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APPROVED AS TO FORM AND LEGALITY:

By: James Alan  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. 80302 C.M.S.

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**A RESOLUTION APPROVING THE SALE OF APPROXIMATELY 5.2 ACRES OF REAL PROPERTY LOCATED WITHIN THE FORMER OAKLAND ARMY BASE FOR THE APPRAISED FAIR MARKET VALUE TO SOJITZ MOTORS, INCORPORATED FOR ITS DEVELOPMENT OF A BMW DEALERSHIP**

**WHEREAS**, the California Community Redevelopment Law, Health and Safety Code Section 33430, authorizes a redevelopment agency within a survey (project) area or for purposes of redevelopment to sell real property; and

**WHEREAS**, the California Community Redevelopment Law, Health and Safety Code Section 33433, requires that before any property of a redevelopment agency that is acquired in whole or in part with tax increment moneys is sold for development pursuant to a redevelopment plan, the sale must first be approved by the legislative body, i.e., the City Council, by resolution after a public hearing; and

**WHEREAS**, the Agency owns approximately 5.2 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 Wastewater Plant on the north, West Grand Avenue to the south and I-880 to the east, of the OARB Redevelopment Area; and

**WHEREAS**, Sojitz Motors, Incorporated, a California corporation ("Sojitz"), desires to purchase the Property from the Agency for development of a General Motors dealership and service facility (the "Project"); and

**WHEREAS**, staff has negotiated and proposes entering into a Disposition and Development Agreement ("DDA") with Sojitz which sets forth the terms and conditions of the sale of the Property to Sojitz and governs the development of the Project and the use of the Property by Sojitz through recorded covenants running with the land; and

**WHEREAS**, the DDA requires that Sojitz construct and operate the Project consistent with the Redevelopment Plan; and

**WHEREAS**, the DDA and the grant deed that will convey the Property to Sojitz adequately condition the sale of the Property on the redevelopment and use of the Property in conformity with the Oakland Army Base Redevelopment Plan, and such

documents prohibit discrimination in any aspect of the Project as required under the Oakland Army Base Redevelopment Plan and the California Community Redevelopment Law; and

**WHEREAS**, the Project uses are in conformity with the Oakland Army Base Redevelopment Plan, the Project will assist in the elimination of blight in the Central District and the Project will help meet the objectives of the Oakland Army Base Redevelopment Plan; and

**WHEREAS**, as required by the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contains a copy of the draft DDA and a summary of the cost of the agreement to the Agency, the estimated fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, the estimated value of the Property determined at the use and with the conditions, covenants and development costs required by the sale, an explanation of the reasons for the difference between the two values (if any), and an explanation of why the sale of the Property and development of the Project will assist in the elimination of blight, with supporting facts and material; and

**WHEREAS**, a joint public hearing between the Agency and the City Council was held to hear public comments on the sale of the Property for the Project; and

**WHEREAS**, notice of the sale of the Property and the public hearing was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

**WHEREAS**, in 2002 the Oakland City Planning Commission certified the Oakland Army Base Redevelopment Plan EIR and the Oakland City Council, Oakland Base Reuse Authority and Oakland Redevelopment Agency adopted all appropriate California Environmental Quality Act ("CEQA") findings; and

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

**RESOLVED:** That the City Council, acting as the Lead Agency under CEQA, adopts all of the CEQA findings set forth in Exhibit A of this resolution, hereby incorporated by reference, prior to taking action on the Project; and be it further

**RESOLVED:** That the City Council hereby finds and determines that the sale of the Property by the Agency to Sojitz for the Project 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, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that::; and be it further

**RESOLVED:** That the City Council hereby approves the sale of the Property to Sojitz by the Agency, subject to the terms and conditions of the DDA; and be it further

**RESOLVED:** That the City Council finds and determines that the consideration for the sale of the Property is not less than its fair reuse value at the use and with the covenants and conditions and development costs authorized under the DDA, for the reasons set forth in the report prepared in accordance with Health and Safety Code Section 33433; 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 and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it further

**RESOLVED:** That the City Council hereby appoints the City Administrator or his or her designee to take any other action with respect to the Property or the Project, consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 5 2006, 2006

**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

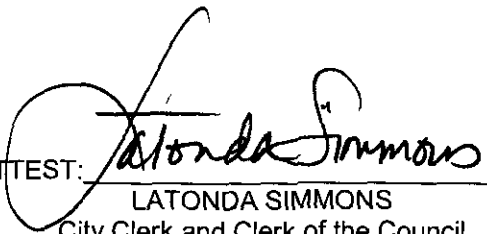
ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland

EXHIBIT A  
**CITY CEQA FINDINGS**

## **AUTOMALL CEQA FINDINGS: CITY**

### **I. INTRODUCTION**

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the Oakland City Council in connection with the Supplemental EIR prepared for the Oakland Army Base ("OARB") Auto Mall Project ("the Project"), EIR SCH # 2006012092.

2. These findings are attached and incorporated by reference into the November 28, 2006 staff report and accompanying resolutions. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

### **II. PROJECT DESCRIPTION**

3. The Project, which is the subject of the EIR, is located on an approximately 30-acre portion of the former OARB and within the OARB Redevelopment Area. The site is specifically described as the North Gateway Development subarea, a triangular site bounded by the East Bay Municipal Utility District (EBMUD) Wastewater Treatment Plant on the north, West Grand Avenue to the south and I-880 on the east. Access to the site is via Wake Avenue from Maritime Street, and West Grand Avenue.

The Auto Mall Project conceptual reuse strategy would be implemented in the North subarea of the GDA only and consists of the following activities:

- Automobile Dealerships

Four or five separate automobile dealerships would occupy five separate parcels of approximately 4 to 6 acres each (Parcels A through E). Each dealership would include 1- to possibly 3-story building to accommodate auto showrooms, sales space, and auto repair and service facilities. Each dealership also includes outdoor surface area for automobile storage, employee and customer parking and circulation.

- Access Road and Utilities

Wake Avenue would be abandoned and instead Maritime Street would be extended north from the intersection of West Grand Avenue, then continued to the east and south as a North Gateway access road. This road would carry traffic on the north side of West Grand Avenue and provide access to auto dealership sites in the North Gateway. The access road would end in a cul-de-sac near the raised West Grand Avenue.

The Project additionally includes relocating the Ancillary Maritime Support (AMS) activities from the Baldwin Yard in the North Gateway to the East and/or Central Gateway Development Area.

### III. ENVIRONMENTAL REVIEW OF THE PROJECT

4. In July 2002, the City Planning Commission certified the Oakland Army Base (OARB) Area Redevelopment Plan Environmental Impact Report (EIR) that explored a number of development options for the Base. Subsequently, the Oakland City Council and Oakland Redevelopment Agency adopted all appropriate CEQA findings, including an MMRP, findings related to impacts, reasons for rejection of alternatives as infeasible and a statement of overriding considerations. Although a small amount of retail was included in the Redevelopment Plan EIR, an Auto Mall concept was not included.

5. Pursuant to CEQA and the CEQA Guidelines, the City determined that a Supplemental EIR (SEIR) would be required for the Project. On January 19, 2006, the City issued a Notice of Preparation for the SEIR and an Initial Study, which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of this Notice and the comments thereon are included in Appendix B of the Draft SEIR.

6. A Draft SEIR was prepared for the Project to analyze its environmental impacts. The Draft SEIR was properly circulated for a 75-day public review period from April 17, 2006 to June 30, 2006, which exceeds the legally required 45-day comment period. The Planning Commission held a hearing on the Draft SEIR on May 17, 2006.

7. The City received written and oral comments on the Draft SEIR. The City prepared responses to comments on environmental issues and made changes to the Draft SEIR. The responses to comments, changes to the Draft EIR and additional information were published in a Final SEIR on October 6, 2006. The Draft SEIR, the Final SEIR and all appendices thereto constitute the "SEIR" referenced in these findings.

### IV. THE ADMINISTRATIVE RECORD

8. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

a. The SEIR and all documents referenced in or relied upon by the SEIR.

b. All information (including written evidence and testimony) provided by City staff to the Planning Commission and Oakland City Council relating to the SEIR, the approvals, and the Project.

c. All information (including written evidence and testimony) presented to the Planning Commission and Oakland City Council by the environmental consultant and subconsultants who prepared the SEIR or incorporated into reports presented to the Planning Commission and Oakland City Council.

d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Oakland Army Base Auto Mall Project or the SEIR.

e. All final applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.

f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the SEIR.

g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

h. The Mitigation Monitoring and Reporting Program for the Project.

i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

9. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is Claudia Cappio, Development Director, Community and Economic Development Agency, or her designee. Such documents and other materials are located at Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

## V. CERTIFICATION OF THE EIR

10. In accordance with CEQA, the Oakland City Council, acting as the Lead Agency under CEQA, certifies that the SEIR has been completed in compliance with CEQA. The Oakland City Council has independently reviewed and considered the record and the SEIR prior to certifying the SEIR. By these findings, the Oakland City Council confirms, ratifies, and adopts the findings and conclusions of the SEIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Oakland City Council.

11. The Oakland City Council recognizes that the SEIR may contain clerical errors. The Oakland City Council reviewed the entirety of the SEIR and bases its determination on the substance of the information it contains.

12. The Oakland City Council certifies that the SEIR is adequate to support the approval of the project described in the SEIR, each component and phase of the Project described in the SEIR, any variant of the Project described in the SEIR, any minor modifications to the Project or variants described in the SEIR and the components of the Project.

## **VI. ABSENCE OF SIGNIFICANT NEW INFORMATION**

13. The Oakland City Council recognizes that the Final SEIR incorporates information obtained and produced after the Draft SEIR was completed, and that the SEIR contains additions, clarifications, and modifications. The Oakland City Council has reviewed and considered the Final SEIR and all of this information. The Final SEIR does not add significant new information to the Draft SEIR that would require recirculation of the SEIR under CEQA. The new information added to the SEIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft SEIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft SEIR. Thus, recirculation of the SEIR is not required.

14. The Oakland City Council finds that the changes and modifications made to the SEIR after the Draft SEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

## **VII. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MITIGATION MONITORING AND REPORTING PROGRAM**

15. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the SEIR are implemented. The Mitigation Monitoring and Reporting Program ("MMRP") is attached and incorporated by reference into the November 28, 2006 staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the City Council. The MMRP satisfies the requirements of CEQA.

16. The mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts will result. The MMRP adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, non-compliance sanctions, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures.

17. The City Council will adopt and impose the feasible mitigation measures as set forth in the MMRP as enforceable conditions of approval. The City will adopt measures to substantially lessen or eliminate all significant effects where feasible.

18. The mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the SEIR. In the event a mitigation measure recommended in the SEIR has been inadvertently



omitted from the conditions of approval or the MMRP, that mitigation measure is adopted and incorporated from the SEIR into the MMRP by reference and adopted as a condition of approval.

### **VIII. FINDINGS REGARDING IMPACTS**

19. The 2002 Oakland Army Base Redevelopment Plan EIR identified mitigation measures that, if implemented, would avoid or reduce a total of sixty-five identified significant effects related to the Oakland Army Base Redevelopment Plan to less-than-significant levels. Some of these environmental effects have been eliminated because they are no longer applicable to the current project. The remaining mitigations are still applicable and are incorporated by reference into the Oakland Army Base Auto Mall SEIR. Similarly, the 2002 Army Base Redevelopment Plan EIR identified eight projects-specific impacts and six cumulative impacts that could not be mitigated to less than significant levels and therefore remain significant and unavoidable. The Oakland City Council relies upon the previously certified 2002 Oakland Army Base Redevelopment Plan EIR and the previously adopted CEQA findings and incorporates those findings herein, except as where noted below.

20. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the City Council adopts the new findings and conclusions regarding impacts and mitigation measures that are set forth in the SEIR and summarized in the MMRP. These findings do not repeat the full discussions of environmental impacts contained in the SEIR. The City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments and conclusions of the SEIR. The City Council adopts the reasoning of the SEIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.

21. The City Council recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City Council acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The City Council has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the City Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the SEIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

### **SIGNIFICANT BUT MITIGATABLE IMPACTS**

22. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the SEIR and the MMRP, the City Council finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following newly identified potentially significant impacts will be reduced to a

less than significant level through the implementation of Project mitigation measures, or where indicated through the implementation of standard conditions of approval (which are treated as mitigation measures and an integral part of the MMRP):

**a. Traffic:** Impact Traf-3 finds that at the N. Access Road / EBMUD Driveway intersection, the Project would substantially increase traffic hazards to motor vehicles and perhaps bicyclists and pedestrians due to the configuration of the intersection. This impact will be mitigated through the implementation of Mitigation Measure MM Traf-3 which requires that the Project Sponsors shall work with the property owners to develop an access design that provides adequate levels of safety. One option would be to relocate the EBMUD driveway to connect as the north leg of the N. Access Road / E. Access Road intersection. If the driveway were relocated, the N. Access Road / E. Access Road intersection would operate in compliance with the City's level of service standards with all-way stop traffic control. Design plans for the project and all public facilities shall be consistent with City standards and are subject to the approval of the City of Oakland Public Works Agency.

**b. Traffic:** Impact Traf-4 finds that construction of the access road from the northern extension of Maritime Street would end in a cul-de-sac for the Project and could result in less than two emergency access routes for streets exceeding 600 feet in length. This impact will be mitigated through implementation of Mitigation Measure MM Traf-4 which requires construct emergency vehicle access to the east end of the Project.

### **SIGNIFICANT AND UNAVOIDABLE IMPACTS**

23. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the SEIR and the MMRP, the City Council finds that the following newly identified impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible mitigation measures, as set forth below. The City Council also finds that any alternative discussed in the SEIR that may reduce the significance of these impacts is rejected as infeasible for the reasons given below.

**a. Traffic:** Impact Traf-7 finds that at the West Grand Avenue/I-880 Frontage Road intersection, the Project would increase traffic in 2025 and both development options would cause the average vehicle delay to increase by more than two (2) seconds where the future baseline level of service would be LOS during the a.m. peak, p.m. peak, and Saturday peak hours. This potential unavoidable significant impact was considered significant but mitigated in the OARB Redevelopment Plan EIR. However, subsequent City of Oakland EIRs (Uptown and Wood Street Projects) have re-examined the feasibility of the mitigation necessary at this location and have concluded that costs of the identified improvement were so prohibitively high that the mitigation was not feasible and the impacts was considered significant and unavoidable; and is overridden as set forth below in the Statement of Overriding Considerations.

**b. Traffic:** Impact Traf-10 at the 7<sup>th</sup> Street/Maritime Street intersection, the Project would increase traffic in 2025 and would cause the average vehicle

delay to increase by more than two (2) seconds where they future baseline level of service would be LOS F during both the a.m. and p.m. peak hours. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations. Although this impact is considered significant and unavoidable, the SEIR nevertheless identified mitigation measures to reduce the impact to the extent feasible. The mitigation measure requires that as part of the cumulative growth of the OARB area Redevelopment Plan, the Project Sponsor shall fund a fair share of the following modifications at the 7th Street / Maritime Street intersection:

- Revise the northbound Maritime Street lanes to provide one left turn lane, one combination left-through lane, one through lane, and one right turn lane with overlap signal phasing (green arrow)
- Revise the southbound Maritime Street lanes to provide one left turn lane, one combination left-through lane, and one combination through-right turn lane
- Revise the eastbound 7th Street lanes to provide one left turn lane, two through lanes, and one right turn lane with overlap signal phasing (green arrow)
- Revise the westbound 7th Street lanes to provide two left turn lanes, two through lanes and one right turn lane with overlap signal phasing (green arrow)
- Provide split phasing for the north and southbound traffic movements.

Design plans for all public facilities shall be consistent with City standards and are subject to the approval of the City of Oakland Public Works Agency.

## IX. FINDINGS REGARDING ALTERNATIVES

24. The 2002 OARB Redevelopment Plan DEIR identified eight alternatives to the proposed project, three which were initially rejected as infeasible, four which were considered in detail and one which was included to evaluate the upper range of development, but would significantly increase environmental impacts. The Oakland City Council relies upon the previously certified 2002 Oakland Army Base Redevelopment Plan EIR and the previously adopted CEQA findings and incorporates those findings herein, except as where noted below.

25. The three alternatives that were initially rejected were (1) the “Full Adaptive Reuse Alternative,” which would preserve historic structures for reuse and maintain the integrity of the National Register-eligible OARB Historic District; (2) The “No New Intermodal Facility Alternative” which would replace 130 acres of the Port Development Area within the OARB Redevelopment Plan area with ancillary maritime support uses in order to address trucking needs; and (3) the “No New Berth 21 Alternative” where the Outer Harbor shoreline reconfiguration required to achieve an operational geometry for New Berth 21 would not occur. These previously-rejected alternatives are rejected because of the new reason that they apply to areas of the former Army Base that are outside the boundaries of the Auto Mall Project Area. Specifically, the “Adaptive Reuse Alternative” is rejected there are no historic structures within the Auto Mall project area; and the “No New Intermodal Facility Alternative” and “No New Berth 21 Alternative” are rejected because they both apply to the Port Development Area which is outside of the Auto Mall Project area.

26. The Auto Mall SEIR incorporated the five alternatives identified in the 2002 OARB Redevelopment Plan EIR and also evaluated three new alternatives to the proposed project.

27. The three potentially feasible alternatives analyzed in the SEIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include the (1) Ancillary Maritime Support (AMS) Alternative which consists of redevelopment of the Project site and the expanded Option B area with AMS uses only; (2) Partial AMS Alternative where the big-box retail location on the Option B site would be replaced by approximately 13 acres of AMS uses and an additional dealership for the Auto Mall; and (3) Partial AMS and Compact Design Alternative where the Option B site is developed with AMS uses as described above, and an additional dealership is provided in the North Gateway area. This alternative could also include small restaurant uses within the dealerships that are targeted to employees and customers of the Auto Mall. As presented in the SDEIR and SFEIR, the alternatives were described and compared with each other and with the proposed project.

28. The City Council certifies that it has independently reviewed and considered the information on alternatives provided in the SEIR and in the record. The SEIR reflects the City Council's independent judgment as to alternatives. The City Council finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, the project's benefits as described below in the Statement of Overriding Considerations, and mitigation of environmental impacts to the extent feasible. The other alternative proposed and evaluated in the SEIR is rejected for the reasons stated in the EIR and for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

29. **Under Alternative 1: Ancillary Maritime Support Alternative**, would generate less traffic and consequently less mobile source emissions than the proposed Project but would not wholly avoid or reduce these impacts to levels of less than significant. The AMS Alternative would result in less balanced land uses with a moderate decrease in economic activity including less jobs and less tax revenue than under the proposed Project. It would, however, provide substantial more land area to offset the anticipated cumulative deficit in available truck parking at or near the Port. However, one of the reasons that the Full Maritime Alternative was rejected by the City of Oakland when it approved the OARB Redevelopment/Reuse Plan was because, beyond the 2020 buildout date, the Full Maritime Alternative would have provided the opportunity, if demand warrants, to increase maritime activities resulting in more ship rail and truck trips. Increasing these activities could result in commensurate worsening of impacts related to air quality and traffic

30. Auto Mall Project Option B, along with the "Partial AMS" and "Partial AMS Compact" alternatives which also were evaluated in the SEIR are not being pursued because they apply to areas that are outside the Auto Mall North subarea boundaries, and the Project Sponsor intends to address these areas as part of a separate, comprehensive development program for the remainder of the former Army Base at a later date.

## **X. STATEMENT OF OVERRIDING CONSIDERATIONS**

31. The Oakland City Council relies upon the previously certified 2002 Oakland Army Base Redevelopment Plan EIR and the previously adopted Statement of Overriding Considerations and incorporates those findings herein, except as where noted below. The City Council finds that each of the specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations.

32. The Project will retain and expand an important retail segment of the Oakland economy.

33. The Project will retain and expand a diverse and well-paying workforce in Oakland and provide opportunities for local employment.

34. The Project will retain and expand a significant source of ongoing revenues in Oakland, including sales taxes and tax increment financing.

35. The Project will generate one time revenue proceeds, including proceeds from the sale of land and real estate transfer tax.

36. The Project will create temporary construction jobs.

37. The Project best leverages the former Army Base assets, supports sustainable land utilization, and improves the existing visual environment, land use variety and compatibility of local development.

38. The Project will create much needed new infrastructure in a blighted and underutilized area.

39. The Project will improve access to the North subarea of the former Army Base.

### **Mitigation Monitoring**

40. That the monitoring and reporting of CEQA mitigation measures will be conducted in accordance with the attached Mitigation Monitoring and Reporting Program (MMRP). All the mitigation measures identified in the SEIR, and as modified by the Oakland City Council, will be incorporated into the MMRP. Adoption of the final MMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Oakland, subsequent project developers or other identified public agencies of responsibility. Those changes or alternations that are within the jurisdiction of another public agency have been, or can and should be adopted by that other agency.

## **AUTOMALL CEQA FINDINGS: CITY**

### **I. INTRODUCTION**

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the Oakland City Council in connection with the Supplemental EIR prepared for the Oakland Army Base ("OARB") Auto Mall Project ("the Project"), EIR SCH # 2006012092.

2. These findings are attached and incorporated by reference into the November 28, 2006 staff report and accompanying resolutions. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

### **II. PROJECT DESCRIPTION**

3. The Project, which is the subject of the EIR, is located on an approximately 30-acre portion of the former OARB and within the OARB Redevelopment Area. The site is specifically described as the North Gateway Development subarea, a triangular site bounded by the East Bay Municipal Utility District (EBMUD) Wastewater Treatment Plant on the north, West Grand Avenue to the south and I-880 on the east. Access to the site is via Wake Avenue from Maritime Street, and West Grand Avenue.

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▪ Access Road and Utilities

Wake Avenue would be abandoned and instead Maritime Street would be extended north from the intersection of West Grand Avenue, then continued to the east and south as a North Gateway access road. This road would carry traffic on the north side of West Grand Avenue and provide access to auto dealership sites in the North Gateway. The access road would end in a cul-de-sac near the raised West Grand Avenue.

The Project additionally includes relocating the Ancillary Maritime Support (AMS) activities from the Baldwin Yard in the North Gateway to the East and/or Central Gateway Development Area.

### III. ENVIRONMENTAL REVIEW OF THE PROJECT

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7. The City received written and oral comments on the Draft SEIR. The City prepared responses to comments on environmental issues and made changes to the Draft SEIR. The responses to comments, changes to the Draft EIR and additional information were published in a Final SEIR on October 6, 2006. The Draft SEIR, the Final SEIR and all appendices thereto constitute the "SEIR" referenced in these findings.

### IV. THE ADMINISTRATIVE RECORD

8. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

a. The SEIR and all documents referenced in or relied upon by the SEIR.

b. All information (including written evidence and testimony) provided by City staff to the Planning Commission and Oakland City Council relating to the SEIR, the approvals, and the Project.

c. All information (including written evidence and testimony) presented to the Planning Commission and Oakland City Council by the environmental consultant and subconsultants who prepared the SEIR or incorporated into reports presented to the Planning Commission and Oakland City Council.

d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Oakland Army Base Auto Mall Project or the SEIR.

e. All final applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.

f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the SEIR.

g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

h. The Mitigation Monitoring and Reporting Program for the Project.

i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

9. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is Claudia Cappio, Development Director, Community and Economic Development Agency, or her designee. Such documents and other materials are located at Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

## **V. CERTIFICATION OF THE EIR**

10. In accordance with CEQA, the Oakland City Council, acting as the Lead Agency under CEQA, certifies that the SEIR has been completed in compliance with CEQA. The Oakland City Council has independently reviewed and considered the record and the SEIR prior to certifying the SEIR. By these findings, the Oakland City Council confirms, ratifies, and adopts the findings and conclusions of the SEIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Oakland City Council.

11. The Oakland City Council recognizes that the SEIR may contain clerical errors. The Oakland City Council reviewed the entirety of the SEIR and bases its determination on the substance of the information it contains.

12. The Oakland City Council certifies that the SEIR is adequate to support the approval of the project described in the SEIR, each component and phase of the Project described in the SEIR, any variant of the Project described in the SEIR, any minor modifications to the Project or variants described in the SEIR and the components of the Project.



## **VI. ABSENCE OF SIGNIFICANT NEW INFORMATION**

13. The Oakland City Council recognizes that the Final SEIR incorporates information obtained and produced after the Draft SEIR was completed, and that the SEIR contains additions, clarifications, and modifications. The Oakland City Council has reviewed and considered the Final SEIR and all of this information. The Final SEIR does not add significant new information to the Draft SEIR that would require recirculation of the SEIR under CEQA. The new information added to the SEIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft SEIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft SEIR. Thus, recirculation of the SEIR is not required.

14. The Oakland City Council finds that the changes and modifications made to the SEIR after the Draft SEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

## **VII. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MITIGATION MONITORING AND REPORTING PROGRAM**

15. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the SEIR are implemented. The Mitigation Monitoring and Reporting Program ("MMRP") is attached and incorporated by reference into the November 28, 2006 staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the City Council. The MMRP satisfies the requirements of CEQA.

16. The mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts will result. The MMRP adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, non-compliance sanctions, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures.

17. The City Council will adopt and impose the feasible mitigation measures as set forth in the MMRP as enforceable conditions of approval. The City will adopt measures to substantially lessen or eliminate all significant effects where feasible.

18. The mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the SEIR. In the event a mitigation measure recommended in the SEIR has been inadvertently

omitted from the conditions of approval or the MMRP, that mitigation measure is adopted and incorporated from the SEIR into the MMRP by reference and adopted as a condition of approval.

### **VIII. FINDINGS REGARDING IMPACTS**

19. The 2002 Oakland Army Base Redevelopment Plan EIR identified mitigation measures that, if implemented, would avoid or reduce a total of sixty-five identified significant effects related to the Oakland Army Base Redevelopment Plan to less-than-significant levels. Some of these environmental effects have been eliminated because they are no longer applicable to the current project. The remaining mitigations are still applicable and are incorporated by reference into the Oakland Army Base Auto Mall SEIR. Similarly, the 2002 Army Base Redevelopment Plan EIR identified eight projects-specific impacts and six cumulative impacts that could not be mitigated to less than significant levels and therefore remain significant and unavoidable. The Oakland City Council relies upon the previously certified 2002 Oakland Army Base Redevelopment Plan EIR and the previously adopted CEQA findings and incorporates those findings herein, except as where noted below.

20. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the City Council adopts the new findings and conclusions regarding impacts and mitigation measures that are set forth in the SEIR and summarized in the MMRP. These findings do not repeat the full discussions of environmental impacts contained in the SEIR. The City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments and conclusions of the SEIR. The City Council adopts the reasoning of the SEIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.

21. The City Council recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City Council acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The City Council has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the City Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the SEIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

### **SIGNIFICANT BUT MITIGATABLE IMPACTS**

22. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the SEIR and the MMRP, the City Council finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following newly identified potentially significant impacts will be reduced to a

less than significant level through the implementation of Project mitigation measures, or where indicated through the implementation of standard conditions of approval (which are treated as mitigation measures and an integral part of the MMRP):

**a. Traffic:** Impact Traf-3 finds that at the N. Access Road / EBMUD Driveway intersection, the Project would substantially increase traffic hazards to motor vehicles and perhaps bicyclists and pedestrians due to the configuration of the intersection. This impact will be mitigated through the implementation of Mitigation Measure MM Traf-3 which requires that the Project Sponsors shall work with the property owners to develop an access design that provides adequate levels of safety. One option would be to relocate the EBMUD driveway to connect as the north leg of the N. Access Road / E. Access Road intersection. If the driveway were relocated, the N. Access Road / E. Access Road intersection would operate in compliance with the City's level of service standards with all-way stop traffic control. Design plans for the project and all public facilities shall be consistent with City standards and are subject to the approval of the City of Oakland Public Works Agency.

**b. Traffic:** Impact Traf-4 finds that construction of the access road from the northern extension of Maritime Street would end in a cul-de-sac for the Project and could result in less than two emergency access routes for streets exceeding 600 feet in length. This impact will be mitigated through implementation of Mitigation Measure MM Traf-4 which requires construct emergency vehicle access to the east end of the Project.

### **SIGNIFICANT AND UNAVOIDABLE IMPACTS**

23. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the SEIR and the MMRP, the City Council finds that the following newly identified impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible mitigation measures, as set forth below. The City Council also finds that any alternative discussed in the SEIR that may reduce the significance of these impacts is rejected as infeasible for the reasons given below.

**a. Traffic:** Impact Traf-7 finds that at the West Grand Avenue/I-880 Frontage Road intersection, the Project would increase traffic in 2025 and both development options would cause the average vehicle delay to increase by more than two (2) seconds where the future baseline level of service would be LOS during the a.m. peak, p.m. peak, and Saturday peak hours. This potential unavoidable significant impact was considered significant but mitigated in the OARB Redevelopment Plan EIR. However, subsequent City of Oakland EIRs (Uptown and Wood Street Projects) have re-examined the feasibility of the mitigation necessary at this location and have concluded that costs of the identified improvement were so prohibitively high that the mitigation was not feasible and the impacts was considered significant and unavoidable; and is overridden as set forth below in the Statement of Overriding Considerations.

**b. Traffic:** Impact Traf-10 at the 7<sup>th</sup> Street/Maritime Street intersection, the Project would increase traffic in 2025 and would cause the average vehicle

delay to increase by more than two (2) seconds where they future baseline level of service would be LOS F during both the a.m. and p.m. peak hours. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations. Although this impact is considered significant and unavoidable, the SEIR nevertheless identified mitigation measures to reduce the impact to the extent feasible. The mitigation measure requires that as part of the cumulative growth of the OARB area Redevelopment Plan, the Project Sponsor shall fund a fair share of the following modifications at the 7th Street / Maritime Street intersection:

- Revise the northbound Maritime Street lanes to provide one left turn lane, one combination left-through lane, one through lane, and one right turn lane with overlap signal phasing (green arrow)
- Revise the southbound Maritime Street lanes to provide one left turn lane, one combination left-through lane, and one combination through-right turn lane
- Revise the eastbound 7th Street lanes to provide one left turn lane, two through lanes, and one right turn lane with overlap signal phasing (green arrow)
- Revise the westbound 7th Street lanes to provide two left turn lanes, two through lanes and one right turn lane with overlap signal phasing (green arrow)
- Provide split phasing for the north and southbound traffic movements.

Design plans for all public facilities shall be consistent with City standards and are subject to the approval of the City of Oakland Public Works Agency.

## **IX. FINDINGS REGARDING ALTERNATIVES**

24. The 2002 OARB Redevelopment Plan DEIR identified eight alternatives to the proposed project, three which were initially rejected as infeasible, four which were considered in detail and one which was included to evaluate the upper range of development, but would significantly increase environmental impacts. The Oakland City Council relies upon the previously certified 2002 Oakland Army Base Redevelopment Plan EIR and the previously adopted CEQA findings and incorporates those findings herein, except as where noted below.

25. The three alternatives that were initially rejected were (1) the “Full Adaptive Reuse Alternative,” which would preserve historic structures for reuse and maintain the integrity of the National Register-eligible OARB Historic District; (2) The “No New Intermodal Facility Alternative” which would replace 130 acres of the Port Development Area within the OARB Redevelopment Plan area with ancillary maritime support uses in order to address trucking needs; and (3) the “No New Berth 21 Alternative” where the Outer Harbor shoreline reconfiguration required to achieve an operational geometry for New Berth 21 would not occur. These previously-rejected alternatives are rejected because of the new reason that they apply to areas of the former Army Base that are outside the boundaries of the Auto Mall Project Area. Specifically, the “Adaptive Reuse Alternative” is rejected there are no historic structures within the Auto Mall project area; and the “No New Intermodal Facility Alternative” and “No New Berth 21 Alternative” are rejected because they both apply to the Port Development Area which is outside of the Auto Mall Project area.

26. The Auto Mall SEIR incorporated the five alternatives identified in the 2002 OARB Redevelopment Plan EIR and also evaluated three new alternatives to the proposed project.

27. The three potentially feasible alternatives analyzed in the SEIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include the (1) Ancillary Maritime Support (AMS) Alternative which consists of redevelopment of the Project site and the expanded Option B area with AMS uses only; (2) Partial AMS Alternative where the big-box retail location on the Option B site would be replaced by approximately 13 acres of AMS uses and an additional dealership for the Auto Mall; and (3) Partial AMS and Compact Design Alternative where the Option B site is developed with AMS uses as described above, and an additional dealership is provided in the North Gateway area. This alternative could also include small restaurant uses within the dealerships that are targeted to employees and customers of the Auto Mall. As presented in the SDEIR and SFEIR, the alternatives were described and compared with each other and with the proposed project.

28. The City Council certifies that it has independently reviewed and considered the information on alternatives provided in the SEIR and in the record. The SEIR reflects the City Council's independent judgment as to alternatives. The City Council finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, the project's benefits as described below in the Statement of Overriding Considerations, and mitigation of environmental impacts to the extent feasible. The other alternative proposed and evaluated in the SEIR is rejected for the reasons stated in the EIR and for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

29. **Under Alternative 1: Ancillary Maritime Support Alternative**, would generate less traffic and consequently less mobile source emissions than the proposed Project but would not wholly avoid or reduce these impacts to levels of less than significant. The AMS Alternative would result in less balanced land uses with a moderate decrease in economic activity including less jobs and less tax revenue than under the proposed Project. It would, however, provide substantial more land area to offset the anticipated cumulative deficit in available truck parking at or near the Port. However, one of the reasons that the Full Maritime Alternative was rejected by the City of Oakland when it approved the OARB Redevelopment/Reuse Plan was because, beyond the 2020 buildout date, the Full Maritime Alternative would have provided the opportunity, if demand warrants, to increase maritime activities resulting in more ship rail and truck trips. Increasing these activities could result in commensurate worsening of impacts related to air quality and traffic

30. Auto Mall Project Option B, along with the "Partial AMS" and "Partial AMS Compact" alternatives which also were evaluated in the SEIR are not being pursued because they apply to areas that are outside the Auto Mall North subarea boundaries, and the Project Sponsor intends to address these areas as part of a separate, comprehensive development program for the remainder of the former Army Base at a later date.

**X. STATEMENT OF OVERRIDING CONSIDERATIONS**

31. The Oakland City Council relies upon the previously certified 2002 Oakland Army Base Redevelopment Plan EIR and the previously adopted Statement of Overriding Considerations and incorporates those findings herein, except as where noted below. The City Council finds that each of the specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations.

32. The Project will retain and expand an important retail segment of the Oakland economy.

33. The Project will retain and expand a diverse and well-paying workforce in Oakland and provide opportunities for local employment.

34. The Project will retain and expand a significant source of ongoing revenues in Oakland, including sales taxes and tax increment financing.

35. The Project will generate one time revenue proceeds, including proceeds from the sale of land and real estate transfer tax.

36. The Project will create temporary construction jobs.

37. The Project best leverages the former Army Base assets, supports sustainable land utilization, and improves the existing visual environment, land use variety and compatibility of local development.

38. The Project will create much needed new infrastructure in a blighted and underutilized area.

39. The Project will improve access to the North subarea of the former Army Base.

**Mitigation Monitoring**

40. That the monitoring and reporting of CEQA mitigation measures will be conducted in accordance with the attached Mitigation Monitoring and Reporting Program (MMRP). All the mitigation measures identified in the SEIR, and as modified by the Oakland City Council, will be incorporated into the MMRP. Adoption of the final MMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Oakland, subsequent project developers or other identified public agencies of responsibility. Those changes or alternations that are within the jurisdiction of another public agency have been, or can and should be adopted by that other agency.