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OFFICE OF THE CITY
OAKLAND

2008 DEC -4 PM 6: 15

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

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: City Council and Redevelopment Agency
DATE: December 9, 2008
RE: **Supplemental Staff Report Regarding:**

1) Agency Resolution Authorizing the Agency Administrator to: (a) Negotiate and Execute an Amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to Extend Caltrans' Use of 26 Acres of West Gateway Area Property from April 2013 to April 2016, and (b) Accept from Caltrans an Additional Settlement Agreement Payment Amount of at Least Ten Million Eight Hundred Thirty-Five Thousand Two Hundred Eighty-Three Dollars (\$10,835,283);

2) Agency Resolution Authorizing the Agency Administrator to Negotiate and Execute: (a) an Amendment to the April 29, 2005 Under-Freeway Easement from Caltrans to Expand the Agency's Easement Uses to Include Vehicles and Vehicle Storage; (b) a Phase II Tidelands Trust Exchange Agreement for Approximately 11.6 acres of Oakland Army Base Under-Freeway Parcels 3, 3A, 7, 7A & 8 and Take Any Actions Necessary to Implement the Agreement and (c) an Easement in Favor of Caltrans for a San Francisco Bay Trail Connection to Maritime Street.

3) City Council Resolution Authorizing the City Administrator to Negotiate and Execute an Amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to Extend Caltrans' Use of 26 Acres of West Gateway Area Property from April 2013 to April 2016.

SUMMARY

This supplemental report responds to direction from the December 2, 2008 Community & Economic Development Committee to: 1) revise the authorization to negotiate and execute a Phase II Tidelands Trust Exchange Agreement to more clearly state the requested authorization and to identify the property to be exchanged, 2) remove the request for authorization to amend the May 23, 2005 Purchase and Sales Agreement with Caltrans for 6.5 acres of Oakland Army Base Property and bring this request back in a separate, later Agency and Council report, 3) revise the requested San Francisco Bay Trail Easement authorization to remove authorization to execute the easement, 4) provide a copy of the San Francisco Bay Trail Easement for review and approval by the Agency and Council, and 5) provide a better copy of **Attachment D – Maritime**

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Street Connection, showing the proposed location for the San Francisco Bay Trail connecting segments along Interstate 80 and Maritime Street.

Staff has revised the requested authorization to negotiate and execute a Phase II Tidelands Trust Exchange Agreement to define the exchange parcels as the approximately 11.6 acres of Under-Freeway Parcels 3, 3A, 7, 7A & 8 (see **Attachment A-1 & A-2 – Under-Freeway Parcels 3, 3A, 7, 7A & 8**). Attachments A-1 & A-2 depict the 11.6 acres of Under-Freeway parcels to be removed from the Tidelands Trust designation as part of Phase II of the 2005 Oakland Army Base Exchange Agreement.

As directed, staff has removed the request for authorization to amend the May 23, 2005 Purchase and Sales Agreement with Caltrans for 6.5 acres of Oakland Army Base Property.

The Community & Economic Development Committee directed staff to revise the San Francisco Bay Trail Easement authorization to remove authorization to execute the easement until such time as staff could provide a final copy of the easement for review and approval by the Agency and Council. Staff and Caltrans now have reached agreement on the proposed final version of the San Francisco Bay Trail Easement, which is attached hereto as **Attachment B – Grant of Easement**. Staff is requesting authorization to execute the San Francisco Bay Trail Easement as attached.

Staff was directed to provide additional maps and diagrams of the proposed San Francisco Bay Trail easement area. The following attachments provide the proposed location of the easement area:

Attachment C – Gateway Development Area depicts the general location of the proposed San Francisco Bay Trail Easement within the Gateway Development Area.

Attachment D – Maritime Street Connection shows the specific, proposed location of the San Francisco Bay Trail connecting segments along Interstate 80 and Maritime Street.

RECOMMENDATION(S) AND RATIONALE

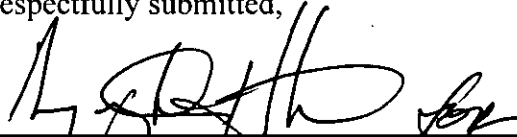
Staff recommends the City Council and Agency authorize the extension of the April 18, 2002 Oakland Army Base Settlement Agreement among Caltrans, the Port of Oakland, the City of Oakland, the Agency, and OBRA, through April 2016, to complete the construction of the San Francisco – Oakland Bay Bridge, and to accept a one-time easement fee of at least \$10,835,283.

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ACTION REQUESTED OF THE CITY COUNCIL/ REDEVELOPMENT AGENCY

Staff recommends the Agency and City approve the requested authorizations.

Respectfully submitted,

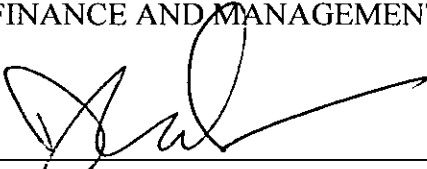


Dan Lindheim, Director
Community and Economic Development Agency

Reviewed by: Frank Fanelli, Manager
Real Estate Division

Prepared by: John Monetta, Program Analyst III

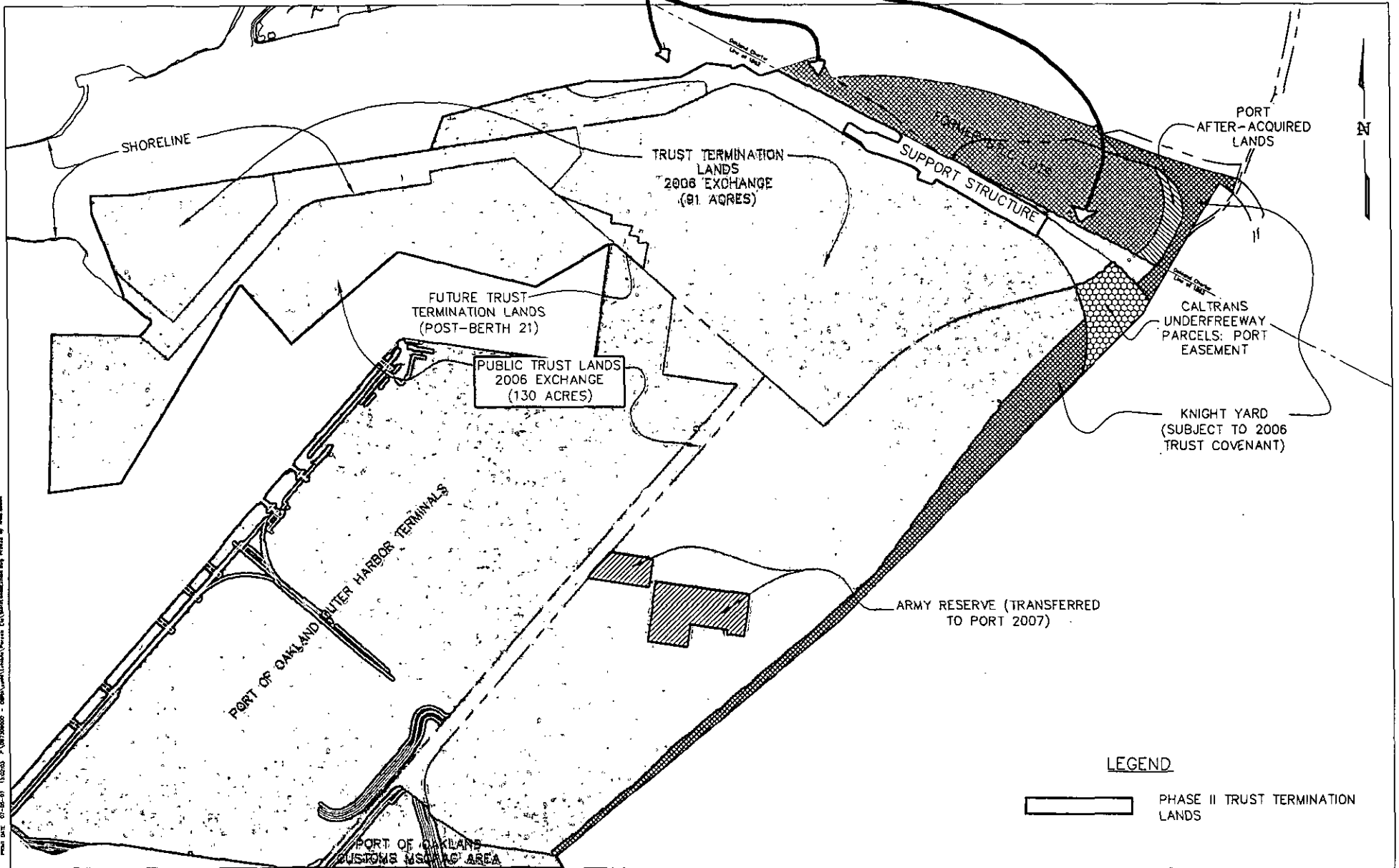
APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE:



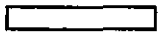
Office of the City/Agency Administrator


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Under-Freeway Parcels 3, 3A, 7, 7A & 8

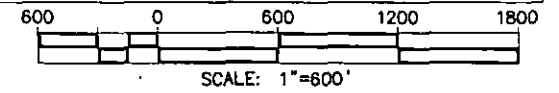


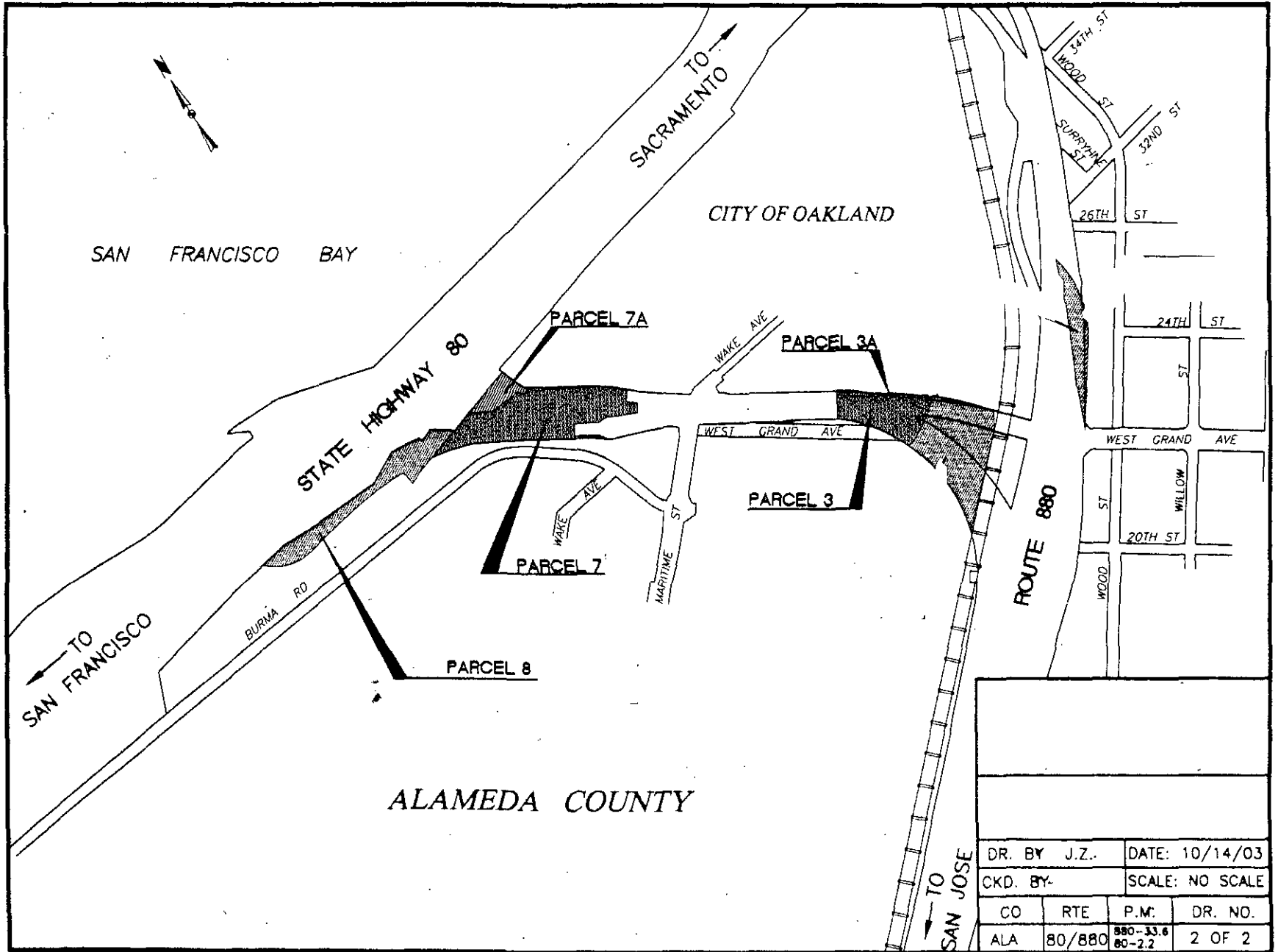
LEGEND

 PHASE II TRUST TERMINATION LANDS

 **Kimley-Horn and Associates, Inc.**
 360 7th Street, Suite 200
 San Francisco, CA 94103
 Tel: (415) 774-2777 Fax: (415) 774-2778

OAKLAND ARMY BASE TRUST EXCHANGE PHASE II





Attachment A-2 - Under-Freeway Parcels 3, 3A, 7, 7A & 8.

Recording Requested by and
When recorded, return to:

Redevelopment Agency of
the City of Oakland
250 Frank H. Ogawa Plaza, Suite 3330
Oakland, CA 94612
Attn: Frank Fanelli

GRANT OF EASEMENT

The REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND, a community redevelopment agency organized and existing under the California Community Redevelopment Law ("Grantor" or the "Agency"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby conveys and warrants to the STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION ("Grantee" or "Caltrans") (together, Grantor and Grantee are referred to as the "Parties"), ("Grantor"), a limited and non-assignable non-exclusive easement for the purpose of constructing, installing, maintaining and repairing a ___ bicycle path, on and over and across the premises as legally described in Exhibit A attached hereto and made a part hereof (the "Easement Premises"), subject, however, to all existing easements including those for public roads and highways, public utilities, railroads and pipelines.

The Grantor, its successors, assigns, permittees, or lessees retain the right to make any use of the Easement Premises, including the right to make and grant concurrent easements in the Easement Premises, so long as such occupancy and use by the Grantor does not unreasonably interfere with Grantee's use the Easement Premises for its intended purposes, as set forth herein. The easement shall be for the specific use described and may not be construed to include the further right to authorize any other use within the Easement Premises unless provided in writing by the then fee holder of the land subject to the easement.

Grantor hereby reserves the right to relocate the Easement Premises at any time and in its sole discretion, provided that such relocation is at Grantor's expense and cost, provided that Grantee shall enjoy the identical rights to the relocated Easement Premises as granted herein. This reservation shall include the right to construct, install, maintain, repair, and operate and relocate any utilities located within the Easement Premises.

This Easement shall be in gross and shall not be assigned. Any purported assignment of this Agreement or of any interest in this Agreement shall be void and of no effect. The easement granted in this document shall terminate in the event Grantor relocates the bike path to a publicly-dedicated or separate roadway which provides reasonably equivalent rights for use as a bike path. Grantee agrees to immediately exercise and/or record any suitable document memorializing the termination of the easement upon request by Grantor or otherwise at the happening of a termination event (discussed above).

EXHIBIT "A"

All that real property in the City of Oakland, County of Alameda, State of California Described as follows:

Parcel 1:

A strip of land 14.00 feet wide, the centerline of which is described as follows:

Beginning for reference at the most easterly corner of PARCEL 1 (50561-1) as described in the Grant Deed from the city of Oakland to the State of California recorded 2/03/1995, #95028117, Alameda County Official Records, thence along the northeasterly line of said PARCEL 1, N 56°43'55" W 98.47 feet and along a tangent curve to the left with a radius of 571.21 feet, a central angle of 2°38'02" and an arc length of 26.26 feet to the center of an existing paved road and the beginning of said described centerline; thence leaving said northeasterly line a along the center of said paved road, S 69°19'06" W 102.78 feet; along a tangent curve to the left with a radius of 300.00 feet, a central angle of 26°04'40" and an arc length of 136.54 feet; S 43°14'26" W 60.09 feet; along a tangent curve to the left with a radius of 90.00 feet, a central angle of 50°14'48" and an arc length of 78.93 feet; S 7°00'21" E 86.87 feet to a point hereafter referred to as Point A and S 7°00'21" E 10.00 feet to the end of the centerline of said 14.00 foot wide strip.

Parcel 2:

A strip of land 20.00 feet wide, the centerline of which is described as follows:

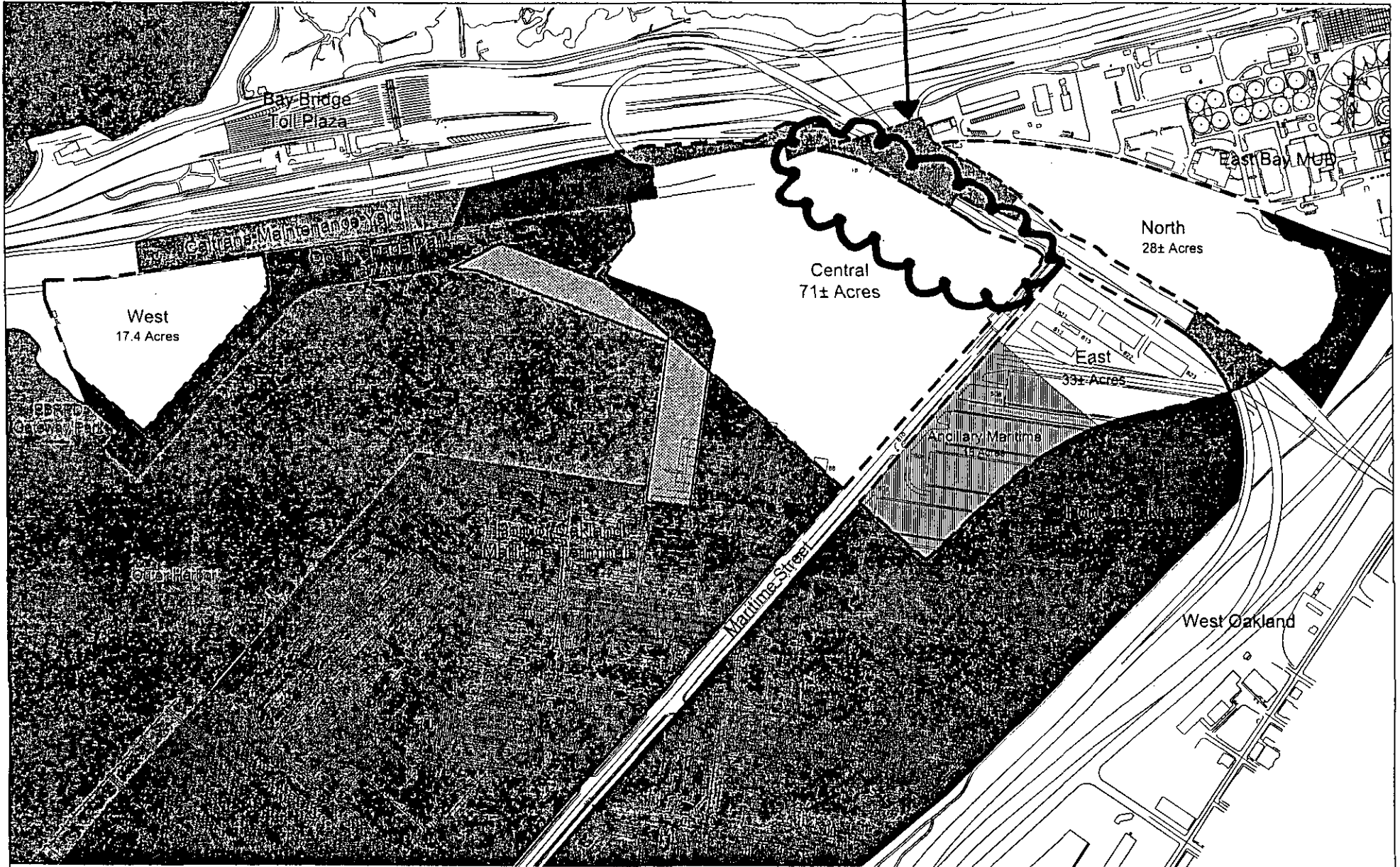
Beginning for reference at a point on the boundary of the Highway Easement granted to the State of California by the Dept. of the Army in the Document recorded June 25, 1968 on RE 2205, IM 787, Alameda County Official Records, said point being the northeasterly terminus of course #33 described as "N.39°02'10"E., 630.94 feet" in the description of said easement; thence along said boundary, S 39°02'10" W 85.78 feet; thence leaving said boundary, N 57°50'50" W 0.44 feet to the true point of beginning of said centerline; thence N 40°50'13" E 201.55 feet; thence along a tangent curve to the left with a radius

of 140.00 feet, a central angle of $111^{\circ}34'02''$ and an arc length of 272.61 feet; thence $N 70^{\circ}43'49'' W$ 173.16 feet; thence along a tangent curve to the right with a radius of 155.00 feet, a central angle of $30^{\circ}52'12''$ and an arc length of 83.51 feet; thence along a tangent reverse curve with a radius of 155.00 feet, a central angle of $19^{\circ}34'58''$ and an arc length of 52.98 feet; $N 59^{\circ}26'35'' W$ 469.90 feet; thence along a tangent curve to the left with a radius of 440.00 feet, a central angle of $52^{\circ}58'31''$ and an arc length of 406.82 feet; thence along a tangent reverse curve with a radius of 600.00 feet, a central angle of $15^{\circ}24'44''$ and an arc length of 161.40 feet; thence $S 82^{\circ}59'38'' W$ 60.23 feet to the hereinabove described Point A; thence $S 82^{\circ}59'38'' W$ 7.00 feet to the end of said centerline of the 20.00 foot wide strip.

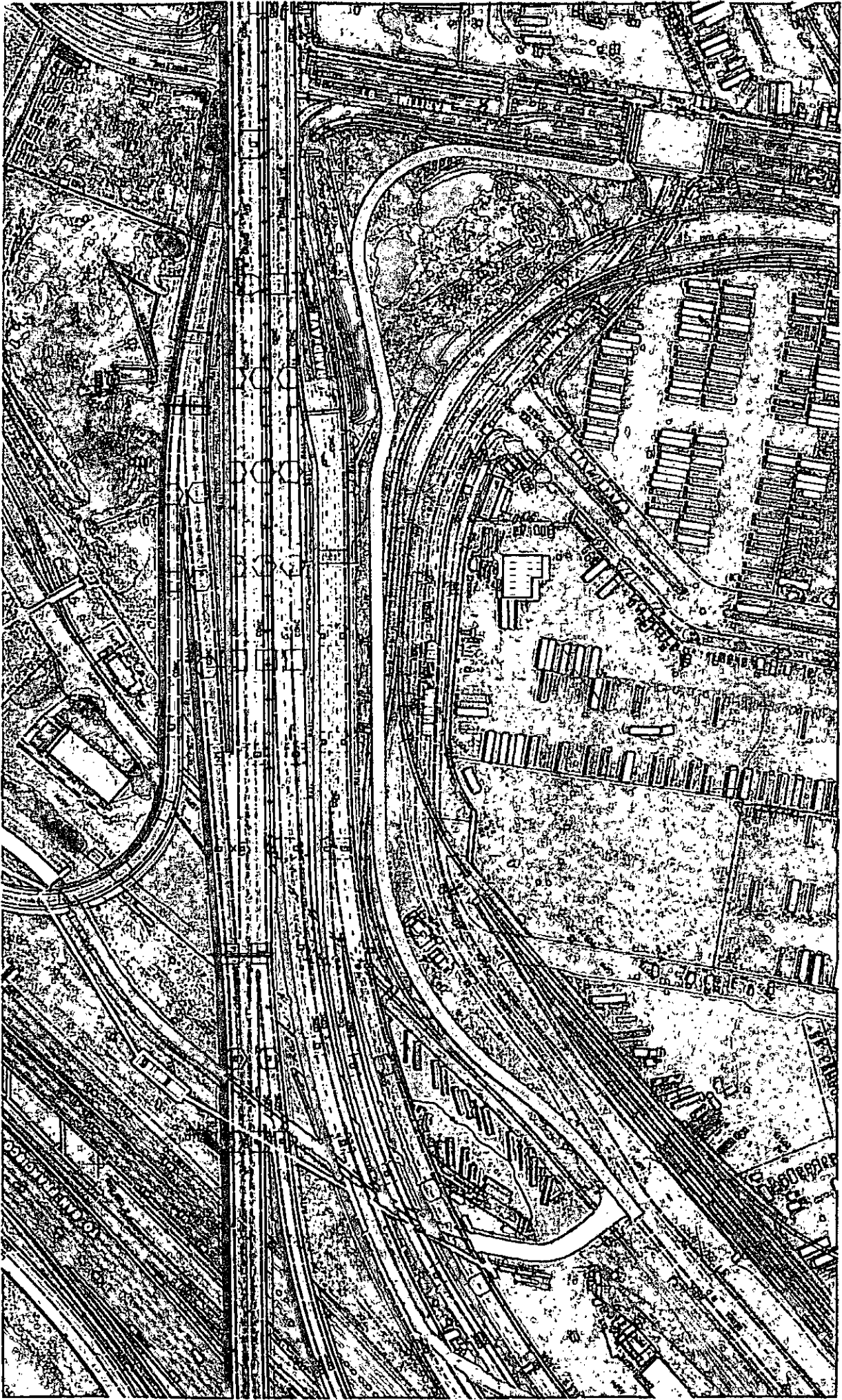
Containing a combined total of 44,150 square feet, more or less.

The bearings and distances used in the above description are on the California Coordinate System of 1927, Zone 3. Multiply the above distances by 1.0000720 to obtain ground level distances.

General Location of San Francisco Bay Trail Easement



Gateway Development Area

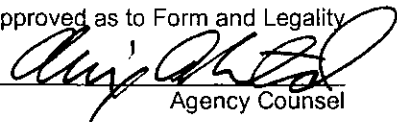


Attachment D - Maritime Street Connection

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Approved as to Form and Legality


Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE APRIL 18, 2002 OAKLAND ARMY BASE SETTLEMENT AGREEMENT TO EXTEND CALTRANS' USE OF 26 ACRES OF THE WEST GATEWAY AREA PROPERTY FROM APRIL 2013 TO APRIL 2016 AND TO ACCEPT FROM CALTRANS A ONE-TIME EASEMENT FEE OF AT LEAST \$10,835,283 IN EXCHANGE FOR THE EXTENSION

WHEREAS, in 2002 as part of the settlement of a lawsuit brought by the Port of Oakland (Port), the City of Oakland (City), the Oakland Redevelopment Agency (Agency) and the Oakland Base Reuse Authority (OBRA) against the California Department of Transportation (Caltrans), the Oakland parties agreed not to challenge an easement granted by the federal government to Caltrans over approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7; and

WHEREAS, on April 18, 2002, the parties executed the 2002 Oakland Army Base Settlement Agreement, providing in part that Caltrans may use and occupy Pier 7 for eight years from April 2002 to April 2010, with an option to extend for three additional years to 2013; and

WHEREAS, Caltrans paid the Agency and the Port \$11.6 million for its use of Pier 7 through 2010 pursuant to the Settlement Agreement; and

WHEREAS, Caltrans has given notice that it will exercise the three-year option to extend the easement, and it has requested an additional two-year extension with a one-year option to the easement; and

WHEREAS, in exchange for the three-year option period and the additional two-year extension, Caltrans has offered the Agency a one-time payment of at least \$10,835,283 which represents the net present value of the fair market value for the use of the property; and

WHEREAS, the granting of easements and conveyance of properties are exempt from the requirements of the California Environmental Quality Act (CEQA) by Section

15269 (emergency projects) and Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; now, therefore, be it

RESOLVED, that the Agency hereby authorizes the Agency Administrator to negotiate and execute an amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to allow for Caltrans to use and occupy approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7, to facilitate completion of the Caltrans Bay Bridge Project, through April 17, 2015, with a one-year, 2.7 million dollar option to April 17, 2016; and be it

FURTHER RESOLVED: That the Agency hereby accepts a one-time payment of at least \$10,835,283 in exchange for extending Caltrans' use and occupancy of Pier 7 through April 17, 2015, and a \$2,700,000 payment in the event Caltrans exercises its one year option; and be it

FURTHER RESOLVED: That the funds be deposited into Oakland Redevelopment Agency's OBRA Leasing and Utility Fund (9575), General Ledger Organization(08222), OBRA Leasing and Utility Project (S294210), 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 under Section 15269 (emergency projects), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines, and directs the Agency Administrator to file a Notice of Exemption with the County of Alameda; and be it

FURTHER RESOLVED: That the amendment to the Settlement Agreement shall be approved as to form and legality by Agency Counsel prior to execution and a copy shall be filed with the Agency Secretary; and be it

FURTHER RESOLVED: That the Agency Administrator or his designee is hereby authorized to take whatever other actions are necessary consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG AND
CHAIRPERSON DE LA FUENTE

NOES –

ABSENT –

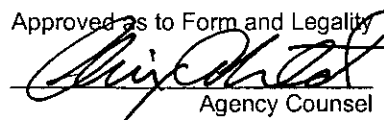
ABSTENTION –

ATTEST: _____
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California

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OAKLAND
2008 DEC -4 PM 6:16

REVISED
12/2/08

Approved as to Form and Legality


Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO:

- 1) **NEGOTIATE AND EXECUTE AN AMENDMENT TO THE APRIL 29, 2005 UNDER-FREEWAY EASEMENT FROM CALTRANS TO EXPAND THE AGENCY'S EASEMENT USES TO INCLUDE VEHICLES AND VEHICLE STORAGE;**
- 2) **NEGOTIATE AND EXECUTE A PHASE II TIDELANDS TRUST EXCHANGE AGREEMENT FOR APPROXIMATELY 11.6 ACRES OF OAKLAND ARMY BASE UNDER-FREEWAY PARCELS 3, 3A, 7, 7A & 8 AND TAKE ANY ACTIONS NECESSARY TO IMPLEMENT THE AGREEMENT; AND**
- 3) **NEGOTIATE AND EXECUTE AN EASEMENT IN FAVOR OF CALTRANS FOR A SAN FRANCISCO BAY TRAIL CONNECTION TO MARITIME STREET**

WHEREAS, as part of a settlement of the 2002 lawsuit among the Port of Oakland, the City of Oakland, the Oakland Redevelopment Agency (Agency), the Oakland Base Reuse Authority, and the California Department of Transportation (Caltrans), Caltrans granted the Agency an easement to Army Base under-freeway property limited to landscaping, utilities, roadways and un-laden truck parking. The limitation on the easement rights was based in part on Interstate Highway security concerns; and

WHEREAS, Caltrans has agreed to expand the easement rights to include parking of any vehicle and storage of commercial vehicles in addition to the existing easement rights; and

WHEREAS, in August 2006, the Oakland Army Base Tidelands Title Settlement and Trust Exchange was executed and recorded settling the Tidelands Trust status of the entire Army Base property except the under-freeway portions; and

WHEREAS, Agency staff has been working with State Lands and Caltrans to settle the status of the Agency-owned under-freeway property and to remove portions of it from the public trust; and

WHEREAS, Caltrans has requested an easement across a portion of the Central Gateway Area property to connect the San Francisco Bay Trail segment along Interstate 80 to Maritime Street; and

WHEREAS, the Agency and Caltrans wish to enter into such an easement agreement to facilitate and enhance the recreational opportunities and services for Oakland residents and East Bay residents; and

WHEREAS, the actions taken pursuant to this resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15269 (emergency projects), Section 15282(f) (settlement of tidelands trust title and boundary problems), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; now, therefore, be it

RESOLVED: The Agency Administrator is authorized to negotiate and execute an amendment to the April 29, 2005 Under-Freeway Easement between Caltrans and the Agency to expand the allowable uses to include parking of any vehicle and storage of commercial vehicles in addition to the existing easement rights; and be it

FURTHER RESOLVED: The Agency Administrator is authorized to negotiate and execute a Phase II Tidelands Trust Exchange Agreement for Approximately 11.6 acres of Oakland Army Base Under-Freeway Parcels 3, 3A, 7, 7A & 8 and to take any actions necessary to implement the agreement; and be it

FURTHER RESOLVED: The Agency Administrator is authorized to negotiate and execute an easement benefitting Caltrans across a portion of the Central Gateway Area property to connect the San Francisco Bay Trail segment along Interstate 80 to the Maritime Street San Francisco Bay Trail segment; 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 under Section 15269 (emergency projects), Section 15282(f) (settlement of tidelands trust title and boundary problems), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines, and directs the Agency Administrator to file a Notice of Exemption with the County of Alameda; and be it

FURTHER RESOLVED: That the agreements shall be approved as to form and legality by Agency Counsel prior to execution and a copy shall be filed with the Agency Secretary; and be it

FURTHER RESOLVED: That the Agency Administrator or his designee is hereby authorized to take whatever other actions are necessary consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG AND
CHAIRPERSON DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

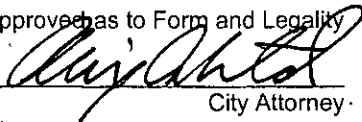
ATTEST: _____
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 DEC -4 PM 6:16

REVISED
12/2/08

Approved as to Form and Legality


City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE APRIL 18, 2002 ARMY BASE SETTLEMENT AGREEMENT TO EXTEND CALTRANS' USE OF 26 ACRES OF THE WEST GATEWAY AREA PROPERTY FROM APRIL 2013 TO APRIL 2016

WHEREAS, in 2002 as part of the settlement of a lawsuit brought by the Port of Oakland (Port), the City of Oakland (City), the Oakland Redevelopment Agency (Agency) and the Oakland Base Reuse Authority (OBRA), against the Department of Transportation (Caltrans), Oakland parties agreed not to challenge an easement granted by the federal government to Caltrans over approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7; and

WHEREAS, on April 18, 2002, the parties executed the 2002 Oakland Army Base Settlement Agreement, providing in part that Caltrans may use and occupy Pier 7 for eight years from April 2002 to April 2010, with an option to extend for three additional years to 2013; and

WHEREAS, Caltrans paid the Agency and the Port \$11.6 million as a settlement agreement payment for the eight-year easement, as part of a larger settlement; and

WHEREAS, Caltrans has given notice that it will exercise the three year option to extend the easement, and it has requested an additional two year extension with a one-year option to the easement; and

WHEREAS, in exchange for the three-year option period and the additional two-year extension, Caltrans has offered the Agency a one-time payment of at least \$10,835,283 which represents the net present value of the fair market value for the use of the property; and

WHEREAS, the actions taken pursuant to this resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15269 (emergency projects) and Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to negotiate and execute an amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to allow for Caltrans to use and occupy approximately 26 acres of the West Gateway Area of the former Oakland Army Base, known as Pier 7, to facilitate completion of the Caltrans Bay Bridge Project, through April 17, 2015, with a one-year, 2.7 million dollar option to April 17, 2016; and be it

FURTHER RESOLVED: That the City Council has independently reviewed and considered this environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA under Section 15269 (emergency projects), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines, and directs the City Administrator to file a Notice of Exemption with the County of Alameda; and be it

FURTHER RESOLVED: That the amendments to the 2005 Purchase and Sale Agreement and the 2002 Settlement Agreement shall be approved as to form and legality by City Attorney prior to execution and a copy shall be filed with the City Clerk; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to take whatever other actions are necessary consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG AND
PRESIDENT DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

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