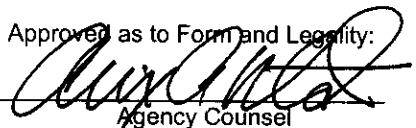


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Approved as to Form and Legality:

Agency Counsel

OAKLAND REDEVELOPMENT AGENCY
80787 =
RESOLUTION No. _____ C.M.S.

AN AGENCY RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A FOUR-MONTH EXCLUSIVE NEGOTIATING AGREEMENT WITH WAYANS BROTHERS—PACIFICA CAPITAL OAKLAND PARTNERSHIP, LLC FOR THE DEVELOPMENT OF PORTIONS OF THE CENTRAL AND WESTERN GATEWAY AREAS OF THE FORMER OAKLAND ARMY BASE

WHEREAS, the Redevelopment Agency of the City of Oakland (“Agency”) owns approximately 77 acres of real property located in the former Oakland Army Base and within the West and Central Gateway Development subareas, which property is depicted in Exhibit A to the Draft Exclusive Negotiating Agreement attached hereto; and

WHEREAS, the Redevelopment Agency adopted the Redevelopment Plan for the Oakland Army Base Redevelopment Project (“Oakland Army Base Redevelopment Plan”) on July 1, 2000; and

WHEREAS, one of the goals included in the Oakland Army Base Redevelopment Plan was subdividing the site into parcels suitable for modern, integrated development; and

WHEREAS, one of the proposed actions included in the Oakland Army Base Redevelopment Plan was the redevelopment of land by private enterprise; and

WHEREAS, the development of a film production complex with entertainment and retail components (“film complex”) would improve the economic conditions in the Oakland Army Base Redevelopment Area; and

WHEREAS, Wayans Brothers—Pacifica Capital Oakland Partnership, LLC (“Wayans-Pacifica”) submitted a proposal to the Agency on May 29, 2007 to develop a film complex on the West and Central Gateway areas of the former Oakland Army Base with a request for a four-month Exclusive Negotiating Agreement (“ENA”); and

WHEREAS, the Agency recognizes the potential of the Wayans-Pacifica project, and wishes to enter into a 4-month ENA with the understanding that this does not constitute a binding commitment on the part of the Agency to any project or developer of the property; 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, the City certified the Final Supplemental Environmental Impact Report for the Oakland Army Base Project on December 5, 2006; NOW, THEREFORE BE IT

RESOLVED, That the Agency Administrator is authorized to negotiate and enter into an Exclusive Negotiating Agreement with Wayans Brothers—Pacifica Capital Oakland Partnership, LLC, for the purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for the possible development of a film production complex with entertainment and retail components in portions of the Central and West Gateway Areas in the Oakland Army Base Redevelopment Area; and be it

FURTHER RESOLVED, that the ENA will be consistent with and substantially in the same form as the Draft Exclusive Negotiating Agreement attached as Attachment A hereto; and be it

FURTHER RESOLVED, that the term of the ENA will be for four months (123 days), commencing at 9am on the date following Developer's submission of its Project boundaries pursuant to Section 1.4 of the ENA, but no later than August 1, 2007; and be it

FURTHER RESOLVED, that the further development of the "Destination Oakland" proposal submitted to the Agency on May 29, 2007 be based upon the "Best Case" scenario presented in said proposal; and be it

FURTHER RESOLVED, that the Agency has independently reviewed and considered the 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 pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rules) of the CEQA Guidelines; and be it

FURTHER RESOLVED, that the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

FURTHER RESOLVED, that the Agency Administrator is further authorized to take whatever action is necessary with respect to the Exclusive Negotiating Agreement and the project consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, JUL 17 2007, 2007

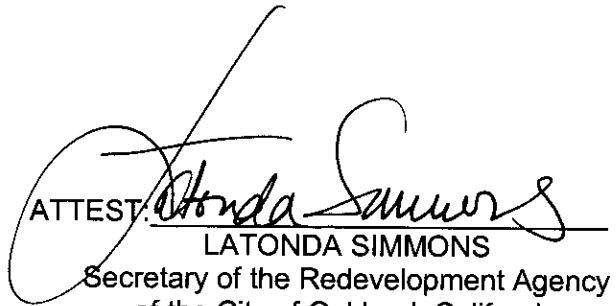
PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND
CHAIRPERSON DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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

Attachment A: Draft Exclusive Negotiating Agreement between the Redevelopment Agency of the City of Oakland and Wayans Brothers—Pacifica Capital Oakland Partnership, LLC

REVISED

EXCLUSIVE NEGOTIATING AGREEMENT

Wayans-Pacifica "Destination Oakland" Project

This Exclusive Negotiating Agreement ("Agreement"), is made and entered into this July 17, 2007 ("Effective Date"), by and between the REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND, a community redevelopment agency organized and existing under the California Community Redevelopment Law ("Agency"), and WAYANS BROTHERS - PACIFICA CAPITAL OAKLAND PARTNERSHIP, LLC, a California limited liability company ("Developer") (together, Agency and Developer are referred to as the "Parties"), pursuant to Agency Resolution No. 2007-_____ C.M.S., adopted on July 17, 2007.

RECITALS

A. Agency currently owns approximately 17.42 acres of land located within the West Gateway Area of the former Oakland Army Base, and approximately 59.88 acres of land located within the Central Gateway Area of the former Oakland Army Base (totaling approximately 77.3 acres) as described on Exhibit A-1 attached hereto; and

B. Developer wishes to enter into exclusive negotiations with Agency to explore the possibility of developing the West and Central Gateway Areas for a mixed-use film production center that will include film production facilities, a "Creative Factory" business park, big box retail, a community-serving "Urban Village," a "Digital Art Center" for children, and a "Creative Children Zone" ("the Project"); and

C. Of the approximately 77.3 acres located within the West and Central Gateway Areas, the Agency will make available approximately 17.42 acres located in the West Gateway Area and will give the Developer the option of developing approximately 45 acres in the Central Gateway Area illustrated in Exhibit A-2 for the Project (the "Property"); and

D. Agency and Developer recognize and acknowledge that the feasibility of the Project has not been determined to the satisfaction of the Parties, and the purpose of this Agreement is to allow Agency and Developer to determine such feasibility and to negotiate the terms for the possible acquisition, disposition, and development of the Property to be documented in a disposition and development agreement (the "DDA"); and

E. Agency and Developer recognize and acknowledge that under the DDA, Developer will purchase the Property at fair market value, and that Developer will be responsible for any environmental remediation of the site required for permit approvals for the Project. The determination of fair market value will account for any remediation obligations of Developer. Under the DDA, Developer will also be responsible for a pro rata share of the West Oakland Community Fund, as provided in the Memorandum of Agreement for Oakland Army Base dated July 8, 2003;

NOW THEREFORE, the Parties agree as follows:

1. NEGOTIATIONS

1.1 Purpose of Agreement

The Parties contemplate that Agency will convey the Property to the Developer for construction of the Project if the Parties agree on a DDA that is approved by their respective governing bodies in their sole and absolute discretion.

Gregory Hunter, Al Auletta (or a representative of Agency designated by the Agency Administrator), and the Oakland City Attorney's Office, will be the lead negotiators for Agency with respect to the subject matter of this Agreement. Britten Shuford will be the lead negotiator for the Developer with respect to the subject matter of this Agreement.

1.2 Good Faith Negotiations

During the Negotiating Period, the Parties will negotiate in good faith and use their best efforts to agree on: (1) the scope of the Developer's possible development obligations; (2) any public finance responsibilities of Agency; (3) the terms and conditions under which Agency may convey the Property to Developer for development; (4) the process for securing Agency's approval of construction documents; (5) the process for Developer to obtain necessary government approvals; (6) the schedules for the performance of the Developer's development obligations and the other elements that may be included in the DDA; and (7) the form of a DDA which Agency staff may recommend to Agency Governing Board and to the City Council of the City of Oakland ("City").

The Parties contemplate that the negotiations regarding the DDA will commence after execution of this Agreement by all Parties and will continue while Developer submits required information to Agency, and while the Parties undertake preliminary planning and analysis of Developer's proposals.

If the terms of a mutually satisfactory DDA have not been negotiated by Developer and Agency staff during the Negotiation Period (defined in Section 1.5 below), or if Agency's governing body declines to authorize a DDA for any reason in its sole and absolute discretion, then, without further action, this Agreement will automatically terminate and, subject to Developer's right to the refund of any unexpended and unencumbered PEP funds in accordance with Section 2.3 of this Agreement, no party will have further rights or obligations with respect to this Agreement.

1.3 Exclusive Negotiations

Agency will not solicit proposals from third parties or negotiate with third parties for the development of the Property prior to the termination of this Agreement or execution of a DDA, whichever occurs first. During the Negotiation Period (as defined in Section 1.5), Agency will have the right to rent, lease, license or use all or any portion of the Property for uses that would

not have a materially adverse effect on Developer's rights under this Agreement, as determined by Agency in its reasonable judgment. Developer acknowledges that the existing leases on the Property, a list of which is attached hereto as Exhibit E, do not violate its exclusive rights under this Agreement.

1.4 Defining the Project Boundaries

The Property will consist of approximately 62 acres of land to be located within the West and Central Gateway Areas of the Oakland Army Base (see Recitals A and C). The Parties acknowledge that Agency has delivered to Developer maps identifying two options for the specific boundaries and configuration of the Property upon which the Project is proposed to be developed. Developer, with Agency staff, will determine Project boundaries on or before July 31, 2007. If Developer fails to submit its Project boundaries to Agency on or before that date, then without further action this Agreement will automatically terminate and neither Party will have further rights or obligations to the other, except for those matters which, by their terms, survive the termination of this Agreement, and subject to Developer's right to the refund of any PEP funds that are not encumbered or expended in accordance with Section 2.3 of this Agreement.

1.5 Length of Negotiation Period

The period for negotiations between the Parties under this Agreement will be one hundred twenty-three (123) calendar days (the "Negotiation Period"), commencing at 9am on the date following Developer's submission of its Project configuration pursuant to Section 1.4, but no later than August 1, 2007; provided, however, that the Negotiation Period may be terminated earlier pursuant to the termination provisions of this Agreement.

2. **PROJECT EXPENSE PAYMENT**

2.1 Deposit of Project Expense Payment

Within ten (10) business days of the Effective Date, Developer will deposit with Agency a Project Expense Payment ("PEP") in the amount of One Hundred Fifty Thousand Dollars (\$150,000) for purposes of reimbursing Agency for third party expenses as described in Section 2.2 below. Developer will deposit the \$150,000 PEP in the form of a check made out to the "Redevelopment Agency of the City of Oakland," in form and content reasonably satisfactory to Agency and drawn by an institution reasonably satisfactory to Agency.

The PEP will not be refunded to Developer except as provided in Section 2.3 herein. Agency will provide a budget for PEP expenses, which will be attached hereto as Exhibit B. The PEP budget may be amended by Agency from time to time so long as such amendments are reasonable and do not cause the budget to exceed the total amount of PEP authorized by this Agreement. In the event that the PEP is exhausted and further funds are required to complete the analysis and other activities called for by this Agreement, Agency may require that the Developer deposit additional funds to cover the anticipated expenses associated with implementation of this Agreement.

2.2 Use of Project Expense Payment

The PEP will be used to pay Agency's actual third-party expenses related to planning a project and negotiating a DDA. Allowable activities include, but are not limited to, master planning and urban design; land use studies necessary for site planning and environmental review; project management; legal fees; cost estimating; preparation of the California Health and Safety Code 33433 Report, if such a Report is required as a matter of law as determined by Agency's counsel, and other studies and documents required under the California Redevelopment law; and any other such reasonable project-related third-party costs as may be required by Agency in its sole and absolute discretion. The PEP will not be used for staff costs or environmental remediation. PEP funds may be used for other purposes and the budget may be modified with the mutual written consent of designated Agency and Developer project managers.

2.3 Reports on Project Expense Payment

Every thirty (30) days Agency will provide a report to Developer on expenditures from the PEP made by Agency. Such reports will be on a cash basis and will cover expenditures made through the period ending thirty (30) days before Agency issues each report. Agency will issue its final report on the PEP expenditures within thirty (30) days after this Agreement is terminated if the Developer and Agency do not execute a DDA, and any portion of the PEP that is not encumbered or expended will be refunded at that time.

3. **SCHEDULE OF PERFORMANCE**

3.1 Activities and Time Periods

The Parties will perform the activities described in Exhibit C during the Negotiation Period and within the time periods as set forth in Exhibit C. Developer's failure to meet any deadline in Exhibit C will constitute an event of default.

3.2 Semi-monthly Reports and Meetings

Developer will provide Agency staff with written progress reports on all matters pertaining to the Project by the 5th day and the 20th day of each month following the Effective Date. The semi-monthly progress reports will include, but not be limited to, updates on the following areas: financing, any material alterations to the Project program and design, or changes to the pro-forma Project budget previously submitted to Agency. At Agency's election, Developer may be required to meet with Agency staff on a monthly basis on a date to be determined by Agency each month following the Effective Date or more frequently as Agency determines is necessary.

3.3 Enforced Delay

Performance by any party hereunder shall not be deemed to be in default ("Enforced Delay") where delays or defaults are resulting from war; acts of terrorism; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; or any causes beyond the

control and without the fault of the party claiming an extension of time to perform. The Agency Administrator may grant Developer an extension of time for any such cause for the period of the Enforced Delay which extension will commence at the time of the commencement of the cause, if notice by the Developer is sent to Agency within fifteen (15) days of knowledge of the commencement of the cause. The grant of any such extension may not be unreasonably withheld by Agency. None of the foregoing events shall constitute an Enforced Delay unless and until the party claiming such delay delivers to the other party written notice describing the event, its cause, the date and the event commenced, and the estimated delay resulting therefrom. Enforced Delay also includes, without limitation, litigation or administrative proceedings initiated by a party other than Agency or Developer that challenge this Agreement, the Project or the Development Approvals. Nothing in this Agreement will extend the Negotiation Period, including, without limitation, an Enforced Delay under this Section 3.3.

4. APPROVAL OF DEVELOPER SUBMISSIONS

Within fifteen (15) calendar days after Agency receives any information or documents required to be submitted by Developer pursuant to Section 3 of this Agreement (including any submissions required by Exhibit C), Agency will inform Developer of its acceptance or rejection of the submission. Agency may approve those portions of a submission that are satisfactory and reject those portions that are not, or may approve all or a portion of a submission subject to conditions requiring further submissions for Agency review and approval. Agency's rejections of a submission or any portion thereof may not be unreasonable, nor may Agency's rejection of a schematic design or drawing be materially inconsistent with Agency's prior approval of a conceptual design. If Agency rejects all or any part of a submission, Agency will provide to Developer written notice of the reasons for such rejection within said fifteen (15) days. Developer will then have fifteen (15) business days to correct or supplement its submission to respond to Agency's rejection.

5. EFFECT OF NEGOTIATIONS

Developer understands and acknowledges that any DDA resulting from the negotiations arising from this Agreement will become effective only if and only after such DDA has been considered and approved by the governing body of Agency (and City, if necessary) in its sole and absolute discretion at a public hearing called for that purpose pursuant to the California Community Redevelopment Law, and only if such DDA has been executed by the Agency Administrator. Developer understands that the Agency Administrator and Agency's governing body retain the sole and absolute discretion to approve or not approve the Project or any alternative project proposed by Developer. If the terms of a mutually satisfactory DDA have not been negotiated by Developer and staff during the Negotiation Period, or if Agency Board declines to authorize a DDA for any reason, then, without further action, this Agreement will automatically terminate and neither Party will have further rights or obligations to the other, except for those matters which, by their terms, survive the termination of this Agreement.

6. RESPONSIBILITIES OF THE PARTIES; FULL COOPERATION

6.1 Full Cooperation

The Parties pledge full cooperation during the term of this Agreement in order to meet the requirements and intent of this Agreement. Such cooperation will include, but not be limited to, meeting as frequently as reasonably necessary and providing diligent and timely responses to inquiries and requests for information.

6.2 Cooperation for Permits and Governmental Approvals

In order for Developer's proposed development to proceed, Developer must obtain certain approvals from Agency and City. Developer will be solely responsible for applying for and obtaining all necessary approvals from City and any other governmental agencies for the implementation of the proposed development as contemplated by the Parties. Agency will work in good faith to support Developer's efforts to obtain government approvals for the project. Developer understands that although Agency and City of Oakland may have some or all of the same members of their governing bodies, they are two separate legal entities, with separate jurisdictions and procedures.

6.3 Cooperation for Planning of Oakland Army Base

Developer acknowledges that the development of the Property will impact the overall development of the Oakland Army Base. Therefore, Developer will work in good faith with Agency to coordinate the planning of the Project with other concepts that are being analyzed and planned for the Oakland Army Base. In particular, Developer and Agency will work in good faith to resolve issues that directly or indirectly affect the planning for the proposed development of adjacent portions of the Oakland Army Base as quickly as possible.

7. DEFAULT AND REMEDIES

7.1 Events of Default

Failure by any Party to negotiate in good faith, as defined in Section 7.4(B) herein, will constitute an event of default hereunder. Failure of Agency to negotiate exclusively with Developer, as required in Section 1.3, will constitute an event of default hereunder. Failure of Developer to meet a deadline in Exhibit C will constitute an event of default, as provided in Section 3.1.

7.2 Notice of Default and Cure Period

(A) If Developer commits an event of default under Section 3.1, Agency will give written notice of such default to Developer, specifying the nature of the default and the required action to cure the default. If the default remains uncured or if the cure is not commenced and being diligently prosecuted by Developer five (5) business days after delivery of such notice, the Negotiating Period will terminate automatically without any further action by the Agency Administrator or the Agency Board.

(B) If a Party commits an event of default under this Agreement other than a violation of Section 3.1, the non-defaulting Party will give written notice of default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If the default remains uncured or if the cure is not commenced and being diligently prosecuted by the defaulting party fifteen (15) days after receipt by the defaulting Party of such notice, the non-defaulting Party may exercise the remedies set forth in Sections 7.2 and 7.4. If the default remains uncured thirty (30) days after written notice has been provided by the non-defaulting Party, even despite the diligent efforts of the defaulting Party, then the non-defaulting Party may, subject to Section 3.3 of this Agreement, exercise the remedies set forth in Sections 7.2 and 7.4.

7.2 Agency's Remedies

If Developer fails to cure any default during the cure period described above, or if the default is not curable, this Agreement may be terminated upon written notice of termination from Agency, and thereafter no Party will have any further rights or obligations hereunder, except for those provisions that explicitly survive expiration, termination or invalidation of this Agreement.

7.3 Discretion to Extend Time for Performance and Nonwaiver of Default

If the Agency Administrator determines that it is in the Agency's best interests, and subject to the provisions of Section 3.3 of this Agreement, she may extend the time for Developer's performance of any of the terms and conditions of this Agreement by up to five (5) business days. Any extension will be granted in Agency Administrator's sole and absolute discretion and in no event will this provision be construed as conveying any right or entitlement to any other or further extension. The failure of Agency to give notice of a default or to forbear and not enforce a default will not be construed as waiver of the right of Agency to enforce a similar default in the future. No extension granted under this Section 7.3 will extend the Negotiation Period.

7.4 Developer's Remedies

(A) In its sole and absolute discretion, and with thirty (30) days written notice, Developer may elect to terminate the Agreement and to direct Agency to return any portions of the PEP that are not encumbered or expended. If Developer elects to terminate the Agreement before the end of the Negotiation Period, Agency will return the unexpended and unencumbered PEP within thirty (30) days after the termination becomes effective. If Agency has breached its obligations to negotiate in good faith or to negotiate exclusively with Developer, Developer may elect either to terminate this Agreement, as provided in this Section 7.4(a), or to seek specific performance of the exclusive negotiating and good faith obligations of this Agreement. Developer will not be entitled to recover any damages from Agency.

(B) "Negotiate in good faith" will mean that (1) all parties will meet and confer with the other parties regularly and frequently for the purpose of discussing and seeking agreement on all material elements of the transaction, and (2) Agency will respond to Developer's proposals in a reasonable amount of time, with reasons for any rejection if such proposals are rejected. Failure of Developer and Agency staff to reach agreement on the terms of a DDA will not, by itself, constitute a failure of Agency to negotiate in good faith. Failure or

refusal of the Agency Board to approve a DDA negotiated by Agency staff and Developer will not constitute a failure of Agency to negotiate in good faith.

(C) Developer's remedy of specific performance will mean only that if Agency breaches its duty of negotiating in good faith or negotiating exclusively with Developer that Developer may seek an appropriate order requiring Agency to negotiate in good faith or to cease negotiating with a third party, which will allow Developer to have its full 123 days of good faith, exclusive negotiations as provided for in this Agreement. The 123 days for which a court may order negotiations will be calculated by subtracting any days that Agency negotiated exclusively and in good faith, but will not count any time that Agency was in breach and during which Developer seeks judicial recourse for the breach.

7.5 No Liability for Damages

Except as expressly provided above and in Sections 12 and 14 of this Agreement, no Party will have any liability to the other for damages for any default or termination of this Agreement.

8. LIMITATIONS

Nothing in this Agreement will act as any form of project approval or entitlement by Agency or City. This Agreement does not obligate Agency to transfer the Property to Developer or any other person. This Agreement does not obligate Agency or City to approve the Project or any other project. Developer acknowledges and agrees that no Agency commitment to move forward with the Project can be made other than by a resolution of Agency's and City's governing bodies after a public hearing and subject to the requirements of the California Community Redevelopment Law, CEQA, and other applicable law, and adoption of any such resolution will be at Agency's and City's sole and absolute discretion. Any costs incurred by Developer, Developer's members or partners, or other members of Developer's project development team to comply with its obligations under this Agreement or to negotiate the DDA will be the sole responsibility of Developer, and in no event will Agency have any responsibility to pay for or reimburse Developer for any of said costs.

9. NON-DISCRIMINATION

Developer agrees that it will not discriminate against any person, or group of persons, on account of sex, race, color, age, marital status, religion, disability, creed, national origin, ancestry, sexual orientation, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-Related Conditions (ARCS) in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor will Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, buyers, lessees, subtenants, sublessees or vendees of the Property or in Developer's employment of any individual or selection of any subcontractor for work relating to this Agreement.

10. NO ASSIGNMENT

This Agreement is personal to Developer and is not assignable to any other person or entity, except to an entity that is 100% controlled by Developer, without the prior written consent of the Agency Administrator, which may be given or refused in her sole and absolute discretion. Any attempt to assign this Agreement or any part of the Agreement without the prior written consent of the Agency Administrator will constitute a material breach of this Agreement and will be void and of no force and effect.

11. RIGHT OF ENTRY

11.1 Right of Entry

Developer and its agents, contractors and representatives may, with prior written notice to Agency, and with Agency's prior written approval, enter upon the Property during the Negotiation Period to conduct investigations, tests, topographical surveys, appraisals, and studies, including geotechnical studies, soils tests and environmental site assessments. Developer will not unreasonably interfere with any tenant or user on the Property, or alter the Property except as needed to conduct the testing and other activities thereon as authorized by this Agreement, and Developer agrees upon completion of any testing or other activity under this Agreement to remove all debris, litter, equipment, and other materials placed on the Property by Developer and its agents, and to restore the Property as much as reasonably possible to its original condition. Agency has the right to approve the specific testing or other activities proposed by the Developer, including, but not limited to, the nature and scope of any testing performed. Agency may not unreasonably withhold its approval of testing or other activities, provided that such testing does not interfere with the activities of the tenancies or uses allowed under Section 1.3 herein. Developer will provide Agency with copies of any and all reports prepared as a result of Developer's testing or other activities on the Property.

11.2 Notice Required for Entry

Prior to entry onto the Property, Developer must give Agency's project manager at least five (5) business days notice. The notice must state the purpose of the entry, the date and time of the entry, the length of time of the entry, and the nature and scope of any testing or other activities, if any, Developer wishes to perform. Agency reserves the right to deny Developer entry, to adjust the date and time of the entry, or to put reasonable conditions on the entry; however, Agency may not unreasonably deny Developer's entry, but may deny or restrict the Developer's ability to test or conduct other specific activities on the Property, which denial or restriction will not be unreasonable.

11.3 Government Approvals and Permits

Notwithstanding any other provision in this Agreement, this right of entry will not relieve Developer from the necessity of obtaining any applicable governmental approvals or permits that may be necessary to perform such tests or conduct other activities on the Property.

12. INSURANCE AND INDEMNIFICATION

12.1 General Indemnification

Developer hereby covenants, on behalf of itself and its successors and assigns, to indemnify, defend (with legal counsel reasonably satisfactory to Agency), save and hold harmless Agency and City, and their respective agents, officers, officials, employees and representatives from all claims, demands, liabilities, actions or causes of actions, including, without limitation, reasonable attorneys' fees and litigation costs, arising out of or resulting from, or in connection with the negligence or willful misconduct of Developer with respect to this Agreement, including, but not limited to, the Developer's actions or omissions with respect to the Property, the negotiation and execution of this Agreement, or the negotiation and execution of a DDA for the Project. Agency hereby covenants to indemnify, defend (with legal counsel reasonably satisfactory to Developer), save and hold harmless Developer and its agents, officers, officials, employees and representatives from all claims, demands, liabilities, actions or causes of actions, including, without limitation, reasonable attorneys' fees and litigation costs, arising out of or resulting from, or in connection with Agency's negligence or willful misconduct with respect to this Agreement, including, but not limited to, Agency's actions or lack of actions with respect to the Property, the negotiation and execution of this Agreement, or the negotiation and execution of a DDA for the Project. The provisions of this Section 12.1 are severable from this Agreement, in that they will survive expiration, termination or invalidation of this Agreement.

12.2 Right of Entry Indemnification

Developer and its assigns and successors will indemnify, protect, defend (with legal counsel reasonably satisfactory to Agency) save, and hold Agency and City, and their respective agents, officers, officials, employees and representatives, harmless from any and all claims, demands, damages, losses, actions, liabilities, causes of action or judgments, including reasonable attorney's fees, which Agency or City may incur or be required to pay by reason of entry onto the Property and activities thereon by Developer or Developer's agents, employees, contractors or consultants, including, without limitation, any damages, injury or death to any person or property suffered by any person, firm or corporation, and damage or injury to the Property, except to the extent the same are attributable to the sole negligence or willful misconduct of Agency or City, or any person or entity acting on their behalf or under their authority. Notwithstanding any other provision of this Agreement, Developer will have no liability to Agency or City by reason of, nor will Developer have any duty to indemnify, defend or hold any person harmless from or against, any claim, demand, damage, loss, action, liability, cause of action or judgment, including without limitation, any claim for diminution in value of the Property or for environment remediation or clean-up costs, arising out of or in connection with the mere fact of having discovered and/or reported any adverse physical condition, title condition or other condition or defect with respect to the Property. The provisions of this Section 12.2 are severable from this Agreement, in that they will survive expiration, termination or invalidation of this Agreement.

12.3 Insurance

For the duration of this Agreement, Developer is required to maintain general liability insurance policies with coverage of at least five million dollars (\$5,000,000) in a form and coverage satisfactory to Agency. Agency and City must be named as additional insureds on such policies and Developer will cause certificates or such insurance policies to be delivered to Agency.

12.4 Materials and Reports.

The Parties acknowledge that each of them may themselves or through their consultants or contractors perform certain tests of soils and geologic conditions and may perform surveys and other functions on the Property pursuant to which reports, memoranda and other documents ("Written Materials") may be prepared. To the extent that Written Materials are made available to the other Party (and by that Party to other third parties), the Parties acknowledge (i) that they do not warrant the accuracy or reliability of such Written Materials (ii) that such Written Materials are made available for information purposes only, and (iii) that each Party will have no liability either to the other Party or to other third parties arising out of their reliance on Written Materials.

13. PUBLIC RECORDS

Developer understands and acknowledges that Agency is subject to the City of Oakland Sunshine Ordinance and the California Public Records Act, and will therefore make information regarding the Property, the Project, Developer and this Agreement available to the public upon request as required by said laws.

14. REAL ESTATE COMMISSION

Neither Agency nor City will be liable for any real estate commissions or brokerage fees which may arise herefrom. Developer represents that it has engaged no broker, agent or finder in connection with this transaction and Developer agrees to indemnify, protect and hold Agency and City harmless from any claim by any broker, agent or finder retained, or claimed to have been retained, by Developer.

15. CONFLICT OF INTERESTS

No member, official or employee of Agency will have any personal interest, direct or indirect, in this Agreement nor will any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

16. WARRANTY AGAINST PAYMENT OF CONSIDERATION FOR AGREEMENTS

Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement. The Parties understand and agree that the Parties have retained or may be assisted by legal counsel and consultants in connection with this Agreement, and that such is not a violation of this Section 16. The Parties agree that each Party will be responsible for its own professional fees incurred in conjunction with this Agreement and the negotiating of any related agreements except as provided for in Section 2 through the PEP.

17. NONLIABILITY OF OFFICIALS, OFFICERS, MEMBERS AND EMPLOYEES

No member, official, officer, employee or agent of Agency or City will be personally liable to Developer, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Developer or to its successor, or on any obligations under the terms of this Agreement. No member, officer, or employee of Developer will be personally liable to Agency or City, or any successor in interest, in the event of any default or breach by Developer or for any amount which may become due to Agency or to their successors or on any obligations under the terms of this Agreement.

18. CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations because it requires Agency governing body approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the Redevelopment Agency of the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as Exhibit D.

19. INFORMATION

Upon Developer's written request, Agency will promptly furnish Developer all material information within its possession or control concerning the Property, including without limitation, copies of all topographical surveys, environmental reports, engineering studies, soil-bearing test data, and any similar reports and studies with respect to the Property. Agency is not required to conduct or cause to be conducted any surveys, tests or studies, or to gather such information other than those within Agency's possession and control at the execution of this Agreement. Agency makes no warranty or representations with respect to any such documents.

20. NOTICES

All notices under this Agreement will be sufficiently given if hand-delivered or mailed by registered or certified mail, postage prepaid, addressed to:

DEVELOPER: Wayans Brothers-Pacific Capital Oakland Partnership, LLC
5220 Pacific Concourse Drive, Suite 190
Los Angeles, CA 90045
ATTN: Britten Shuford
FAX: (310) 297-4808

AGENCY: Redevelopment Agency of the City of Oakland
c/o City of Oakland, Community and Economic Development Agency
250 Frank H. Ogawa Plaza, Ste. 5313
Oakland, CA 94612
ATTN: Gregory Hunter
FAX: (510) 238-2992

Copy to: Redevelopment Agency Counsel
c/o Oakland City Attorney's Office
One Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612
ATTN: Alix Rosenthal
FAX: (510) 238-6500

If mailed, the written notice will be deemed received and will be effective three (3) business days after deposit in the United States mail in the State of California or upon actual receipt by the addressee if earlier.

21. GOVERNING LAW

This Agreement will be construed in accordance with the laws of the State of California, except for those provisions preempted by federal law. The Parties agree to comply with all applicable federal, state and local laws in all actions associated with fulfilling the requirements and intent of this Agreement.

22. ATTORNEYS' FEES

In the event that any Party commences litigation to enforce the terms of this Agreement, the prevailing Party in such litigation will be entitled to recover its costs and fees incurred in such action, including reasonable attorneys' fees.

23. COUNTERPARTS

This Agreement may be signed in multiple counterparts which, when signed by all Parties, will constitute a binding agreement.

24. TIME OF THE ESSENCE

Time is of the essence in this Agreement. Any Party's failure to timely perform according to the terms and conditions of this Agreement will be considered a material breach of this Agreement and ground for Default.

IN WITNESS WHEREOF, this Exclusive Negotiating Agreement has been executed by the Parties as of the Effective Date.

AGENCY: The REDEVELOPMENT AGENCY OF CITY OF OAKLAND,
a community redevelopment agency organized and existing under the
California Community Redevelopment Law

By: _____
Deborah A. Edgerly
Agency Administrator

Approved as to form and legality:

By: _____
Alix A. Rosenthal
Deputy Agency Counsel

DEVELOPER: WAYANS BROTHERS—PACIFICA CAPITAL OAKLAND
PARTNERSHIP, LLC, a California limited liability company

By: _____
Name:
Title:

By: _____
Name:
Title:

Exhibits
A-1 through A-4

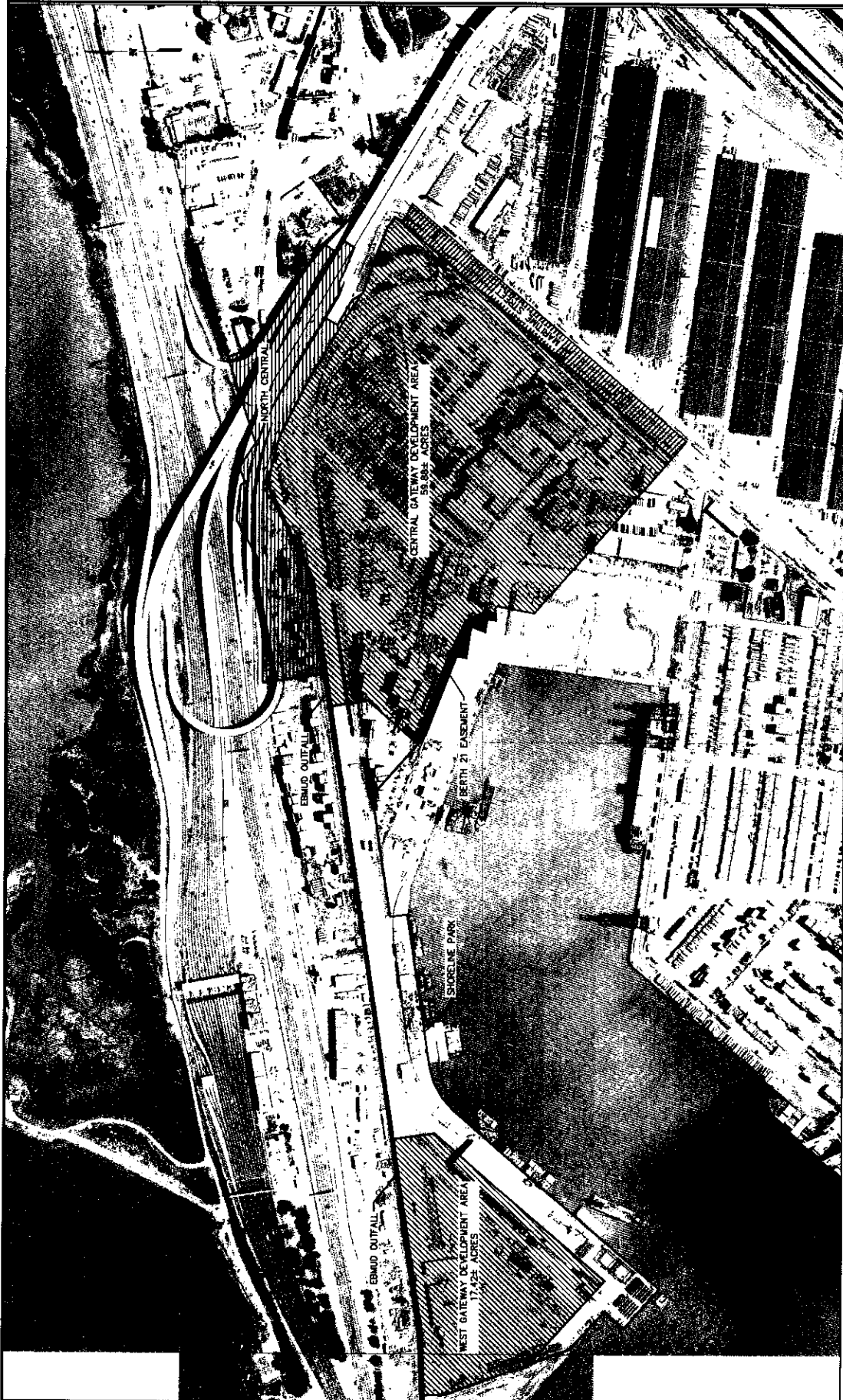
A-1: Map of the Central and West Gateway Areas of the former Oakland Army Base


A-2: Map of Central Gateway Area of form Oakland Army Base

A-3: Map of option for development of 47.30 acres of Central Gateway Area

A-4: Map of another option for development of 47.30 acres of Central Gateway Area

A-1





655 15th Street, Suite 200
Oakland, California 94612
Tel. No. (510) 835-0174 © 2007



SUPERVISOR CIVIL ENGINEER

CIVIL ENGINEER
LINDA T. DEBOLT
REG. NO. 52818 EXP. 06/30/2008

CHECKED BY:
DETERMINED BY:

DRAWN BY: LTD

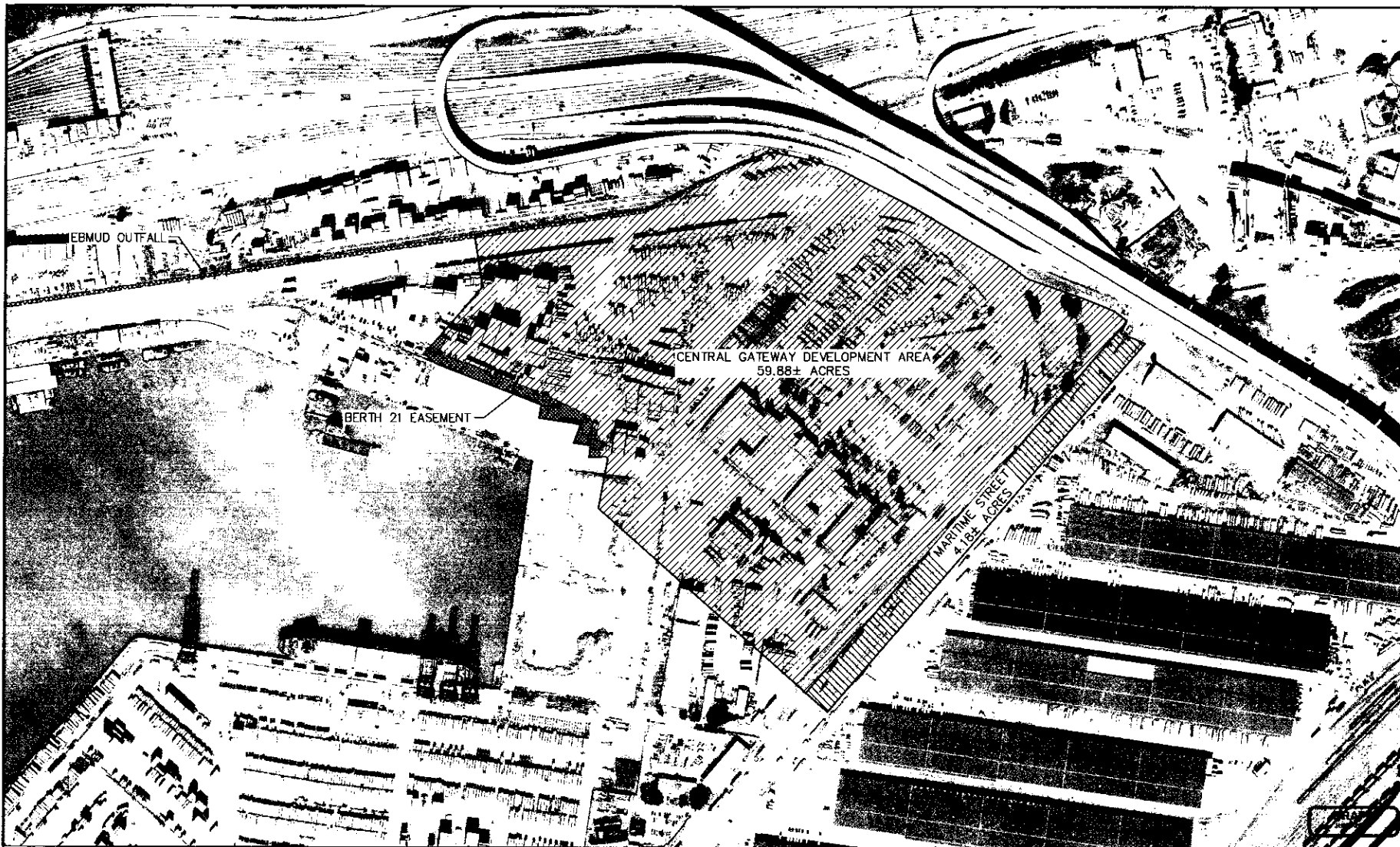
NO.	DATE	BY	REFERENCE

OAKLAND ARMY BASE
GATEWAY DEVELOPMENT AREA

EXHIBIT A-1

SCALE
1" = 200'
NORTH ARROW
DATE: JUNE 2007

SHEET NO. _____ OF _____



**Kimley-Horn
and Associates, Inc.**

555 12th Street, Suite 1230
Oakland, California 94607

Tel. No. (510) 425-0712 © 2007
Fax No. (510) 425-0714



SUPERVISOR, CIVIL ENGINEER

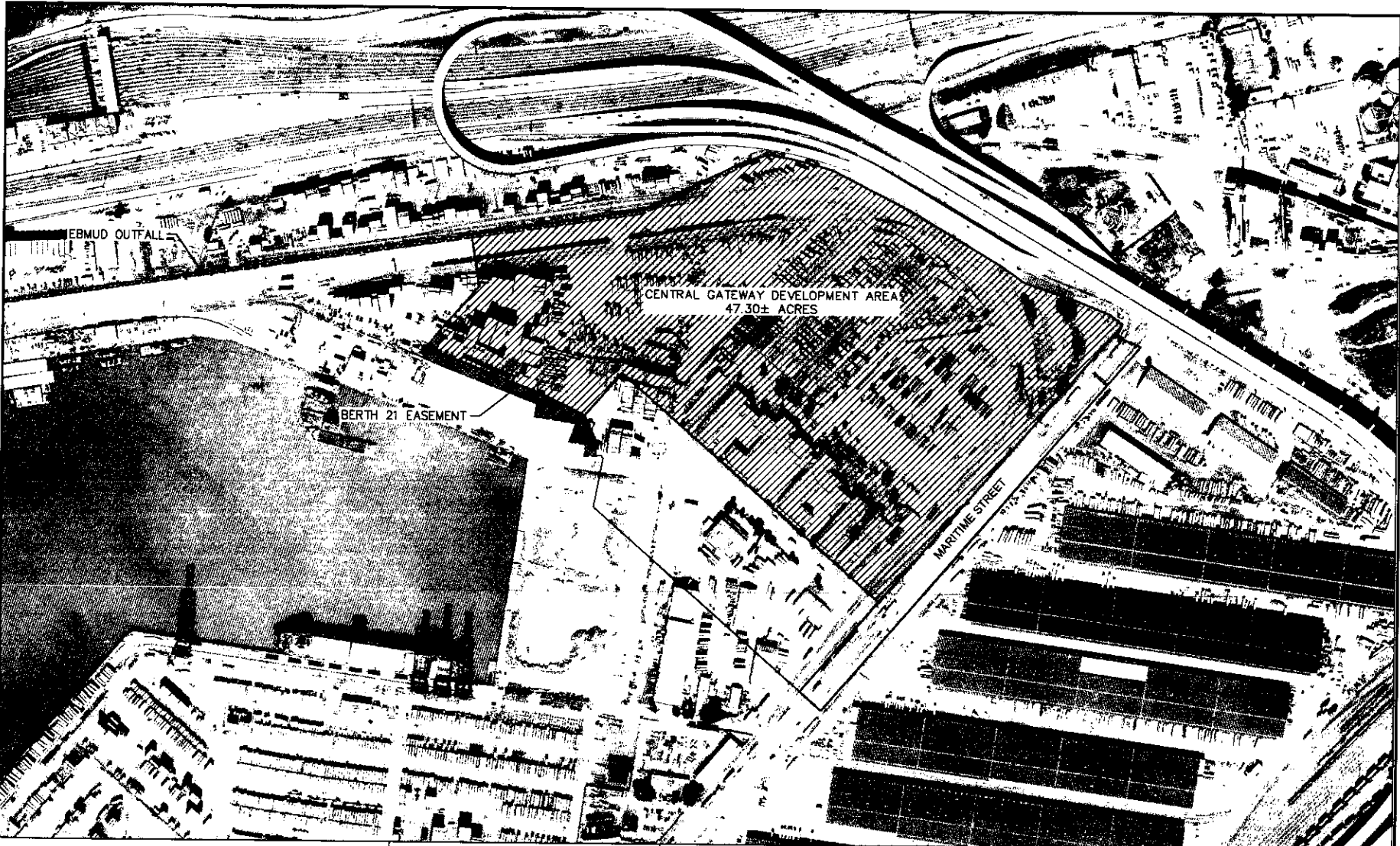
CIVIL ENGINEER	No.	DATE	BY	REFERENCE
LINDA T. DEBOLT				
NO. NO. 22223 EXP. 06/30/07				
CHECKED BY:				
DESIGNED BY:				
DRAWN BY: LTD				

OAKLAND ARMY BASE
GATEWAY DEVELOPMENT AREAS
CENTRAL GATEWAY

SCALE:
HOR. 1" = 150'
VERT. NONE
DATE: JUNE 2007

SHEET NO.

OF



**Kimley-Horn
and Associates, Inc.**

555 12th Street, Suite 1230
Oakland, California 94627

Tel. No. (510) 835-0712 © 2007
Fax No. (510) 835-0714



SUPERVISING CIVIL ENGINEER

CIVIL ENGINEER	No.	DATE	BY	REFERENCE
LINDA T. DEBOLT				
REV. NO.				
CHECKED BY:				
DESIGNED BY:				
DRAWN BY: LTD				

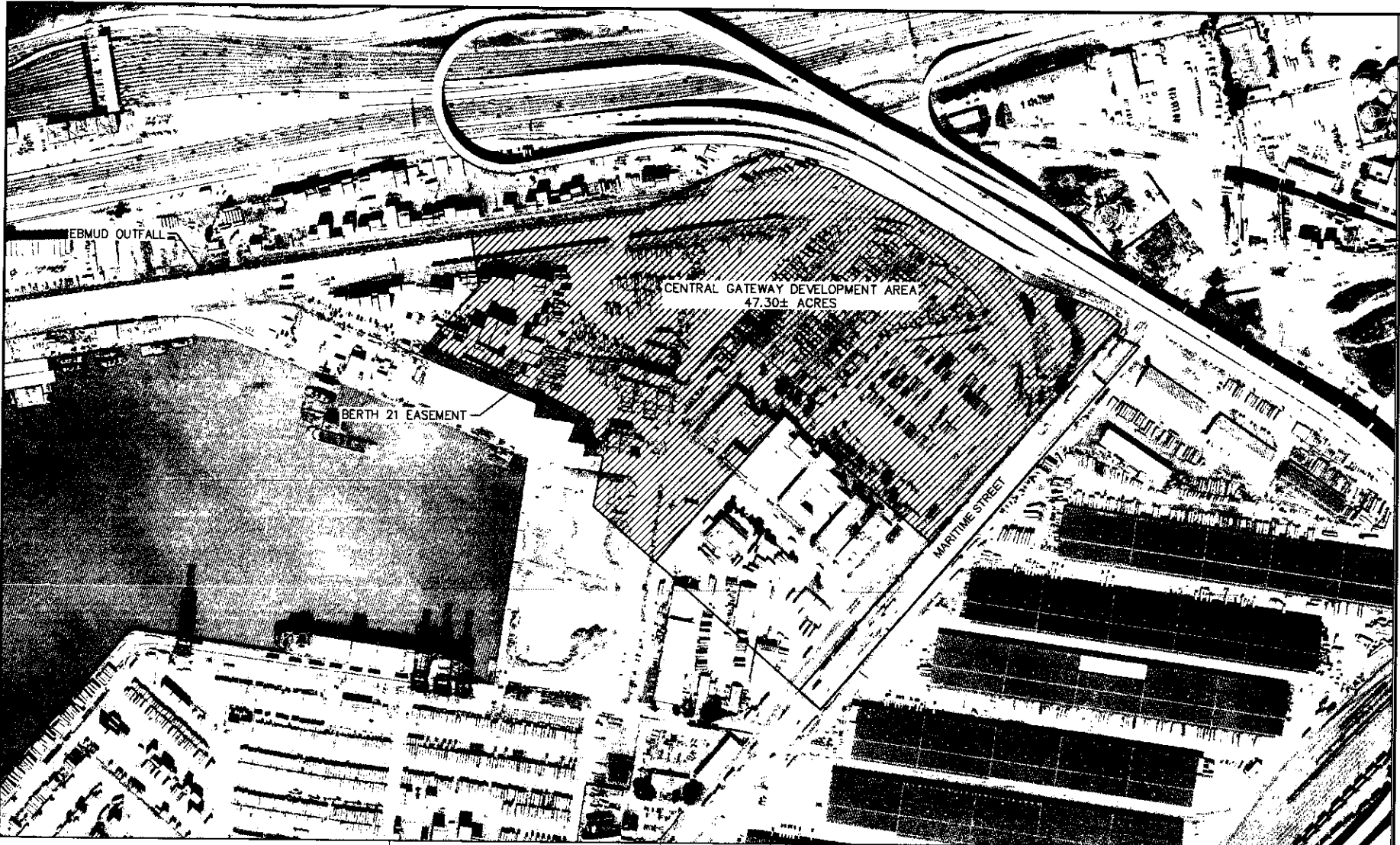
OAKLAND ARMY BASE
GATEWAY DEVELOPMENT AREA

EXHIBIT A-3

SCALE:
HORIZ. 1" = 100'
VERT. NONE
DATE: JUNE 2007

SHEET NO.

OF



**Kimley-Horn
and Associates, Inc.**

555 12th Street, Suite 1230
Oakland, California 94607

Tel. No. (510) 625-0712 © 2007
Fax No. (510) 625-0714



SUPERVISING CIVIL ENGINEER

CIVIL ENGINEER	No.	DATE	BY	REFERENCE
LINDA T. DEBOLT				
FOR NO. 42353 EXP. 08/01/08				
CHECKED BY:				
DESIGNED BY:				
DRAWN BY: LTD				

OAKLAND ARMY BASE
GATEWAY DEVELOPMENT AREA

EXHIBIT A-4

SCALE: 1" = 100'
VERT. NONE
DATE: JAN 2007

SHEET NO.

OF

Exhibit B

PRELIMINARY PEP BUDGET

Appraisals	\$30,000
Title Report and Policy	\$25,000
Survey Work	\$45,000
Design Consultant	\$4,000
Community Meeting Support	\$1,000
Closing Costs	\$10,000
Legal Costs (outside counsel)	\$20,000
Cost Estimator (construction costs)	\$10,000
Financial Analysis/33433 Report	\$5,000
TOTAL:	\$150,000

Exhibit C

SCHEDULE OF PERFORMANCE

The Parties will perform the following activities during the Negotiation Period and within the time periods set forth herein below. All initial capitalized terms will have the same meaning as in the Exclusive Negotiating Agreement:

1. General Provisions

During this term of this Agreement, the Parties will use their best good faith efforts to, without limitation, agree on: (1) the scope of the Developer's development obligations; (2) any public finance responsibilities of Agency; (3) the terms and conditions under which Agency will convey the Property to Developer for development; (4) the process for securing Agency's construction documents approvals; (5) the schedules for the performance of the Developer's development obligations and the other elements to be included in the DDA; and (6) the form of a DDA which Agency staff can recommend to Agency Board and to the City Council.

2. Initial Submittals

A. Statement Concerning any Current of Pending Litigation

On or before the 5th day of the Negotiation Period, Wayans-Pacifica will submit a written statement detailing the status of any current or pending legal matters that might have a material impact on the planning, development or implementation of the project. Developer will provide to Agency copies of any litigation documents or filings in connection with such litigation within five (5) calendar days of Agency's written request. Should any legal matter that might have a material impact on the planning, development or implementation of the project arise during the ENA period, Wayans-Pacifica will be obligated to disclose that information to Agency staff in writing within five (5) business days after Wayans-Pacifica or its partners become aware of such legal matter.

B. Financial Information Pertaining to the Planning, Development and Implementation of the Proposed Project

On or before the 60th day of the Negotiation Period, Wayans-Pacifica will submit documents verifying the market feasibility of the project and solvency and commitment of all financial, production, retail and program partners, which will include pro formas, balance sheets prepared in accordance with generally accepted accounting principles, and letters of commitment, and other financial documentation as reasonably requested by Agency covering the most recent period available for Developer. Prior to the expiration of the ENA period, Wayans-Pacifica will produce a market feasibility study on the film production marketplace in California. This study will highlight the health of the market, current trends, new developments and state of the movie production aspect of the film industry.

C. Local Project Team

On or before the 15th day of the Negotiation Period, Developer will submit to Agency staff a list of Local Project Team members including all contact information, qualifications, and description of roles. Any change to Local Project Team information will be submitted within 15 calendar days of the change. Agency staff has the option of vetting identified Local Project Team members. Should Agency staff or Agency Board members reject a proposed Project Team member, Wayans-Pacifica will have an additional five (5) business days to identify a replacement.

D. Financial, Legal, Development Team and Partner Structure, Roles and Commitments

On or before the 30th day of the Negotiation Period, Developer will submit a detailed written narrative and appropriate diagrams and charts of the financial and legal structure and corporate status of the Development Team in a form that reasonably satisfies Agency. This submission will include Articles of Incorporation, by-laws, lists of members of boards of directors, partnership agreements, operating agreements, joint venture agreements, and proof of good legal standing. The submissions will also include detailed descriptions with references of the specific roles and responsibilities of all team members and development partners, including those identified to be involved with all aspects of the planning, development and implementation of the “Creative Factory” business park, retail, community serving “Urban Village,” the Creative Children Zone and Digital Art Center for Children, and the film production facilities. The information may be submitted in segments as it is compiled and available to expedite staff review and analysis.

E. Timeline for Review

Agency will review and comment on the above-noted submittals within fifteen (15) calendar days of receipt of documents in accordance with Section 4 of the ENA.

3. Project Design

A. Phasing Plan

On or before the 7th day of the Negotiation Period, Wayans-Pacifica will submit Phasing Plans for each development component in its proposal, such as for the Creative Factory Business Park, retail and Urban Village, Creative Children Zone and Digital Art Center for Children, and film production facilities.

B. Boundary Maps and Schematic Design Plans

On or before the 60th day of the Negotiation Period, Wayans-Pacifica will submit to Agency staff detailed maps of proposed project sites for the Central and Western Areas, and detailed Schematic Design Plans for the Project. The Schematic Design Plans will include drawings, exterior elevations, site plans, schematic plans for street modifications and improvements, and a sample materials board for the first phase of the project. The Schematic Design Plan will include detailed Site Plans that include structure heights, bulk and massing, square footage, planned usage, number of parking stalls, description of main pedestrian and vehicular access, loading areas, and special features. The accompanying narrative will address total square footage for each planned use (“Creative Factory,” big box retail, etc), project phasing, construction schedule, and excavation and infrastructure considerations. The Schematic Design Plan will also address in detail Wayans-Pacifica’s commitment to meeting LEED standards and other environmental features of the project, including a commitment to use, to the extent possible, materials deconstructed from buildings on the Army Base for use in the Central and/or West Gateway Areas. Wayans-Pacifica will submit as much Site Plan detail as possible to allow Agency staff ample time to analyze it and to then meet and negotiate with Wayans-Pacifica to ensure the plan aligns with the Agency’s overall development plan for the Army Base.

4. Community Meetings

Wayans-Pacifica will solicit input on the Project from interested members of the West Oakland community. Developer will convene at least two public meetings by August 31, 2007, to share project design concepts with the public and gather public input regarding the project and its potential impacts on and interface with the West Oakland community. Agency will assist Developer in facilitating the community meetings.

5. Project Economics

A. Pro Formas

On or before the 92nd day of the Negotiation Period, Wayans-Pacifica will submit detailed project pro forma budgets that are linked to the phases and schedule for construction. The pro formas will include a Project Development budget, a statement describing sources and uses of funding, a five-year cash flow analysis, and an annotated operating budget to the level of detail reasonably acceptable to the Agency. Pro forma elements will be submitted to Agency staff as soon as they are ready to allow ample time for review and analysis, but no later than the 92nd day of the Negotiation Period.

B. Working Capital/Line of Credit

On or before the 92nd day of the Negotiation Period, Wayans-Pacifica will submit to Agency staff those public filings and other documentation verifying the working capital/line of credit referenced in the project proposal that confirm the availability of funding to complete the project.

C. Project Development Schedule

On or before the 92nd day of the Negotiation Period, Wayans-Pacifica will submit a reasonably detailed Project Development Schedule, including construction commencement and completion schedules, and leasing/absorption of the Project's "Creative Factory," retail components, "Urban Village," "Creative Children Zone," "Digital Art Center" and film production facilities.

C. Retail Development Plan

On or before the 92nd day of the Negotiation Period, Wayans-Pacifica will submit a detailed plan that includes square footage of space intended for retail use, location of leasable area, type of retail and a feasibility analysis of proposed retail use. Wayans-Pacifica's retail development plan will align with Oakland's Retail Development Strategy.

6. Environmental Review and Planning Approvals

Wayans-Pacifica will meet all deadlines articulated in this term sheet in order to allow the Agency ample time to initiate the environmental review process under CEQA. As soon as reasonably practicable after completion of all other previous tasks listed in this Schedule of Performance (see Sections 2-6 above), Developer will submit to Agency a description of the entire Project and the initial phase, suitable to initiate the environmental review process. In addition to the expenses paid under the PEP, the Developer will retain and pay directly environmental consultants to prepare all necessary documents required to conduct review under CEQA, subject to Agency's supervision.

7. Agency Submittals to Developer

By the end of the Negotiation Period, provided that Developer is not in default under this Agreement, Agency will submit to Developer a draft Disposition and Development Agreement (DDA) that includes:

- The scope of the Developer's development obligations;
- Any public finance responsibilities of Agency;
- The terms and conditions under which Agency will convey the Property to Developer for development at fair market value;

- Identification areas requiring environmental remediation with mitigation cost estimates and identification of entity required to cover costs of mitigation;
- The process and schedule for completing CEQA review referenced in Section 7 of this Exhibit C
- The process for securing Agency's construction documents approvals;
- The schedules for the performance of the Developer's development obligations and the other elements to be included in the DDA; and
- Terms and conditions that Agency staff can recommend to the Agency Board and to the City Council for their approval.

Exhibit D

Campaign Contribution Limits Form

SCHEDULE O

To be completed by City Representative prior to distribution to Contractor

City Representative _____ Phone _____ Project Spec No. _____

Department _____ Contract/Proposal Name _____

This is an Original Revised form (check one). If Original, complete all that applies. If Revised, complete Contractor name and any changed data.

Contractor Name _____ Phone _____ - _____ - _____

Street Address _____ City _____, State _____ Zip _____

Type of Submission (check one) Bid Proposal Qualification Amendment

Majority Owner (if any). A majority owner is a person or entity who owns more than 50% of the contracting firm or entity.

Individual or Business Name _____ Phone _____ - _____ - _____

Street Address _____ City _____, State _____ Zip _____

The undersigned Contractor's Representative acknowledges by his or her signature the following:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act and certify that I/we have not knowingly, nor will I/we make contributions during the period specified in the Act.

I understand that the contribution restrictions also apply to entities/persons affiliated with the contractor as indicated in the Oakland Municipal Code Chapter 3.12.080.

If there are any changes to the information on this form during the contribution-restricted time period, I will file an amended form with the City of Oakland.

_____/_____/_____
Signature Date

Print Name of Signer Position

To be Completed by City of Oakland after completion of the form

Date Received by City: ____/____/____ By _____

Date Entered on Contractor Database: ____/____/____ By _____

REVISED

Exhibit E

List of Existing Leases and Uses

Central Gateway Leases

1. ABC Security Services, Inc. dated 8/4/2007
2. Bridgeport Transportation & Warehousing Inc., dated 2/1/2007
3. Fundis Company, dated 8/7/2006
4. Oakland Maritime Support Services, dated 8/7/2006
5. United Intermodal Services, Inc., dated 8/7/2006
6. Port of Oakland, dated 8/7/2006

West Gateway Settlement Agreement

Pier 7 & Burma Road Settlement Agreement dated April 18, 2002, grants the California Department of Transportation with a construction easement over the entire West Gateway Area and that expires on April 17, 2013.