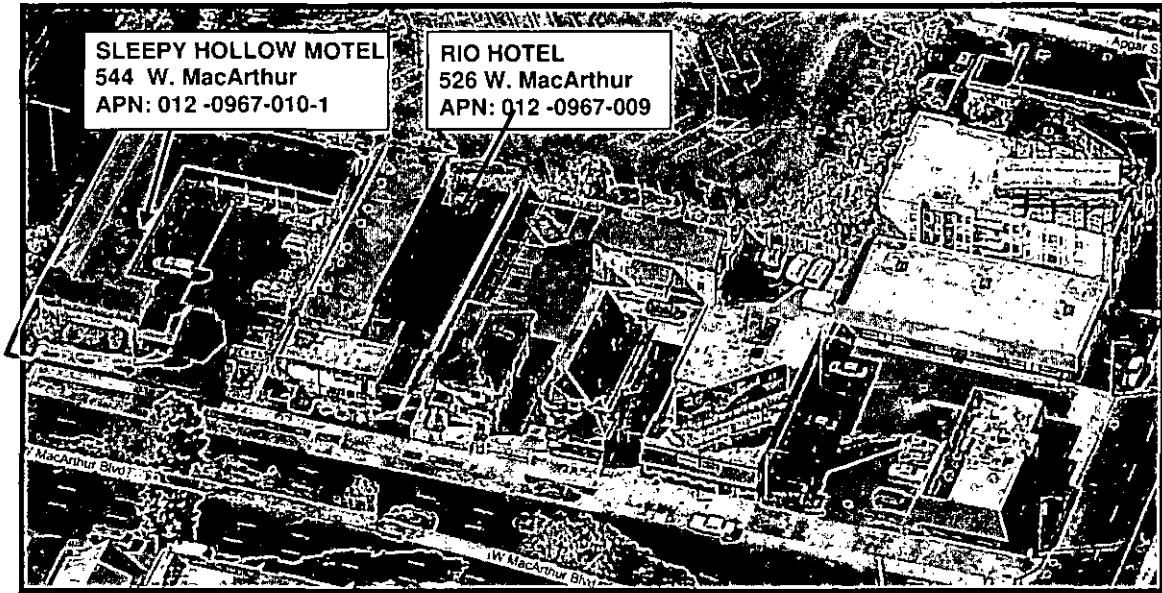


Figure 2. General Site-specific Location



ATTACHMENT 2: SAMPLE INFORMATIONAL STATEMENT FOR COMMERCIAL OCCUPANTS

Introduction

The property on which you now conduct your business is in an area to be improved by MacArthur Transit Community Partners, LLC ("MTCP") with the assistance of the Oakland Redevelopment Agency. The MTCP's plans require the acquisition of several land parcels and the relocation of existing commercial uses. You will be notified in a timely manner as to the date by which you must move.

Please read this information as it will be helpful to you in determining your eligibility and the amount of your relocation benefits under the federal and/or state law. We suggest you save this informational statement for reference.

This is not a notice to move. It is important that you do not move before you learn what you must do to receive relocation payments and other assistance to which you may be entitled. The MTCP has retained the services of Autotemp, a qualified professional relocation firm, to assist you. The firm is available to explain the program and benefits. Their address and telephone number is:

**Autotemp
373 4th Street Suite 2A
Oakland, CA 94607
Telephone: 510.238.9386**

Spanish speaking representatives are available. **Si necesita esta información en español, por favor llame a su representante.**

Please continue to pay your rent to your current landlord, otherwise you may be evicted and jeopardize the relocation benefits to which you may be entitled to receive. Once the MTCP acquires the property, you will also be required to pay rent to the MTCP.

Summary of Relocation Assistance

As an eligible displaced person, you will be offered appropriate financial and advisory assistance to help you relocate, including:

- A. Payment for your moving expenses. You will receive either:
 - A Payment for Actual Reasonable Moving and Related Expenses, or
 - A Fixed Payment In Lieu of a Payment for Actual Moving and Related Expenses
- B. Referrals to suitable replacement locations.

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- C. Other help to reestablish your business and minimize the impact of the move including help in preparing claim forms to request relocation payments.

If you disagree with the MTCP's decision as to your right to a relocation payment, or the amount of the payment, you may appeal that decision.

SOME GENERAL QUESTIONS

How will I know I am eligible for relocation assistance?

Ordinarily, eligibility begins on the date the owner of the property receives the MTCP's initial written offer to purchase it. Therefore, you should not move before that date. If you do, you may not be eligible for relocation assistance.

How Will the MTCP Know How Much Help I Need?

You will be contacted at an early date and personally interviewed by a representative of the MTCP to determine your needs and preferences for a replacement location and other services. The interviewer will ask questions about such matters as your space requirements. It is to your advantage to provide the information so that the MTCP, through its relocation consultant, can assist you in moving with a minimum of hardship. The information you give will be kept in confidence.

How Soon Will I Have to Move?

Every reasonable effort will be made to provide you with sufficient time to find and reestablish your business in a suitable replacement location. If possible, a mutually agreeable date for the move will be worked out. Unless there is an urgent need for the property (e.g., your occupancy would present a health or safety emergency), you will not be required to move without at least 90 days advance written notice. It is important, however, that you keep in close contact with the MTCP so that you are aware of the time schedule for carrying out the project and the approximate date by which you will have to move.

I Own The Property; Will I Be Paid For It Before I Have To Move?

If you reach a voluntary agreement to sell your property to the MTCP, you will not be required to move before you receive the agreed purchase price. If the property is acquired through an eminent domain proceeding, you cannot be required to move before the estimated fair market value of the property has been deposited with the court. (You should be able to withdraw this amount immediately, less any amounts necessary to pay off any mortgage or other liens on the property and to resolve any special ownership problems. Withdrawal of your share of the money will not affect your right to seek additional compensation for your property).

Will I Have To Pay Rent To The MTCP Before I Move?

You may be required to pay a fair rent to the MTCP for the period between the acquisition of your property and the date that you move. Your rent and the terms of your tenancy will be generally the same as in the prior arrangement.

How Will I Find A Replacement Location?

The MTCP will provide you with current and continuing information on available replacement locations that meet your needs. The MTCP may also provide you with the names of real estate agents and brokers who can assist you in finding the type of replacement location you require. While the MTCP will assist you in obtaining a suitable replacement location, you should take an active role in finding and relocating to a location of your choice. No one knows your needs better than you. You will want a facility that provides sufficient space for your planned activities. You will also want to ensure that there are no zoning or other requirements which will unduly restrict your planned operations. Ask the MTCP to explain which kind of moving costs are eligible for repayment and which are not eligible. That will enable you to carry out your move in the most advantageous manner.

What Other Assistance Will be Available To Help Me?

In addition to help in finding a suitable replacement location, other assistance, as necessary, will be provided by the MTCP. This includes information on Federal, State, and local programs that may be of help in reestablishing a business. For example, the Small Business Administration (SBA) provides managerial and technical assistance to some businesses. There may also be a government grant or loan program which can help you reestablish your business. The MTCP will assist you in applying for help available from government agencies. The range of services depends on the needs of the business being displaced. You should ask the MTCP representative to tell you about the specific services that will be available to you.

I Have A Replacement Location And Want To Move. What Should I Do?

Before you make any arrangements to move, notify the MTCP, in writing, of your intention to move. This should be done at least 30 days before the date you begin your move. The MTCP will discuss the move with you and advise you of the relocation payment(s) for which you may be eligible, the requirements to be met, and how to obtain a payment.

I Plan To Discontinue My Business Rather Than Move. What Should I Do?

If you have decided to discontinue your business rather than reestablish, you may still be eligible to receive a payment. Contact the MTCP and discuss your decision to discontinue your business. You will be informed of the payment, if any, for which you may be eligible, the requirements to be met, and how to obtain your payment.

What Kinds of Payments For Moving Expenses Will I Receive?

Every business is entitled to a relocation payment to cover the reasonable cost of moving. You may choose either:

- A. **A Payment For Actual Reasonable Moving and Related Expenses, or**
- B. **A Fixed Payment In Lieu of Moving and Related Expenses** (if you meet the eligibility requirements).

What is Payment For Actual Reasonable Moving And Related Expenses?

If you choose a Payment For Actual Reasonable Moving And Related Expenses, you may claim the cost of:

- A. Transportation of personal property from your present location to the replacement location. (Generally, transportation costs are limited to a distance of 50 miles. If you plan to move beyond 50 miles, discuss your planned move with the MTCP.)
- B. Packing, crating, uncrating, and unpacking personal property.
- C. Disconnecting, dismantling, removing, reassembling, and installing relocated and substitute machinery, equipment and other personal property. This includes connection to utilities available nearby and modifications necessary to adapt such property to the replacement structure or to the utilities or to adapt the utilities to the personal property. This includes alterations to the replacement structure required to reinstall machinery, equipment or other personal property
- D. Storage of personal property for a reasonable period of time, if required, at the MTCP's discretion.
- E. Insurance of personal property in connection with the move and required storage and the replacement value of property lost, stolen, or damaged in the process of moving where insurance is not readily available.
- F. Any license, permit or certification required by the displaced business, to the extent that the cost is (1) necessary to its reestablishment at the replacement location and (2) does not exceed the cost for the remaining useful life of the existing license, permit, or certification.
- G. Reasonable and preauthorized professional services, including architect's, attorney's, and engineer's fees, and consultant's charges, necessary for (1) planning the move of the personal property, (2) moving the personal property, or (3) installing the relocated personal property at the replacement location.
- H. Relettering signs, printing replacement stationery made obsolete by the move and customer notifications.
- I. The reasonable cost incurred in attempting to sell an item that is not relocated.
- J. Actual direct loss of personal property. This payment provides compensation for property that is neither moved nor promptly replaced with a "substitute item" at the replacement location. Payment is limited to the lesser of: (1) the estimated cost of moving the property or (2) the fair market value of the property for its continued use at the old location, less any proceeds from its sale. To be eligible, you must make a good faith effort to sell the property, unless the MTCP determines that such effort is not necessary.

- K. Purchase and installation of substitute personal property. Payment will be limited to the lesser of: (1) the estimated cost to move the item to the replacement location, or (2) the actual cost of the substitute item delivered and installed at the replacement location, less any proceeds from its sale or its trade-in value. It is important to discuss your plans with the MTCP before you proceed.
- L. Searching for a replacement location. This payment may not exceed \$1,000.00 and may cover costs for:
- Transportation expenses
 - Time spent searching for a replacement location, based on a reasonable salary or earnings
 - Reasonable fees paid to real estate agents or brokers to find a replacement location (not fees related to the purchase of a site)
 - Meals and lodging away from home

The MTCP representative will explain all eligible moving costs, as well as, those which are not eligible. You must be able to account for all costs that you incur; so keep all your receipts. The MTCP will inform you of the documentation needed to support your claim.

You may minimize the amount of documentation needed to support your claim, if you elect to "self-move" your property. Payment for self-move is based on the amount of an acceptable low bid or estimate obtained by the MTCP. If you self-move, you may move your personal property using your own employees and equipment or a commercial mover. If you and the MTCP cannot agree on an acceptable amount to cover the cost of the "self-move," you will have to submit full documentation in support of your claim.

You may elect to pay your moving costs yourself and be reimbursed by the MTCP or, if you prefer, you may have the MTCP pay the mover directly. In either case, let the MTCP know before you move. Select your mover with care. The MTCP representative can help you select a reliable and reputable mover.

When a payment for "actual direct loss of personal property" or "substitute personal property" is made for an item, the estimated cost of moving the item may be based on the lowest acceptable bid or estimate obtained by the MTCP. If not sold or traded-in, the item must remain at the old location and ownership of the item must be transferred to the MTCP before you may receive the payment.

What are Reestablishment Expenses?

A small business, farm or non-profit organization may be eligible to receive a payment of up to \$10,000 for expenses actually incurred in relocating and reestablishing such operation at a replacement site.

Eligible expenses must be reasonable and necessary, as determined by the MTCP. They may include but are not limited to the following:

- A. Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance.

- B. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- C. Construction and Installation costs for exterior signage to advertise the business.
- D. Provision of utilities from right-of-way to improvements on the replacement site.
- E. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
- F. Licenses, fees, and permits where not paid as part of moving expenses.
- G. Feasibility surveys, soil testing and marketing studies.
- H. Advertising of replacement location.
- I. Professional services in connection with the purchase or lease of a replacement site.
- J. Estimated increased costs of operation during the first 2 years at the replacement site, for such items as:
 - 1. Lease or rental charges
 - 2. Personal or real property taxes
 - 3. Insurance premiums, and
 - 4. Utility charges (excluding Impact fees)
- K. Impact fees or one-time assessments for anticipated heavy utility usage.
- L. Other items that the MTCP considers essential to the reestablishment of the business.

What Expenses Are Not eligible for Reestablishment Payment?

The following is a non-exclusive listing of reestablishment expenditures not considered to be reasonable, necessary or otherwise eligible:

- A. Purchase of capital assets, such as, office furniture, filing cabinets, machinery or trade fixtures.
- B. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- C. Interior or exterior refurbishment at the replacement site, except as otherwise provided for under the business reestablishment payment.
- D. Interest costs associated with any relocation expense or the purchase of replacement property.
- E. Payment to a part-time business in the home which does not contribute materially to the household income.

What is Fixed Payment In Lieu Of A Payment For Actual Reasonable Moving And Related Expenses?

A Fixed Payment In Lieu Of A Payment For Actual Reasonable Moving And Related Expenses to a business or farm operation is based on the average annual net earnings of the business or farm operation. The payment to an eligible business or farm operation may not be less than \$1,000.00, or more than \$20,000.00. The nonprofit organization may be eligible for a payment from \$1,000.00 to \$20,000.00 subject to the following:

A displaced nonprofit organization may choose a fixed payment as stated above if the MTCP determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele.) A nonprofit organization is assumed to meet this test, unless the MTCP demonstrates otherwise. Any payment in excess of \$1,000.00 must be supported with financial statements for the two 12 month periods prior to displacement. The amount to be used for the payment is the average of the last two (2) years annual net earnings. Documentation required may be income tax returns, certified financial statements and accounting records or other similar evidence acceptable to the MTCP. To qualify for an In-Lieu payment:

A. A displaced **business**:

1. Must own or rent personal property which must be moved in connection with the displacement and for which an expense would be incurred in such move, and the business vacates or relocates from its displacement site.
2. Must be unable to relocate without a substantial loss of existing patronage.
3. Must not be part of a commercial enterprise having more than one other entity which is not being acquired by the MTCP, and which is under the same ownership and engaged in the same or similar business activities.
4. Must not be operated at a displacement dwelling/site solely for the purpose of renting such dwelling/site to others.
5. Must have contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement.

B. A displaced **nonprofit organization** (1) must be unable to relocate without a substantial loss of its existing patronage; and, (2) must not be part of an enterprise having another establishment which is not being acquired by the MTCP.

C. A displaced **farm operation** must meet certain minimum income requirements.

The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, or local income taxes during the two (2) taxable years immediately prior to the taxable year in which it was displaced. If not in business for a full two years prior to displacement, the net earnings shall be based on the actual period of operation at the acquired site projected to an annual rate. Average net earnings may be

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based on a different period of time when the MTCP determines it to be more equitable. Net earnings include any compensation paid to the owners of the business, a spouse or dependents. The displaced person shall furnish the MTCP proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the MTCP determines is satisfactory.

The MTCP will inform you as to your eligibility for this payment and the documentation you must submit to support your claim. Remember, when you elect to take this payment you are not entitled to reimbursement for any other moving expenses.

How do I File A Claim For A Relocation Payment?

You must file a claim for a relocation payment. The MTCP will provide you with the required claim forms, assist you in completing them, and explain the type of documentation that you must submit in order to receive your relocation payments. If you must pay any relocation expenses *before you move* (e.g., because you must provide a security deposit if you lease your new location), discuss your financial needs with the MTCP. You may be able to obtain an advance payment. An advance payment may be placed in "escrow" to ensure that the move will be completed on a timely basis.

If you are a tenant, you must file your claim within 18 months after the date you move. If you own the property, you must file within 18 months after the date you move, or the date you receive the final acquisition payment, whichever is later. However, it is to your advantage to file as soon as possible after you move. The sooner you submit your claim, the sooner it can be processed and paid. If you are unable to file your claim within 18 months, the MTCP may extend this period.

You will be paid promptly after you file an acceptable claim. If there is any question regarding your right to a relocation payment or the amount of the payment, you will be notified, in writing, of the problem and the action you may take to resolve the matter.

Appeals

If you disagree with the MTCP's decision as to your right to a relocation payment or the amount of payment, you may appeal the decision to the MTCP. The MTCP will inform you of its appeal procedures. At a minimum, you will have 18 months to file your appeal with the MTCP. Your appeal must be in writing. However, if you need help, the MTCP will assist you in preparing your appeal. If you are not satisfied with the final appeal decision, you may seek review of the matter by the courts.

Tax Status of Relocation Benefits

Relocation benefit payments are not considered as income for the purpose of the Internal Revenue Code of 1986 or the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax law, Part 11(commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. The preceding statement is not tendered as legal advice in regard to tax consequences, and displacees should consult with their own tax advisor or legal counsel to determine the current status of such payments.

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Additional Information

If you have further questions after reading this brochure, contact Autotemp and discuss your concerns with your relocation representative. You may wish to read the California Relocation Assistance Act regulations which describe the relocation process in more detail.

ATTACHMENT 3: RELOCATION PAYMENT POLICY AND PROCEDURES FOR OBTAINING RELOCATION ASSISTANCE AND PAYMENTS

Claims and supporting documentation for relocation benefits must be filed with the MTCP within eighteen (18) months from the date the claimant moves from the acquired property.

The procedure for the preparation and filing of claims and the processing and delivery of payments will be as follows:

1. Claimant(s) will provide all necessary documentation to substantiate eligibility for assistance.
2. Assistance amounts will be determined in accordance with the provisions of the California Relocation Law and Guidelines.
3. Required claim forms will be prepared by relocation personnel in conjunction with claimant(s). Signed claims and supporting documentation will be submitted by relocation personnel to the MTCP.
4. The MTCP will review and approve claims for payment or request additional information.
5. The MTCP will issue benefit checks which will be available for pick-up by Claimants, unless circumstances dictate otherwise.
6. Final payments will be issued after confirmation that the Project area premises have been completely vacated and actual residency at replacement unit is verified.
7. Receipts of payment will be obtained and maintained in the relocation case file.

Attachment C:

MACARTHUR TRANSIT VILLAGE PROJECT

REPLACEMENT HOUSING PLAN

I. Introduction

The Redevelopment Agency of the City of Oakland (“Agency”) is proposing to assist the development of the MacArthur Transit Village Project (the “Project”), as described in Section II below. The Project is located within the Broadway/MacArthur/San Pablo Redevelopment Project Area (the “Project Area”), which is governed by the Broadway/MacArthur/San Pablo Redevelopment Plan adopted on July 25, 2000, as subsequently amended (the “Redevelopment Plan”).

The Project requires the demolition of 2 low-income housing units and 1 very low-income housing unit located in the two motel properties at 526 and 544 West MacArthur. One of the low-income housing units is an ownership unit, occupied by the owner of the motel property. The Notice to Proceed for the demolition of these units is scheduled to be issued in March 2010.

This Replacement Housing Plan for the Project (“Replacement Housing Plan”) will guide and facilitate the Agency’s efforts to rehabilitate, develop or construct, or cause to be rehabilitated, developed or constructed, replacement housing for persons or families of low or moderate income in accordance with the requirements of State law (California Health and Safety Code § 33413.5).

II. MacArthur Transit Village Project

The MacArthur Transit Village project is located in North Oakland, within the area bounded by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and State Route 24. The project site includes the BART parking lot, the BART plaza, Frontage Road between West MacArthur Boulevard and 40th Street, and seven privately owned parcels fronting on Telegraph and West MacArthur Boulevard. The seven properties that are currently under private ownership contain as many as eight commercial occupants, two residential tenants, and one residential owner occupant that will have to be permanently displaced in order for the MacArthur Transit Village to be constructed.

The MacArthur Transit Village project includes demolition of the existing BART surface parking lots and all existing buildings within the project site to allow for the construction of a new mixed-use, transit village development project. Below is a brief description of the overall project and the public infrastructure components:

- 624 residential units (516 market rate units and 108 below market rate units)
- 42,500 square feet of commercial/neighborhood serving retail space

- 5,000 square feet of community space (most likely to be used as a childcare center)
- 400 replacement parking spaces for BART in a new parking structure and a commitment to park an addition 110 BART patrons through either an expanded parking garage, shared parking, satellite lots, and/or attended parking in the garage
- Two new public roads through the BART parking lot and the reconfiguration of the existing BART Frontage Road
- Renovation of the existing BART plaza, including a covered waiting area for shuttle patrons
- A new public plaza located across from the existing BART plaza

A total of 108 below market rate units that will be constructed as part of this project. Of these units, 18 will be located in the same buildings as the market rate units and will either be rental or ownership depending on the tenure of the building. The remaining 90 units will be in a stand-alone building. The below market rate units in the project will be affordable to the following income levels:

- For the 18 units scattered among the market rate units, if they are ownership units they will be affordable to households between 80% and 120% of Area Median Income (AMI), with an average affordability across all units not to exceed 100% of AMI. If developed as rental units, they will be affordable to households earning no more than 80% AMI
- 90 units will be rental units that will be affordable to households earning no more than 50% of AMI
- 43 units will be rental units that will be affordable to households earning no more than 35% of AMI

The Developer will execute a regulatory agreement with the Agency, to be recorded against the Project, to formalize the above rent restrictions and preserve the affordability of the rental units for a term of 55 years. In addition, the Developer will execute an affordability agreement with the Agency for any ownership units, to be recorded against the Project, to formalize the resale restrictions and preserve the affordability of the ownership units for a term of 45 years.

The following chart indicates the types and sizes of units that will be demolished, and provides an estimate of the unit sizes for those to be constructed as part of the new Project. The exact distribution of unit sizes for the new Project has not yet been determined.

Size Units	Demolished Units	New Affordable Units
Studio	0	2
1 BR apartments	1	22
2 BR apartments	1	29
2 BR condos	1	18
3 BR apartments	0	37
3 BR condos	0	0
Total	3	108

The 90 affordable rental units in the stand-alone building are projected to start construction in 2014. The remaining 18 units will be spread out among the market phases of the project and will be constructed between 2014 and 2023.

Because these units will not be completed within four years of the demolition of the existing units, the new units cannot serve as replacement dwelling units for the units that will be demolished as part of the Project. Consequently, replacement dwelling units will be provided off-site.

III. Compliance with State Law

§ 33413(a) of the California Health and Safety Code provides in part as follows:

“Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low and moderate income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop or construct, or cause to be rehabilitated, developed or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency.... When dwelling units are destroyed or removed on or after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to persons in the same or a lower income category (low, very low, or moderate), as the persons displaced from those destroyed or removed units.”

§ 33413(c)(1) through (4) of the California Health and Safety Code provides in part as follows:

“The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to, and occupied by, persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, but for not less than 55 years for rental units and 45 years for homeownership units, except as set forth in paragraph (2).... The

requirements of this section shall be made enforceable in the same manner as provided in paragraph (2) of subdivision (f) of §33334.3...”

This Replacement Housing Plan provides that the Project shall be governed by a recorded regulatory agreement, enforceable by the Agency and the City of Oakland, requiring the replacement housing units to remain available at affordable housing cost and occupied by persons or families of very low income for a period of 55 years.

The following terms shall have the same meaning in this Replacement Housing Plan as in California Health and Safety Code § 33411.2: “affordable housing cost,” “replacement dwelling unit,” “persons and families of low and moderate income,” and “very low income households.”

IV. General Location of Replacement Housing

As referenced in Section II, the on-site affordable housing units that will be developed as part of the MacArthur Transit Village project will not be completed within the next four years and therefore cannot serve as the replacement housing units for the three units that will be demolished as part of the construction of the project. As a result, dwelling units as defined in California Health and Safety Code § 33411.2, will be developed off-site as part of the 720 East 11th Street housing project, located in the Central City East Redevelopment Project Area, as defined in California Health and Safety Code § 33411.2, which is within the territorial jurisdiction of the Agency.

V. Means of Financing

Funding for the MacArthur Transit Village Project include the following sources and amount of financing:

SOURCES	
Proposition 1C TOD Program	17,000,000
Proposition 1C Infill Program	17,300,000
Proposition 1C Environmental Program	3,000,000
CEDA (Agency) Loan Funds	16,400,000
CEDA (Agency) Grant Funds	17,600,000
Federal Transportation Grant Funds	1,300,000
Permanent Mortgage	1,285,000
FHLB AHP Funds	135,000
9% Tax Credits	17,998,000
TOTAL	92,018,000

The specific funding for the replacement dwelling units at 720 East 11th Street include the following sources and amount of financing:

SOURCES	
Developer Equity	300,000
Permanent Mortgage	2,520,000
Proposition 1C Infill Grant	1,537,549
Northern Cal. Comm. Loan Fund (NCCLF)	50,000
9% Tax Credits	11,491,882
CEDA (Agency) Loan Funds	6,250,000
CEDA (Agency) Loan Funds (award pending)	1,500,000
Mental Health Services Act	500,000
Housing Opp. For People with Aids (HOPWA)	300,000
Deferred Developer Fee	100,000
TOTAL	24,549,441

VI. Finding that the Replacement Housing Plan Does Not Require Approval Under Article XXXIV of the California Constitution

By its terms, Article XXXIV is only applicable if a “state public body” (which includes the Agency) “develops, constructs, or acquires” a “low rent housing project.” However, California Health and Safety Code § 37001(f) excludes from the definition of a “low-rent housing project” the “replacement of...dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households”.

The low-income affordable units in the 720 East 11th Street project provided under this Replacement Housing Plan are replacing the comparable units being demolished, and previously occupied by lower income households. Also, in assisting the affordable housing component of the Project and monitoring construction and compliance with the conditions of such assistance, the Agency will be carrying out its routine governmental functions as a housing development agency, will be performing the conventional activities of a lender, and will be imposing conditions on the Project developer authorized under the California Community Redevelopment Law. Thus, based on the above facts it is hereby found and determined that the replacement housing component of the Project is exempt from the requirements of Article XXXIV under California Health and Safety Code §§ 37001(a) and (f) and 37001.5(e).

VII. Number of Dwelling Units Housing Persons and Families of Low or Moderate Income Planned for Construction and Rehabilitation

A. Analysis of Existing Units Housing Persons and Families of Low or Moderate Income

The following charts analyze the actual number and income characteristics of the units to be destroyed as part of the construction of the MacArthur Transit Village:

Dwelling Units Removed

Number of Bedrooms	Number of Units	Percent of Total Units
0	1	33.3%
1	0	0%
2	2	66.7%
Total	3	100%

Number of Units Occupied by Income Level Households Prior to Relocation of the Households

Number of Bedrooms	Very Low Income	Low Income	Percent of Total Units
0	1	0	33.3%
1	0	0	0%
2	0	2	66.7%
Total	1	2	100%

B. Analysis of Dwelling Units to be Rehabilitated, Developed or Constructed

Resources for Community Development (RCD) will develop housing at 720 East 11th Street which will be all affordable rental housing. The units to be provided in the project consist of one-bedroom, two-bedroom, three bedroom, and four bedroom affordable apartments. Project residential units to be constructed are described in the following table, by bedroom size and affordability level:

Type of Unit	Number Of Units	Affordability	Affordability	Affordability	Total Number of Bedrooms
Number of Bedrooms		Extremely Low Income (30% of AMI)	Very Low Income (50% of AMI)	Tax Credit (60% of AMI)	
1	18	6	9	0	18
2	17	5	3	9	34
3	16	2	14	0	48
4	3	1	2	0	12
Totals:	54	44	43	49	112

The replacement dwelling units will consist of one 1-bedroom apartment and two 2-bedroom apartments. The Agency shall cause to be developed or constructed, for rental to persons and families of very-low income, an equal number of replacement units to those 3 units destroyed or removed subject to and in accordance with the following standards:

1. Timing: The Agency will complete the replacement dwelling units within four years of the destruction or removal of dwelling units required to be replaced under this Replacement Housing Plan.
2. Income: The one 1-bedroom replacement dwelling unit will be rented at rents affordable to, and will be occupied by, households with very low income. The two 2-bedroom replacement dwelling units will be rented at rents affordable to, and will be occupied by, households with low income.
3. Guarantee for Displacees: Those persons and families of low or moderate income who are displaced as a result of the Project shall be guaranteed priority for replacement housing.

VIII. Timetable For Development of the Replacement Housing

The projected start and completion dates for the replacement dwelling units are:

Start Construction: November 2010

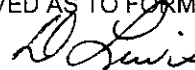
Complete Construction: March 2012

IX. Monitoring and Reporting

Pursuant to California Health and Safety Code § 33418, the Agency will monitor on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to this Replacement Housing Plan.

The Agency will require the owners or managers of the Project to submit an annual report to the Agency. The annual report to the Agency must set forth the rental rate, income, and family size of the occupants of each unit (with the income information certified by each occupant). The Agency may impose fees on the owners of the monitored property to defray the cost of this monitoring system. The information obtained from this monitoring system will be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller.

2009 DEC -3 PM 5:10



DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION APPROVING THE MACARTHUR TRANSIT VILLAGE REDEVELOPMENT PROJECT RESIDENTIAL AND COMMERCIAL RELOCATION PLANS

WHEREAS, on December 7, 2004, the Five-year Implementation Plan for the Broadway/MacArthur/San Pablo Redevelopment Project Area was adopted; and

WHEREAS; the Implementation Plan identified the MacArthur Transit Village Redevelopment Project and related streetscape improvements as a key catalyst project, and the Redevelopment Agency of the City of Oakland (the "Agency") is pursuing implementation of the project in the redevelopment project area; and

WHEREAS, the project developer MacArthur Transit Community Partners, LLC (MTCP) plans to construct a number of improvements as the MacArthur Transit Village project, including 624 residential rental and ownership units (516 market rate units and 108 below market rate units); 42,500 square feet of commercial/neighborhood serving retail space; 5,000 square feet of community space; 400 replacement parking spaces for BART in a new parking structure and a commitment to park an additional 110 BART patrons through either an expanded parking garage, shared parking, satellite lots, and/or attended parking in the garage; and a new public plaza located across from the existing BART plaza; and

WHEREAS, the displacement of residential and nonresidential (business) tenants is necessary to proceed with the acquisition of a number of properties in preparation for planned development of the redevelopment project; and

WHEREAS, the relocation of the MacArthur Transit Village Project residential and nonresidential displacees will be governed by state relocation law (Government Code §7260, et seq.) and implementing regulations (25 CCR section 6000, et seq.); and

WHEREAS, state relocation regulations (25 CCR section 6038) require the preparation of relocation plans when there is a significant amount of residential or nonresidential displacement, and the adoption of those plans by the local legislative body; and

WHEREAS, MTCP has submitted a draft Relocation Plan for the MacArthur Transit Village Project for Residential Displacement to the Council for its consideration; and

WHEREAS, MTCP has submitted a draft Relocation Plan for the MacArthur Transit Village Project for Commercial Displacement to the Council for its consideration; and

WHEREAS, the requirements of the California environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of Resources, and the provisions of the environmental Review Regulations of the City of Oakland have been satisfied, now, therefore, be it

RESOLVED: That the City Council hereby approves the Relocation Plan for the MacArthur Transit Village Redevelopment Project for Residential Displacement attached as Attachment A to the staff report accompanying this Resolution; and be it

FURTHER RESOLVED: That the City Council hereby approves the Relocation Plan for the MacArthur Transit Village Redevelopment Project for Commercial Displacement attached as Attachment B to the staff report accompanying this Resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that said Relocation Plans conform to the requirements of state relocation law; and be it

FURTHER RESOLVED: That the City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that this action complies with CEQA because this action on the part of the City Council is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA guidelines; and the City Administrator shall cause to be filed with the County of Alameda a Notice of Exemption; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to take whatever action he or she deems necessary to implement the Relocation Plans, consistent with the purposes of this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

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

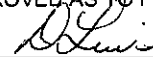
NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California



2009 DEC -3 PM 5:10

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

**RESOLUTION APPROVING THE RESIDENTIAL AND COMMERCIAL
RELOCATION PLANS FOR THE MACARTHUR TRANSIT VILLAGE
PROJECT**

WHEREAS, on December 7, 2004, the Five-year Implementation Plan for the Broadway/MacArthur/San Pablo Redevelopment Project Area was adopted; and

WHEREAS, the Implementation Plan identified the MacArthur Transit Village Redevelopment Project and related streetscape improvements as a key catalyst project, and the Redevelopment Agency of the City of Oakland (the "Agency") is pursuing implementation of the project in the redevelopment project area; and

WHEREAS, the project developer MacArthur Transit Community Partners, LLC (MTCP) plans to construct a number of improvements as the MacArthur Transit Village project, including 624 residential rental and ownership units (516 market rate units and 108 below market rate units); 42,500 square feet of commercial/neighborhood serving retail space; 5,000 square feet of community space; 400 replacement parking spaces for BART in a new parking structure and a commitment to park an additional 110 BART patrons through either an expanded parking garage, shared parking, satellite lots, and/or attended parking in the garage; and a new public plaza located across from the existing BART plaza; and

WHEREAS, construction of the project will require the purchase and demolition of seven privately owned properties which collectively contain eight commercial occupants, two low-income residential tenants, and one very-low income residential owner occupant that will have to be permanently relocated; and

WHEREAS, the displacement of those commercial and residential tenants and residential owner occupant is necessary to proceed with the acquisition of the properties in preparation for the development of the MacArthur Transit Village project; and

WHEREAS, the relocation of these displacees will be governed by state relocation law (Government Code §7260, et seq.) and implementing regulations (25 CCR §6000, et seq.); and

WHEREAS, state relocation regulations (25 CCR sec. 6038) require the preparation of relocation plans when there will be displacement resulting from the actions of a local agency, and the adoption of that plan by the local legislative body; and

WHEREAS, MTCP has prepared a residential relocation plan for the relocation of current residential owner occupants and residential tenants who will be displaced due to the development of the MacArthur Transit Village project; and

WHEREAS, MTCP has prepared a draft commercial relocation plan for the relocation of current commercial tenants who will be displaced due to the development of the MacArthur Transit Village project; and

WHEREAS, the City of Oakland is the lead agency for this project for purposes of environmental review; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby approves and adopts the Residential Relocation Plan for the MacArthur Transit Village project, attached as Attachment A to the staff report accompanying this Resolution; and be it further

RESOLVED: That the Redevelopment Agency hereby approves and adopts the Commercial Relocation Plan for the MacArthur Transit Village project, attached as Attachment B to the staff report accompanying this Resolution; and be it further

RESOLVED: That the Agency hereby finds and determines that the necessary resources are available to implement the Relocation Plans; and be it further

RESOLVED: That the Agency Administrator or his designee is hereby authorized to take whatever action is deemed necessary to implement the Relocation Plans consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
Secretary, Redevelopment Agency
of the City of Oakland

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 DEC -3 PM 5:10

APPROVED AS TO FORM AND LEGALITY:

Diane Lewis

AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

RESOLUTION APPROVING A REPLACEMENT HOUSING PLAN FOR THE MACARTHUR TRANSIT VILLAGE PROJECT

WHEREAS, Section 33413 of the California Health and Safety Code requires that dwelling units housing households of very low, low or moderate income that are destroyed or otherwise removed from the low and moderate income housing market as part of a redevelopment project that is subject to a written agreement with a redevelopment agency or that receives financial assistance from the agency be replaced on a one-for-one basis with comparable units; and

WHEREAS, Section 33413.5 of the California Health and Safety Code requires that a redevelopment agency adopt by resolution a replacement housing plan if such dwelling units are destroyed; and

WHEREAS, the Redevelopment Agency of the City of Oakland ("Agency") will be financially assisting the development of the MacArthur Transit Village Project (the "Project") by providing up to \$17.6 for general development costs, and up to \$16.4million for housing development costs; and

WHEREAS, the project developer MacArthur Transit Community Partners, LLC (MTCP) plans to construct a number of improvements as the MacArthur Transit Village project, including 624 residential rental and ownership units (516 market rate units and 108 below market rate units; 42,500 square feet of commercial/neighborhood serving retail space; 5,000 square feet of community space; 400 replacement parking spaces for BART in a new parking structure and a commitment to park an additional 110 BART patrons through either an expanded parking garage, shared parking, satellite lots, and/or attended parking in the garage; new public roads, and public plazas; and

WHEREAS, construction of the project will require the purchase and demolition of two properties: 526 West MacArthur Boulevard, currently in use as the Rio Motel, and 544 West MacArthur Boulevard, currently is use as the Sleepy Hollow Motel; and

WHEREAS, these two motel properties collectively contain one low income residential owner-occupied unit, one low-income residential rental unit and one very low income residential rental unit that will be displaced as a result of the first phase of construction; and

WHEREAS, the demolition of these housing units is necessary to proceed with the construction of the MacArthur Transit Village project which will eliminate blight and provide new housing in the redevelopment project area; and

WHEREAS, the Agency drafted a Replacement Housing Plan for the Project, attached as Attachment C to the staff report accompanying this resolution, providing for the replacement within four years of the housing units demolished on the Project site with 2 comparable units affordable to low income households earning no more than 80% of area median income and one very low income households earning no more than 50% of area median income; and

WHEREAS, the Replacement Housing Plan was made available to other public agencies and the general public for a reasonable time prior to the adoption of this Resolution; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby adopts the Replacement Housing Plan for the MacArthur Transit Village Project, attached as Attachment C to the staff report accompanying this resolution; and be it

FURTHER RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA guidelines; and the Agency Administrator shall cause to be filed with the County of Alameda a Notice of Exemption; and be it

FURTHER RESOLVED: That the Agency Administrator or his designee is hereby authorized to take action as necessary to implement the Replacement Housing Plan, and take any other action with respect to the Replacement Housing Plan consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
Secretary, Redevelopment Agency
of the City of Oakland