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OAKLAND

Approved as to form and legality


City Attorney

OAKLAND CITY COUNCIL

Resolution No. 82025 C.M.S.

CITY RESOLUTION RESCINDING, PER COURT ORDER:

(1) APPROVAL OF THE 2007 AMENDMENT TO THE OAKLAND ARMY BASE FINAL REUSE PLAN (AMENDED REUSE PLAN) PER CITY COUNCIL RESOLUTION NO. 81004 C.M.S. ONLY TO THE EXTENT THE AMENDED REUSE PLAN REFERS, RELATES OR APPLIES TO THE AUTO MALL PROJECT AND/OR RELATES TO (A) ANY DISCHARGES FROM NEW DEVELOPMENT INTO THE 15-INCH SEWER LINE AND/OR (B) VACATION AND/OR RELOCATION OF WAKE AVENUE

(2) CERTIFICATION OF THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE OAKLAND ARMY BASE AUTO MALL PROJECT (SEIR) PER CITY COUNCIL RESOLUTION NO. 80301 C.M.S., ONLY TO THE EXTENT THE SEIR IS APPLICABLE TO THE AUTO MALL PROJECT AND PURPORTS TO PROVIDE ENVIRONMENTAL REVIEW AND/OR CLEARANCE UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR (A) ANY DISCHARGES FROM NEW DEVELOPMENT INTO THE 15-INCH SEWER LINE AND/OR (B) VACATION AND/OR RELOCATION OF WAKE AVENUE

(3) CERTIFICATION OF THE FIRST ADDENDUM TO THE SEIR FOR THE OAKLAND ARMY BASE AUTO MALL PROJECT (ADDENDUM) PER CITY COUNCIL RESOLUTION NO. 81004 C.M.S., ONLY TO THE EXTENT THE ADDENDUM IS APPLICABLE TO THE PROJECT AND/OR PURPORTS TO PROVIDE ENVIRONMENTAL REVIEW AND/OR CLEARANCE UNDER CEQA FOR (A) ANY DISCHARGES FROM NEW DEVELOPMENT INTO THE 15-INCH SEWER LINE AND/OR (B) VACATION AND/OR RELOCATION OF WAKE AVENUE

WHEREAS, on July 31, 2002, the Oakland City Planning Commission certified the Oakland Army Base Redevelopment Plan Environmental Impact Report ("EIR") and the Oakland City Council, Oakland Base Reuse Authority ("OBRA") and Oakland Redevelopment 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”), 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, an auto mall concept was not envisioned for the Oakland Army Base (“OARB”) site in 2002 and it was not reflected in the 2002 Reuse Plan as an additional conceptual strategy; and

WHEREAS, the City Council wished to amend the Reuse Plan to include an auto mall as a reuse strategy and to relocate the AMS uses from the North Gateway to either the East Gateway or Central Gateway; and

WHEREAS, it was determined necessary to prepare a Supplemental EIR for the Project; and

WHEREAS, on December 5, 2006 the Oakland City Council (a) certified, by Resolution No. 80301 C.M.S., the Supplemental Environmental Impact Report for the Oakland Army Base Auto Mall Project (the “SEIR”), which analyzed the environmental impacts associated with the development of an auto mall and the relocation of ancillary maritime support services, and adopted all appropriate CEQA findings; and (b) amended the Reuse Plan to include an auto mall as an additional conceptual strategy for the North Gateway area of the Oakland Army Base (OARB) and to relocate 15 acres of ancillary maritime support uses to the East Gateway or Central Gateway; and

WHEREAS, East Bay Municipal Utility District (EBMUD), which operates a wastewater treatment plant adjacent to the proposed Auto Mall site, filed suit to challenge the adequacy of the SEIR and the authority of the City and Agency to proceed with the Project (Alameda Superior Court Case No. RG07326552); and

WHEREAS, while the suit was pending, the City Council wished to further amend the Reuse Plan to revise the layout and refine the proposed traffic circulation patterns for the Project; and

WHEREAS, a First Addendum to the SEIR analyzed changes to the site layout of the Project and provided additional information for traffic and wastewater; and

WHEREAS, on December 18, 2007 the Oakland City Council, by Resolution No. 81004 C.M.S., certified the Addendum to the SEIR and a superseding amendment to the Reuse Plan, which includes a revised layout for the Auto Mall as well as AMS uses; and

WHEREAS, EBMUD amended its lawsuit to add a challenge to the validity of the Addendum and the 2007 Amendment to the Reuse Plan; and

WHEREAS, the Superior Court of California, hearing the suit, found in favor of EBMUD; and

WHEREAS, on March 23, 2009, the Superior Court of California entered a Judgment and issued a Peremptory Writ of Mandate in Case No. RG07326552 commanding the City of Oakland, the Oakland City Council, the Redevelopment Agency of the City of Oakland, and the Board of Directors of the Redevelopment Agency of the City of Oakland (1) to vacate and set aside the approval of the 2006 Amendment to the Final Reuse Plan and to (2) to vacate and set aside the approval of the 2007 Amendment to the Final Reuse Plan (the "Amended Reuse Plan") and its certification of the SEIR and Addendum to the SEIR *only to the extent* the Amended Reuse Plan, the SEIR and the Addendum apply to the Project or relate to (a) any discharges from new development into the 15-inch sewer line and/or (b) vacation or relocation of Wake Avenue; now, therefore, be it

RESOLVED: that in compliance with the Judgment and the Peremptory Writ of Mandate the City Council rescinds approval of the 2007 Amendment to the OARB Final Reuse Plan by Resolution No. 81004 C.M.S. *only to the extent* that the Amended Reuse Plan applies to the Project and/or relates to (a) any discharges from new development into the 15-inch sewer line and/or (b) vacation or relocation of Wake Avenue; and be it

FURTHER RESOLVED: that in compliance with the Judgment and the Peremptory Writ of Mandate the City Council rescinds certification of the SEIR for the OARB Auto Mall Project per City Council Resolution No. 80301 C.M.S., *only to the extent* the SEIR is applicable to the Project and purports to provide environmental review or clearance under CEQA for (a) any discharges from new development into the 15-inch sewer line and/or (b) vacation and/or relocation of Wake Avenue; and be it

FURTHER RESOLVED: that in compliance with the Judgment and the Peremptory Writ of Mandate the City Council rescinds certification of the First Addendum to the SEIR for the OARB Auto Mall Project (Addendum) per City Council Resolution No. 81004 C.M.S., *only to the extent* the Addendum is applicable to the Project and/or purports to provide environmental review and/or clearance under CEQA for (a) any discharges from new development into the 15-inch sewer line and/or (b) vacation and/or relocation of Wake Avenue.

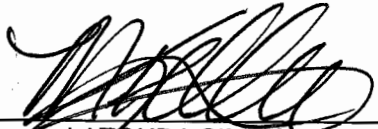
IN COUNCIL, OAKLAND, CALIFORNIA, MAY 19 2009

PASSED BY THE FOLLOWING VOTE:

AYES - ~~BRUNNER~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, ~~QUAN, REID~~, AND PRESIDENT BRUNNER - 5
NOES - 0
ABSENT - 0
ABSTENTION - 0

Excused - Quan; Reid, Brooks - 3

ATTEST:


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