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APPROVED AS TO FORM AND LEGALITY:

By: *Alexa Rosenthal*
Deputy Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND
RESOLUTION NO. 2008-0002 C.M.S.

RESOLUTION AUTHORIZING THE EXECUTION OF A DISPOSITION AND DEVELOPMENT AGREEMENT WITH ARGONAUT HOLDINGS, INC. FOR THE SALE OF APPROXIMATELY 6.3 ACRES WITHIN THE FORMER OAKLAND ARMY BASE FOR THE APPRAISED FAIR MARKET VALUE (\$7,180,000) FOR THE DEVELOPMENT OF A GENERAL MOTORS DEALERSHIP

WHEREAS, the Oakland Army Base ("OARB") was identified for closure in 1995 by the Defense Base Closure and Realignment Commission ("Commission") and approved for closure by the President of the United States pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Public Law 150-526) and the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510) ("Acts") as amended; and

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

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

WHEREAS, the OBRA Governing Body at its meeting of June 26, 2006, passed Resolution No. 2006-09 authorizing its Executive Director to take all actions necessary to transfer all of the rights and obligations of OBRA to the Agency, effective August 7, 2006; and

WHEREAS, on December 5, 2006 the Oakland City Council certified the Supplemental Environmental Impact Report for the Oakland Army Base Auto Mall Project which analyzed the environmental impacts associated with the development of an auto mall and relocation of ancillary maritime support services, and adopted all appropriate CEQA findings; and

WHEREAS, the Final Reuse Plan was amended by the Agency on December 5, 2006 by Resolution No. 2006-0084 C.M.S. to include an auto mall concept as an additional conceptual strategy for the North Gateway area of the OARB, and to relocate ancillary maritime support uses, which is a category that includes truck parking, logistics center, or other similar port-related uses, to the East Gateway and/or Central Gateway; and

WHEREAS, the proposed project has been analyzed in a First Addendum to the Supplemental Environmental Impact Report for the Oakland Army Base Auto Mall Project ("Addenda 1"); and

WHEREAS, the Final Reuse Plan was amended by the Agency on December 18, 2007 by Resolution No. 2007-0086, and by the City Council by Resolution No. 81004 C.M.S., in order to refine the proposed traffic circulation patterns for the auto mall project, relying on Addenda 1; and

WHEREAS, the Agency owns approximately 6.3 acres of unimproved and vacant real property located in the former Oakland Army Base Area (OARB) and within the North Gateway Development subarea, a triangular site bounded by the East Bay Municipal Utility District (EBMUD) Wastewater Plant on the north, West Grand Avenue to the south and I-880 to the east, of the OARB Redevelopment Area, which property is more particularly described as Lot 6 in Exhibit "A" attached hereto and made a part hereof ("Property"); and

WHEREAS, Health and Safety Code Section 33430 authorizes a redevelopment agency within a survey (project) area or for purposes of redevelopment to sell real property, Section 33432 requires that any sale of real property by a redevelopment agency in a project area must be conditioned on redevelopment and use of the property in conformity with the redevelopment plan, and Section 33439 provides that a redevelopment agency must retain controls and establish restrictions or covenants running with the land for property sold for private use as provided in the redevelopment plan; and

WHEREAS, the Agency has entered into negotiations with Argonaut Holdings, Inc., a Delaware corporation ("Buyer") to purchase the Property for development of an approximately 70,000 square-foot, three-story building, along with 400 spaces for surface parking and space for storage for a General Motors automobile dealership and service facility (the "Project"); and

WHEREAS, the Agency has held a public hearing on this sale, notice of which was given by publication at least once a week for two weeks in a newspaper of general circulation; now, therefore, be it

RESOLVED: That the Agency hereby finds and determines that the sale of the Property by the Agency to Buyer or a legal entity controlled by Buyer furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the OARB Redevelopment Project Area, conforms to the OARB Redevelopment Plan and 5 Year Implementation Plan; and be it

FURTHER RESOLVED: That the Redevelopment Agency, acting as a Responsible Agency, has independently reviewed, analyzed, and considered the 2002 Army Base EIR, the 2006 Supplemental EIR and Addenda #1 prior to acting on the approvals. Based upon such independent review, analysis, and consideration, and exercising its independent judgment, the Agency confirms that the 2002 Army Base EIR and 2006 Supplemental EIR can be applied to this set of proposed actions and approves Addenda #1 to the Supplemental EIR because the criteria of CEQA Guidelines Section 15162 requiring additional environmental review have not been met. Specifically, and without limitation, the Agency finds and determines that the project would not result in any new or more severe significant impacts, there is no new information of substantial importance that would result in any new or more severe significant impacts, there are no substantial changes in circumstances that would result in any new or more severe significant impacts, and there is no feasible mitigation measure or alternative that is considerably different from others previously analyzed that has not been adopted, based upon the December 18, 2007 City Council Agenda Report, Addenda #1 and elsewhere in the record for this project and be it

FURTHER RESOLVED: That the Agency reaffirms the statement of overriding considerations adopted for the 2006 Supplemental Automall EIR in Resolution No. 2006-0084 C.M.S. on December 5, 2006; reaffirms the rejection of alternatives adopted for the 2006 Supplemental Automall EIR in Resolution No. 2006-0084 C.M.S. and also adopts the reasons for rejection of alternative access to EBMUD as detailed in Addenda #1, all of which are incorporated herein by Reference; and be it

FURTHER RESOLVED: That the Disposition and Development Agreement will provide that the Agency will not be required to complete the land sale until the Auto Mall Project has achieved a critical mass of dealerships as demonstrated by the approval by the Redevelopment Agency of development agreements for at least two additional auto dealerships, including at least one luxury dealership; and be it

FURTHER RESOLVED: That the Agency adopts the Conditions of Approval and Mitigation Monitoring and Reporting Program (MMRP), as detailed in the December 18, 2007 City Council Agenda Report, and accompanying resolutions, hereby incorporated herein by reference as if fully set forth herein, and imposes such obligations on the Property Buyer. The monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the MMRP. Adoption of this program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 261081.6 of CEQA. All proposed conditions of approval and mitigation measures are capable of being fully implemented, and shall be implemented by the efforts of the Agency or other identified public agencies or entities of responsibility as set forth in the conditions of approval and the MMRP; and be it

FURTHER RESOLVED: That the recitals contained in this Resolution are true and correct and are in integral part of the Agency decision; and be it further

FURTHER RESOLVED: That the Agency hereby authorizes the Agency Administrator or her designee to sell the Property to Buyer for the fair market value as determined by appraisal made at the time of the sale; and be it

FURTHER RESOLVED: That the Property shall be transferred to Buyer pursuant to terms of a Disposition and Development Agreement (“DDA”) to be executed by Agency and Buyer; and be it

FURTHER RESOLVED: That the DDA must be executed by the Buyer within sixty (60) calendar days of the effective date of this Resolution or else the Agency Administrator must return to the Agency to seek direction on the sale of the Property; and be it

FURTHER RESOLVED: That the transaction shall include the following terms and conditions:

- The Buyer will pay a non-refundable deposit at the time the DDA is executed;
- The purchase price of the Property, which is the fair market value as determined by appraisal on the effective date of the DDA, shall be payable in cash at the close of escrow;
- The Buyer must meet a specific schedule of performance;
- The Buyer is required to pay their fair share of traffic mitigations and other mitigations that are referenced in the Oakland Army Base EIR;
- The Agency is required to use its best efforts to obtain a “media center” (i.e. electronic) billboard to help promoted the auto mall;
- The Buyer may terminate the DDA if the Agency does not provide adequate freeway signage;
- The Buyer is required to participate financially in a dealership association to market and promote the auto mall;
- The Agency has the right to review and approve the designs of the dealership buildings;
- The Buyer purchases the property on an “as-is, where-is” basis and assumes any obligations for environmental remediation or reporting that is required;
- The Agency will have the option to repurchase all or portions of the Property if Buyer does not commence construction of the Project within the time frames specified in the DDA;
- Buyer to comply with provisions of the OARB Final Reuse Plan and Redevelopment Plan all applicable state, City and Agency employment and labor laws; and
- Any other appropriate terms and conditions as the Agency Administrator or her designee may establish in his or her discretion or as the California Community Redevelopment Law or Redevelopment Plan may require;

and be it

FURTHER RESOLVED: That the Agency finds that the above transaction represents the fair market value of the Property in accordance with the Redevelopment Plan; and be it

FURTHER RESOLVED: That all documents shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it

FURTHER RESOLVED: That the Agency hereby appoints the Agency Administrator or her designee as agent of the Redevelopment Agency to conduct negotiations, execute documents with respect to the sale of the Property, including any grant deeds or other documentation as necessary to effectuate the transaction, exercise any of the repurchase options, pay the purchase price, and accept property under those options, and take any other action with respect to the Property and the Project consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That the Agency Administrator or her designee is hereby authorized to file a notice of determination on this action with the Office of the Alameda County Recorder, and the Agency Secretary is hereby authorized and directed to retain a copy of the SEIR in the record of proceedings for this Project, which shall be maintained by the Agency Secretary; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

FURTHER RESOLVED: That land sale proceeds will be deposited in Oakland Army Base Redevelopment Area Operations Fund (9570), General Ledger Organization (08222).

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 5 2008, 20

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

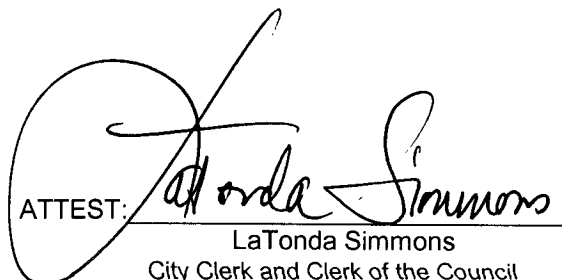
ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A
PROPERTY MAP