

*H. Miller*

CS NO. -5 PM 4:18

REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND

2003-81

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**AN AGENCY RESOLUTION RESCINDING RESOLUTION NUMBER 2003-70, ADOPTED ON SEPTEMBER 30, 2003, AND ADOPTING A MITIGATED NEGATIVE DECLARATION AND AUTHORIZING THE SALE OF APPROXIMATELY 4.35 ACRES OF REAL PROPERTY LOCATED ON OAKPORT STREET NEAR HASSLER WAY FOR \$3,318,047 TO, AND AUTHORIZING THE NEGOTIATION AND EXECUTION OF, A DISPOSITION AND DEVELOPMENT AGREEMENT WITH, HENDRICK AUTOMOTIVE GROUP FOR THE DEVELOPMENT OF AN INFINITI AUTOMOBILE DEALERSHIP**

**WHEREAS**, the Redevelopment Agency of the City of Oakland ("Agency") owns approximately 3.42 acres of unimproved and vacant real property located along Oakport Street near Hassler Way, which property is more particularly described in Exhibit "A" attached hereto and made a part hereof ("Agency Parcel"); and

**WHEREAS**, the City of Oakland ("City") owns approximately .93 acres of vacant real property ("City Parcel") adjacent to the Agency Parcel which property is more particularly described in Exhibit "B" attached hereto and made a part hereof; and

**WHEREAS**, concurrently with adoption of this resolution, the City has made certain findings and has agreed to sell the City Parcel to the Agency for redevelopment; and

**WHEREAS**, the Agency Parcel and the City Parcel collectively shall be referred to as the "Property;" and

**WHEREAS**, the Property is located in the Coliseum Redevelopment Project Area; and

**WHEREAS**, pursuant to Resolution No. 96-53 C.M.S., the Agency purchased the Agency Parcel from the City using non-tax increment funds, and executed a promissory note to the City for the \$8.5 million purchase price; and

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

**WHEREAS**, the Agency has entered into negotiations with Hendrick Automotive Group, a New York general partnership ("Buyer") to purchase the Property for development of an approximately 24,000 square-foot, one-story building, and related parking spaces for a new Infiniti automobile dealership and service facility (the "Project"); and

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

**WHEREAS**, the City is the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 (CEQA"); and

**WHEREAS**, an Environmental Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared under the California Environmental Quality Act of 1970 ("CEQA") for the Infiniti (Oakland) automobile dealership and service facility and for the proposed general advertising sign; and

**WHEREAS**, the IS/MND concluded that the Project, as mitigated, will not have any significant adverse impacts on the environment and, therefore, a Mitigated Negative Declaration was prepared and circulated for public comment; and

**WHEREAS**, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

**WHEREAS**, the Project conforms to the Redevelopment Plan for the Coliseum Area Redevelopment Project adopted on July 25, 1995, and subsequently amended on July 29, 1997, as well as the Five Year Implementation Plan for the Coliseum Area (the "Coliseum Redevelopment Plan");

**WHEREAS**, on September 30, 2003, by Resolution Number 2003-70, the Agency adopted the MND and approved the Buyer's development as it was described therein as a two story, approximately 37,000 sq. ft project; and

**WHEREAS**, due to economic considerations, the Buyer has changed the design of the Project to a one story, approximately 24,000 sq. ft. building, now, therefore, be it

**RESOLVED:** That the Agency hereby rescinds Resolution Number 2003-70; and be it further

**RESOLVED:** That the Agency hereby finds and determines that the sale of the Property by the Agency to Buyer or a legal entity controlled by Buyer furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Coliseum Redevelopment Project Area, conforms to the Coliseum Redevelopment Plan, and furthers the goals and objectives of said Plan in that the Project will: redevelop a vacant and underutilized site; stimulate industrial, R&D, and commercial development; provide long-term job training and

employment opportunities for Project Area residents; improve transportation, public facilities and infrastructure in the Project Area; enhance neighboring property values; assist neighborhood commercial revitalization; and attract new and retain existing businesses in the Project Area; and be it further

**RESOLVED:** That the Agency finds and determines that (i) it was presented the IS/MND and has reviewed and considered the information in the IS/MND prior to taking action on the Project; (ii) the IS/MND is legally adequate and was completed in compliance with CEQA; (iii) there is no substantial evidence that the project will have a significant effect on the environment; and (iv) the IS/MND identifies all potential significant impacts and feasible mitigation measures that would reduce these impacts to less than significant levels and such mitigation measures have been incorporated into the project, by the City of Oakland, through conditions of approval and adoption of a mitigation monitoring program; and be it further

**RESOLVED:** That the Agency adopts the Mitigation Monitoring Program for the proposed project; and be it further

**RESOLVED:** That the Agency hereby authorizes the Agency Administrator or her designee to sell the Property to Buyer for the fair market value cash price of \$3,318,047 with \$3,277,454 paid to the Agency and \$40,593 paid to the city for the Fair Market Value of the City Parcel; and be it further

**RESOLVED:** That the Property shall be transferred to Buyer pursuant to terms of a Disposition and Development Agreement ("DDA") to be negotiated and executed by Agency and Buyer; and be it further

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

- The price of \$3,318,047 to be payable in cash at the close of escrow;
- The Agency to have the option to repurchase all or portions of the Property if Buyer does not commence construction of the Project within the time frames specified in the DDA;
- Buyer to comply with provisions of the Coliseum Area Redevelopment Plan and nondiscrimination provisions of redevelopment law;
- The Buyer to write automobile leases from an Oakland address to assure that related sales tax accrues to the City of Oakland; and
- Any other appropriate terms and conditions as the Agency Administrator or her designee may establish in his or her discretion or as the California Community Redevelopment Law or Redevelopment Plan may require;

and be it further

**RESOLVED:** That the Agency finds that the above transaction represents a fair market value sale of the Property at the Property's highest and best use; and be it further

**RESOLVED:** That the Agency Administrator is authorized to negotiate and execute an amendment to the promissory note to the City; and be it further

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

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

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

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

**NOV 18 2003**

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2003

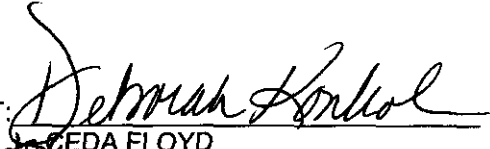
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND CHAIRPERSON DE LA FUENTE, — 7

NOES- 0

ABSENT- Brunner - 1

ABSTENTION- 0

ATTEST:   
CEDRA FLOYD  
Secretary of the Redevelopment Agency  
of the City of Oakland