

CITY OF OAKLAND AND
OAKLAND REDEVELOPMENT AGENCY

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Agenda Report

TO: Oakland City Council/Oakland Redevelopment Agency
FROM: Robert C. Bobb, City Manager/Agency Administrator
DATE: June 24, 2003

SUBJECT: **REPORT ON ACTIONS AND AGREEMENTS ENTERED BY THE AGENCY ADMINISTRATOR IN CONJUNCTION WITH THE OAKLAND BASE REUSE AUTHORITY (OBRA) IN SUPPORT OF CONVEYANCE OF OAKLAND ARMY BASE (OARB) FROM THE DEPARTMENT OF THE ARMY;**

- 1) A CITY COUNCIL RESOLUTION AND AN OAKLAND REDEVELOPMENT AGENCY RESOLUTION AMENDING THE OAKLAND BASE REUSE AUTHORITY JOINT POWERS AGREEMENT TO ELIMINATE THE COUNTY OF ALAMEDA AS A PARTY, TO RECONSTITUTE THE MEMBERSHIP OF THE GOVERNING BODY, AND TO EXTEND THE TERM AND EXPAND THE PURPOSES OF THE AUTHORITY;
- 2) AN AGENCY RESOLUTION AUTHORIZING OBRA TO ADMINISTER FUNDS RECEIVED FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR ENVIRONMENTAL REMEDIATION PURPOSES
- 3) A CITY COUNCIL RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUNICIPAL SERVICES AGREEMENT WITH THE OAKLAND BASE REUSE AUTHORITY (OBRA) FOR THE PERIOD OF JULY 1, 2002 TO JUNE 30, 2003 IN THE AMOUNT OF ONE MILLION, ONE HUNDRED FORTY THOUSAND DOLLARS AND NO CENTS (\$1,140,000.00) AND AUTHORIZING OBRA TO ADMINISTER FUNDS RECEIVED FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR ENVIRONMENTAL REMEDIATION PURPOSES;
- 4) AN ORDINANCE TO ALTER THE PORT AREA BOUNDARY TO INCLUDE AND EXCLUDE VARIOUS SPECIFIED PARCELS AT AND ADJACENT TO THE FORMER OAKLAND ARMY BASE

Item 10.27 cc
ORA/Council
July 15, 2003

~~Item 5
Community & Economic Development Cmte
June 24, 2003~~

EXECUTIVE SUMMARY

Transfer of Oakland Army Base (OARB) property from the Department of the Army to the Oakland Base Reuse Authority (OBRA) under a no-cost Economic Development Conveyance (EDC) is expected by the end of July 2003. Since OBRA's last conveyance report and resolution to the City Council/Oakland Redevelopment Agency (ORA) in July 2002 (Agency Resolution No.02-69), OBRA staff has successfully negotiated and reached agreement on the major actions in support of conveyance and the Agency's eventual acquisition of the Army Base property.

On September 27, 2002, OBRA and ORA signed an Economic Development Conveyance Memorandum of Agreement (MOA) and supporting agreements with the Army for the conveyance of 366 acres of the Oakland Army Base at zero cost. It was critical to complete all relevant documents by September 30, 2002, in order to preserve the no-cost EDC, since the Army had to obligate funds for OARB environmental remediation by that date. OBRA secured a commitment of \$13 million from the Army for that purpose.

OBRA's Economic Development Conveyance is occurring under a Finding of Suitability for Early Transfer (FOSET), or early transfer authority, from the Army. This is the "risk-based" approach used successfully by the Brownfields economic development initiative, authorized by the federal Environmental Protection Agency (USEPA) and the California Environmental Protection Agency, Department of Toxic Substances Control (Cal EPA DTSC).

The request for a covenant deferral of federal environmental law to enable the early transfer of the Army Base is currently under review by the office of Governor Davis. It is necessary that the Governor approve this proposal in order for the actual federal transfer to take place.

Since making the strategic decision to receive the EDC property under a FOSET, OBRA launched an exhaustive environmental assessment and remediation planning program to meet federal and state requirements for the Early Transfer. OBRA has been responsible for the development, negotiation and entry of all agreements related to the Army Base conveyance, on behalf of the Agency, which will be the eventual implementing agency for the City. Three years after transfer of the Army Base deed, OBRA will convey the property to the Oakland Redevelopment Agency, and certain property to the Port of Oakland.

One of the primary partners of OBRA is the Port of Oakland. Per the proposed Memorandum of Agreement between the Agency/City, OBRA and Port, the Port has been participating in the development, negotiations and meetings with the Army and key state agencies. In addition to its conveyance actions, the Port is a major tenant of OBRA, and is contractually responsible for the operations and maintenance of the utility services for the Army Base.

This report presents a summary of the conveyance and environmental program for the Oakland Army Base completed by OBRA, as well as actions planned for the future. It also describes the Army Base leasing program conducted by OBRA and the status of OBRA's agreements with its conveyance partners.

In order to complete the conveyance of the Army Base, this report also recommends critical actions to be taken by the Council and the Agency.

FISCAL IMPACT ANALYSIS

The Oakland Base Reuse Authority is responsible for covering all costs associated with the Oakland Army Base Conveyance Program, including personnel, certain city services, operational expenses, and professional services costs such as legal, environmental, property management, engineering, and leasing support required for various conveyance actions. In addition to covering direct program costs, OBRA has, from 1999 through 2003, reimbursed the Oakland Redevelopment Agency for certain Agency and City staff support for services related directly to the closure, reuse, and redevelopment of the Oakland Army Base. The funding source is, and remains, revenues from the OBRA Leasing Program, which can only be used to support activities as agreed to in the Memorandum of Agreement between the Army and OBRA and the Redevelopment Agency.

Council and Agency Resolutions to Amend the OBRA Joint Powers Agreement

This item has no fiscal impacts.

Agency and Council Resolutions Authorizing OBRA to Administer Funds Received from the California Department of Transportation for Environmental Remediation Purposes

OBRA requests authorization to administer approximately \$5.6 million, plus interest earnings, which have been set aside to fund the cost of remediation of environmental conditions at the Army Base. (OBRA's authority to administer the funds is necessary to provide the California Department of Toxic Substances Control with the financial assurance that OBRA is able to fund the difference between the estimated cost of environmental remediation, and the total amount of funds being provided by the Army to undertake cleanup.) The source of funds is one-half of a settlement agreement arising from federal and state legal actions filed by the City, in conjunction with OBRA, the Oakland Redevelopment Agency, and the Port of Oakland against Caltrans and the Federal Highway Administration regarding the conveyance of interest of parcels of land at the Oakland Army Base; the parties settled, and Caltrans paid \$11.6 million dollars. Pursuant to a Memorandum of Agreement among the ORA, OBRA, and the Port (previously approved by the Council), the City, ORA and OBRA have split the \$11.6 million dollar settlement equally with the Port.

No outlay of funds by OBRA, the Agency or the City is required under this item.

Council Resolutions Authorizing the City Manager to Enter into a Municipal Services Agreement with OBRA

OBRA proposes entering into a municipal services agreement with the City for the fire protection services and police services for the Oakland Army Base which have been

provided in the current fiscal year, 2002-2003, in the amount of \$1.140 million, renewable annually.

Ordinance to Alter the Port Area Boundary to Include and Exclude Various Specified Parcels at and Adjacent to the Former Oakland Army Base

This proposed ordinance is pursuant to the pending Memorandum of Agreement for conveyance and development of the Oakland Army Base between the City/Agency and OBRA and the Port of Oakland, and has no fiscal impact.

BACKGROUND

The Oakland Base Reuse Authority was constituted in 1995 as a Joint Powers Authority between the Oakland Redevelopment Agency, City of Oakland, and County of Alameda as the local reuse authority charged with conducting the reuse planning and conveyance of closing military facilities in Oakland. In September 1995, Oakland Army Base was announced for closure by the federal Base Reuse and Alignment Commission (BRAC); on September 30, 1999, the Army decommissioned the base.

OBRA signed a Master Lease with the Army in June 1999, and began its interim leasing program, assuming responsibility for the operations and maintenance of the base property and utilities. Since then, the interim leasing program has reached 95 percent capacity with more than 70 tenants generating hundreds of jobs. All of OBRA's operations are currently funded from interim leasing revenues.

In July 2002, the OBRA Governing Body adopted its Final Reuse Plan for Oakland Army Base and the City Planning Commission, on behalf of the City, certified the Final Environmental Impact Report (FEIR) for the OARB Redevelopment Area. OBRA and the Port, as responsible agencies to the EIR, participated in its development.

With reuse planning completed, OBRA has focused during the past year on expediting conveyance of the Army Base. Since July 31, 2002, OBRA has successfully negotiated and executed a number of key agreements with the Department of the Army and the state DTSC required for the EDC and the Early Transfer agreement.

In May 2003, OBRA staff submitted a package of the executed documents to the Army and DTSC. DTSC then sent them with its recommendation to the Office of the Governor for approval of the FOSET and the EDC transfer. The Governor's approval is expected this summer, clearing the way for deed transfer of the EDC property to OBRA by the end of July 2003.

KEY ISSUES AND IMPACTS

I. SUMMARY OF CONVEYANCE ACTIONS AND AGREEMENTS: COMPLETED AND GOING FORWARD PLAN

ENVIRONMENTAL AND RELATED ACTIONS IN SUPPORT OF EARLY TRANSFER

▪ Environmental Impact Report (EIR)

In July 2002, after meeting the information requirements of various state regulatory bodies, the Environmental Impact Report (EIR) for the Oakland Army Base (OARB) Redevelopment Area was certified by the City Planning Commission. The EIR examined potential environmental impacts that would result from development of the OARB in conformance with the reuse scenario identified in the OARB Reuse Plan, as well as other reuse alternatives. Certification of the EIR now facilitates OARB development by providing the ORA with adequate information upon which to evaluate and ultimately approve specific development proposals. The EIR effort also included preparation of a Mitigation Monitoring Report Program (MMRP), which will aid the ORA in ensuring that appropriate mitigations are incorporated into any development project approved for the site. In addition, the MMRP guides OBRA and the Port, as responsible agencies, in ensuring compliance with the mitigation requirements of projects under their control.

▪ Finding of Suitability for Early Transfer (FOSET)

The Department of the Army will transfer the EDC property to OBRA by means of a Finding of Suitability for Early Transfer (FOSET). The FOSET allows the transfer of the property prior to completion of the legally mandated remedial actions. Early Transfer occurs under a “covenant deferral” of a section of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) that assumes that the remedial action necessary to protect human health and the environment will be conducted after transfer, pursuant to legal agreements.

The FOSET comprises an array of interrelated assessments, findings and agreements which OBRA conducted and executed. This effort has involved a close and sustained coordination with the state DTSC, the U.S. Environmental Protection Agency and the Army.

On April 30, 2003, OBRA and Army staff met with representatives of the DTSC to discuss the final steps required to complete the FOSET package. Subsequently, DTSC briefed representatives from the California EPA and presented the FOSET package to the Governor’s Office on May 21, 2003. The request for a covenant deferral of federal environmental law to enable the early transfer of the Army Base is currently under review by the office of Governor Davis. It is necessary that the Governor approve the covenant deferral request in order for the actual federal transfer to take place.

The FOSET package included the final FOSET and its attachments, all of the executed agreements, and additional attachment memos which were prepared by the DTSC. The attachment memos included a description of the financial assurances being provided by OBRA/ORACity and the Port, an explanation of cleanup remedies, a discussion of the role of other state agencies, and a summary of each of the major documents included as part of the FOSET.

Key FOSET attachments are described below. Other attachments to the FOSET included: an MOA between the Army, DTSC and the California EPA's Regional Water Quality Control Board; legal description of the property; regulatory and public Comments received by the Army; and a list of documents that provide information on the environmental condition of the property at the OARB.

- **Environmental Services Cooperative Agreement (ESCA)**

The Environmental Services Cooperative Agreement (ESCA) signed between the Department of the Army, OBRA and the Redevelopment Agency, was one of the final environmental documents required to execute the Army's FOSET. The ESCA implements the Early Transfer by binding both the Army and the transferee (OBRA/ORACity) to environmental cleanup responsibilities on the transferred property.

The ESCA is the agreement that codifies the Army's funding obligation and OBRA's Environmental Services responsibilities for post-conveyance environmental remediation at the OARB. Not only does it specify the amount for which the Army is obligated, but it binds both the Army and OBRA to performance responsibilities.

The ESCA is the federal authority for the Army to transfer a negotiated fixed amount of funding to OBRA for environmental cleanup. The Army has committed \$13 million for its funding obligation for environmental remediation at the base. OBRA, with the approval of the City Manager and in consultation with the Port of Oakland, entered into a Memorandum of Agreement with the Army to formally accept this amount on August 20, 2002. In addition, the Army conducted the demolition of Building 1, representing \$2 million worth of work. Building 1 constituted a human health hazard, and was identified by the state DTSC as one of the seven sites requiring immediate remediation. The Army's funding will cover environmental insurance premiums and a portion of the total environmental remediation funding, which is estimated at close to \$22 million. OBRA and the Port will each contribute approximately \$6 million to fund the balance.

- **Remedial Action Plan and Risk Management Plan**

The scope and detail of the required cleanup are contained in OBRA's Remedial Action/Risk Management Plan (RAP/RMP) for the OARB. The RAP identifies and evaluates potential remedial alternatives for sites of environmental concern at the Oakland Army Base. Seven sites were identified that require RAP treatment within five years. Following approval of the FOSET package, OBRA, in coordination with the Port, must

prepare detailed implementation plans for each of the seven RAP sites for submission to DTSC.

The RMP is a companion document to the RAP. The RMP provides a decision framework for the management of residual chemicals in soil and groundwater at areas of the OARB. OBRA's proposed RMP approach will be managed and implemented through a phased program over ten years, consistent with the schedule for redevelopment.

The RAP/RMP approach was described in the Draft EIR, and was subject to the EIR public comment process. The Port of Oakland, as a future land user, had to concur with the RAP/RMP. After a DTSC 30-day public comment period in July-August 2002, DTSC formally approved the RAP/RMP and related Consent Agreement between DTSC, OBRA and the Agency.

- **Environmental Covenants, Conditions and Restrictions**

This document addresses the land use restrictions to protect the environment and human health that will be attached to the deed. As the OARB EDC property is being conveyed under a FOSET, it is necessary to the Army that the land use restrictions identified as needed travel with the deed.

- **Consent Agreement with State of California**

The Consent Agreement between DTSC, OBRA and the Agency certifies that the remediation requirements and processes established between OBRA and the Army are functionally equivalent to and consistent with the environmental requirements of the state DTSC. It is expected that Governor Gray Davis will sign the Consent Agreement, approving the transfer under a FOSET of the EDC property in July 2003.

The Consent Agreement will bind the Owner (OBRA and the Redevelopment Agency) to enter into environmental restrictions on the site as necessary to protect human health and the environment, and require the remediation of the property consistent with the approved RAP/RMP and schedule, and to comply with other applicable state laws and regulations.

- **Financial Assurances**

As part of the financial assurances to be provided by OBRA, the DTSC requested that the OBRA Board pass a Resolution supporting the Oakland Base Reuse Authority's financial commitment. On May 19, 2003, OBRA approved a Resolution demonstrating OBRA's commitment to provide assurances and funds necessary to ensure the implementation and completion of all environmental actions at the Oakland Army Base required under the Consent Agreement between OBRA, the City of Oakland, and the DTSC. The Council and Agency approved similar resolutions on June 3, 2003.

- **Additional Environmental Site Assessment**

As part of preparation for the possible transfer of the Army Reserve Parcel (Subaru Lot) by means of a FOSET, OBRA's consultant, Erler & Kalinowski, Inc. (EKI) completed a review of available information and prepared a technical memorandum summarizing the existing site assessment data, dated April 9, 2003. On behalf of OBRA, EKI has also prepared and implemented a Phase II Investigation Work Plan for the Subaru Lot. Initial sampling results were received in early June 2003. Based on the sampling results, discussions and negotiations will continue with DTSC to determine the amount of information required to complete an Addendum to the RAP/RMP Program.

The Early Transfer of the Subaru site from the Army Reserve will require the creation of a FOSET by the Army, an addendum to the RAP/RMP, a Consent Agreement with the DTSC, a Land Use Covenant with the DTSC, and financial assurances by OBRA and the ORA.

- **OBRA Tenant Environmental Compliance Program**

On May 15, 2003, OBRA staff held a meeting with tenants to discuss the environmental obligations contained in the OBRA Lease and how the RAP/RMP program may impact their operations. Additional information was mailed to all tenants on May 16, 2003. OBRA has begun to expand the Environmental Compliance and Asbestos Notification and Inspection Programs to meet anticipated insurance requirements and provisions of the Port/City MOA. A regular inspection and reporting program for tenants will be implemented to ensure compliance with all applicable environmental permits and environmental lease requirements. OBRA will coordinate some hazardous materials inspections with the Oakland Fire Department Office of Emergency Services and with the Public Works Agency for Storm Water Inspections. Staff will work with the San Francisco Bay Area Regional Water Quality Control Board to ensure that Caltrans maintains proper environmental controls on its Bay Bridge replacement work in the Pier 7 area.

REAL ESTATE ACTIONS IN SUPPORT OF OARB DEED TRANSFER

- **Economic Development Conveyance (EDC) Memorandum of Agreement**

The purpose of the Economic Development Conveyance Memorandum of Agreement (EDC MOA) is to provide a framework for the conveyance, setting forth the roles, responsibilities and binding commitments of the parties: the Army, OBRA and the Oakland Redevelopment Agency (ORA). The EDC MOA addresses transfer of title of approximately 366 acres of the former OARB at no cost to OBRA under the Army's Finding of Suitability for Early Transfer (FOSET). It outlines the funding support which the Army will provide to OBRA pursuant to the ESCA (*see above*) and describes the terms and conditions under which the actions will occur.

- **ALTA Survey and Legal Description of EDC Property**

As part of the EDC process and deed transfer of the EDC property OBRA is required to complete a boundary survey, to be included in the transfer deed, identifying the subject parcel to be conveyed. Additionally, OBRA is negotiating a title insurance policy to protect against any future claims or encumbrances on the EDC property. In conjunction with the proposed title insurance policy, First American Title Insurance Company representatives, OBRA's title insurance company, and City of Oakland Real Estate Department staff recommended, and participated in, the completion of an American Land and Title Association (ALTA) Survey to assess the title information and records at OARB, which include various federal and state condemnation actions, various rail company grants, City of Oakland charter and Port of Oakland charter agreements/characteristics, and Tideland Trust designations. The ALTA Survey will provide the basis for an extended coverage title insurance policy.

During the process of researching potential surveyor contractors, the City of Oakland Real Estate Department, First American Title Insurance company representatives, and OBRA's Tidelands Trust attorney provided OBRA with three surveyors with the qualifications and experience to complete the complicated ALTA survey at the Oakland Army Base. OBRA and the Port of Oakland agreed to retain the services of Towill, Inc., a frequent contractor of the Port of Oakland, and a highly recommended and experienced surveying company.

The Towill, Inc. Scope of Work (SOW) for the Work Plan for Land Surveys and Mapping Services to Support an Economic Development Conveyance of the Oakland Army Base included:

1. Preliminary Legal Descriptions; and
2. ALTA Survey; and
 - a. Research and Record Data
 - b. Boundary Survey
 - c. Mapping of all encumbrances
 - d. Mapping of ALTA standard detail requirements
3. Final Legal Descriptions for EDC; and
4. Record of Survey.
5. Boundary Survey for California Department of Transportation (CDT) I-880 Deed transfer area
6. Legal Descriptions and Mapping of CDT I-880 area
7. Mapping Services for DTSC/FOSET transaction package
8. State Lands Exchange related mapping services
9. Preliminary City-Port MOA related mapping services

- **Title Insurance Policy for EDC Property**

City of Oakland real estate policy recommends, and standard business practice suggests, that real property transfers be accompanied by title insurance from a recognized title insurance

company to protect against future real property claims against the EDC property. Based on recommendations by the Port of Oakland, BT Commercial, OBRA's real estate brokerage company, and Legacy Partners, OBRA's property management team, as well as by OBRA's State Lands counsel, OBRA staff working in conjunction with City's Real Estate Department staff selected First American Title Company as its title insurance provider. First American is an industry leader, its staff has extensive experience with State Lands transactions and federal transactions, as well as a long history of providing the City of Oakland and the Port of Oakland with title insurance.

The cost of title insurance is based on the coverage requested and the value of the real property to be insured. Because of the nature of the conveyance, and the form of the deed transfer, OBRA staff and City of Oakland Real Estate Department staff recommend extended coverage policy which typically costs approximately 20% to 25% more than standard coverage. Additionally, title insurance is usually valid only for the real property transaction for which the policy is issued to insure. For example, in this instance the policy would insure the real property transfer of the approximately 364 acres of the EDC property from the Army to OBRA. However, the complex and multi-layered OARB EDC transaction will require various subsequent title transfers during the course of the next three years, which in practice may necessitate additional title policies. OBRA will fund the policy cost for the initial Army-to-OBRA transfer.

- **EDC Deed**

Staff received OBRA Governing Body authorization to negotiate and enter into an Economic Development Conveyance (EDC) Deed for the transfer of the approximately 364 acres of the EDC Property, together with all buildings, facilities, roadways, fixtures and other improvements, subject to valid and existing easements, and any other encumbrances made for the purpose of roads, streets, utility systems, and/or other valid agreements.

The EDC Deed is, and shall be, consistent with: (a) the terms of the EDC MOA; (b) the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); (c) the OARB Finding of Suitability for Early Transfer (FOSET); (d) other Federal and State legal and policy requirements; and (e) the Army's post-transfer environmental remediation obligations.

The EDC Deed requires OBRA to accept and agree to the Environmental Covenants, Conditions and Restrictions (ECCR's), as agreed to by and between OBRA, Army and California Environmental Protection Agency, Department of Toxic Substances Control (CalEPA DTSC), with respect to the utilization and occupation of the EDC property. The ECCR's expressly notify OBRA that the property may contain asbestos, lead-based paints, and/or equipment containing Polychlorinated Biphenyls ("PCBs"). Additionally, the ECCR's require OBRA to: (i) comply with all applicable laws relating to asbestos, lead-based paints, and equipment containing Polychlorinated Biphenyls ("PCBs") and (ii) accept the EDC Property subject to land use restrictions, more particularly described below:

(a) Residential uses, hospitals, medical care facilities, day-care/child-care facilities, and schools, unless DTSC specifically authorizes such uses on a particular site. DTSC has specifically authorized the continued use of the following existing buildings for residential, day-care/child-care, and schools: Buildings 796, 740, 655 and 650 for a period of five additional years beyond conveyance.

(b) Use of groundwater for drinking water, or the disturbance or management of groundwater, except in compliance with applicable RMP procedures for managing dust and groundwater.

(c) Construction activities in the subsurface areas of the Property, except in compliance with applicable RMP procedures for managing soils.

Furthermore, pursuant to the EDC Deed ECCR's, the United States of America, Department of Army represents that no evidence of any radiological material, chemical or biological warfare agents, unexploded ordnance or abandoned ordnance exists at the Oakland Army Base. Furthermore, in the event any such material, agents, ordnance, or other Army-Retained condition is ever discovered or suspected to reside on or around the EDC property, the Army shall be solely liable and responsible for the safe, timely disposal of any such material or condition, in compliance with all applicable laws and regulations.

▪ **Easement Agreements**

Staff received Governing Body authorization to negotiate and enter into an easement or license agreement with the Burlington Northern Santa Fe Railway Company (BNSF) and/or the Oakland Terminal Rail Company (OTR) for a temporary use of an existing rail spur and yard space for an adjacent existing office trailer located within the Baldwin Yard area of the EDC property. The purpose of the agreement would be to provide BNSF/OTR adequate time to relocate their facility and equipment to location outside the EDC property.

Staff requested Governing Body authorization to negotiate and enter into an easement agreement with Pacific Gas and Electric Company (PG&E) for continued location, maintenance, repair and operation of gas pipelines and electric lines at the Oakland Army Base. For the most part the gas pipelines and electric lines are located within public streets at the Army Base and are subject to State and City franchise agreements, however, a small portion of the facilities are located in areas outside of the franchise, and therefore the small facility portions, not subject to the franchise, require an easement agreement.

Staff's goal with respect to each agreement is to minimize the potential development impacts and constraints attendant to the considered use, while providing, in the case of PG&E, the potential grantee with a necessary land use.

▪ **Interim Leasing Program and Conversion to Direct OBRA Lease**

On April 11, 2002, OBRA and the Army executed Supplemental Agreement No. 11 to the OARB Master Lease. The purpose of Supplemental Agreement No. 11 was to provide the State of California Department of Transportation (Caltrans) with the ability to retain a temporary construction easement at the Oakland Army Base. A by-product of the agreement was the effective extension of the Master Lease to December 31, 2010.

Staff is confident the conveyance of OARB will be completed in the summer of 2003. As noted above, upon conveyance OBRA staff will begin the three-year process to complete the Tidelands Trust Exchange and subsequently effect the transfer of the West of Maritime portion of OARB to the Oakland Redevelopment Agency and the East of Maritime portion of OARB to the Port of Oakland.

The Oakland Base Reuse Authority Interim Leasing Program has entered its fourth year. The four million square foot Oakland Army Base (OARB) Leasing Program tenant portfolio includes: (i) warehouse leases, (ii) yard space leases (iii) office space leases, and (iv) specific federal base reuse related leases. As of the writing of this report, of the approximately 4.2 million square feet of leaseable space at OARB, approximately 3,987,832 square feet of space is leased, which equates to an occupancy rate of 95%. The unleased square footage includes approximately 233,640 square feet of warehouse space currently in for lease, and approximately 6,000 square feet of unleased fenced yard space.

As OBRA nears the actual conveyance of the Oakland Army Base property, the Leasing Program is in the process of being revised to reflect the anticipated ownership interest of the Oakland Base Reuse Authority. Upon conveyance of title to the Army Base from the Army to OBRA the effect of the property transfer, and the terms and conditions of the EDC MOA: (i) require termination of the Master Lease, and attendant Subleases, (ii) cause a change in the relationship between OBRA and its tenants to that of Lessor and Lessee, and (iii) necessitate the development, negotiation and signature of direct leases between OBRA and specific tenants. Additionally, staff will continue close management of the Leasing Program to maximize revenue generation and limit expenditures.

The OBRA Governing Body has approved the continuation of the OARB Leasing Program during the above referenced three-year period. Staff received Governing Body authorization to provide leases to tenants at OARB on a phased approach based on: (i) tenant's building or site location, (ii) tenant's rent payment and business practice history at OARB, and (iii) tenant's ability to relocate their operation at the term of the lease agreement.

The OBRA Lease agreement will provide OBRA with the ability to continue the leasing program and support all necessary components of the OARB FOSET and environmental remediation program. Additionally, the OBRA Lease agreement will provide OARB tenants with the opportunity to continue utilizing their current premises under similar terms and conditions as provided in the existing OARB Sublease agreement.

AGREEMENTS WITH CONVEYANCE PARTNERS

▪ **City/OBRA-Port Memorandum of Agreement for Conveyance of OARB**

In September 2002, the Oakland City Council, the Oakland Redevelopment Agency, the Oakland Base Reuse Authority and the Board of Commissioners for the Port of Oakland approved proposed terms and conditions for a comprehensive Memorandum of Agreement (City-Port MOA) which would detail the programmatic and fiscal responsibilities of each agency for the Oakland Army Base conveyance program.

The City-Port MOA will provide for the transfer of the East of Maritime Street and certain waterfront property and other parcels to the Port of Oakland. Included in the MOA terms are joint obligations for: unfunded environmental cleanup costs; environmental remediation program management; funding the Alternate Homeless Assistance Accommodation; property conveyance requirements; establishment of a Community Trust Fund; coordination of the Tidelands Trust Exchange Agreement; coordination of expected EIR mitigation program requirements; development program coordination, including dispute resolution, if the need should arise; and other provisions.

Based on the approved business terms, OBRA staff prepared a draft MOA in December 2002, and received comments from the Port of Oakland in mid-January 2003. Staff is working to complete the final elements and the various exhibits and schedules to the MOA.

▪ **State Lands Tidelands Trust Exchange**

Because portions of the Army Base to be developed by the Redevelopment Agency are currently located on public trust land, under the jurisdiction of the State Lands Commission, OBRA and the Port of Oakland have agreed to seek an exchange of the Tidelands Trust designation from the State Lands Commission from land west of Maritime Street which the City will develop to the Port's development area on the east side.

This exchange would allow the City to maximize the economic development potential of its area, while the activities planned for the Port development area are consistent with the tidelands trust. As the major beneficiaries of the Army Base conveyance, OBRA and the Port will jointly undertake the tasks required for the trust exchange process.

OBRA's Trust Exchange design consultant, BMS Design Group, is close to completion of a conceptual open space plan and exchange mapping of the base development areas. Initial base maps were provided by the Port's surveyor consultant for the ALTA survey. The draft plan and maps will support OBRA's negotiations with the State Lands Commission to approve a Tidelands Trust exchange at the Army Base.

The exchange will involve not only securing the approval of the State Lands Commission, but the approval of the office of the state Attorney General and the state DTSC as well. The exchange also will require state legislation to be prepared and sponsored for the 2004 legislative session. OBRA plans to work closely with the City's state lobbyists and state legislative representatives on this effort.

▪ **East Bay Regional Parks District**

The East Bay Regional Parks District (EBRPD) will receive approximately fifteen (15) acres of Army Base land at the tip of the south side of the Bay Bridge eastern approach, known as the Spit, to develop as a public park and open space. The EBRPD transfer will occur under a Public Benefit Conveyance (PBC) directly from the Department of the Army to the U.S. Department of the Interior, National Park Service, on behalf of the EBRPD.

The new park will be known as the Gateway Regional Park and will connect to the Bay Trail, as well as to the pedestrian and bicycle amenities which will be part of the new Eastern Span of the Bay Bridge. The park will open a dramatic stretch of shoreline of San Francisco Bay which has previously not been accessible to or useable by the public. The new park will encourage "passive" uses compatible with preserving habitat and enjoying the views.

Development of the new park will not begin until the work by the California Department of Transportation's (Caltrans') Bay Bridge Replacement Project is complete, in approximately seven to ten years. The Army will conduct the environmental remediation prior to transfer, and will convey the property under a Finding of Suitability to Transfer (FOST).

▪ **Acquisition of Subaru Lot from U.S. Army Reserve and Future Development**

While OBRA pursues the various tasks described above in this report, the Oakland Redevelopment Agency (ORA) is concurrently underway with several actions to transition the OARB into an economic development project once conveyance occurs. Developers representing Costco Stores have approached the ORA with plans to develop a store on the Subaru Lot portion of the OARB, and the ORA is initiating pre-development actions to facilitate the project. Chief among them are the following:

- While OBRA prepares appropriate documents to facilitate the environmental remediation requirements to obtain the Subaru site from the Army Reserves through the FOSET mechanism mentioned earlier in this report, ORA is conducting project-level analysis of the Costco proposal to determine the traffic and other potential environmental impacts associated with the proposed development. This information will be incorporated where appropriate into the Environmental Impact Report (EIR) that was prepared in 2002 for the OARB Redevelopment Project. This will position the ORA to ensure that appropriate mitigations are in place to both facilitate immediate development of the Subaru site and not thwart pending development of the remainder of OARB at a future time.

- The ORA is also pursuing an amendment of the Redevelopment and Implementation Plans that were prepared in 2000 for the adoption of the OARB Redevelopment Area. These documents were approved by the ORA prior to the reconfiguration of the OARB, and currently reflect the earlier land use scenario where development was to occur on OARB's east of Maritime area, and the Port was to operate in the West of Maritime area. Actions will be taken to make these redevelopment documents consistent with the reuse scenario identified in the Final OARB Reuse Plan.
- Additionally, the ORA is initiating zoning review of the Costco project, with the intent of concluding all required development approval processes by this Fall which will coincide with the anticipated conclusion of conveyance actions.
- Lastly, once the Subaru parcel has been conveyed to OBRA, actions will be taken to immediately transfer the Subaru parcel from OBRA to the ORA, and then from the ORA to a developer (for the Costco project). Negotiations with Costco sponsors for a final purchase price will reflect the findings and/or requirements of the activities mentioned above as well as the financial appraisal report that has been prepared for the site.

The overall objective of the ORA's participation in this effort will be to render the Subaru site immediately available for construction of a development at the conclusion of federal conveyance actions. This effort will be the first major step towards realizing the economic development and job generating goals for the Gateway Development Project long established for this area of the city.

▪ **Revised Legally Binding Agreement with the Alameda County Homeless Collaborative Memorandum of Agreement between OBRA, Redevelopment Agency and Alameda County Homeless Collaborative**

As OBRA nears completion of the critical federal and state conveyance requirements, staff will resume its joint efforts with Port staff to revise the Legally Binding Agreement (LBA) with Alameda County Homeless Base Conversion Collaborative (Collaborative) for the OARB Homeless Assistance Accommodation. Federal base conversion law requires that military base closure communities include a homeless assistance accommodation in their base reuse plans.

The Collaborative currently conducts or sponsors a variety of programs on the Army Base, including its own Workforce Development Campus and Jobs Linkages Program, as well as social service programs by other providers and the Alameda County Community Food Bank.

A revised LBA is necessary because the accommodation provided by the original LBA, signed in May 1999 by OBRA, the Agency and the Collaborative, cannot be implemented as a result of the 2001 reconfiguration of the OARB development areas to comply with a consistency determination by the San Francisco Bay Conservation and Development Commission. Therefore an "Alternate Accommodation" must be negotiated and must

provide substantially equivalent buildings and property, or other payments as the initial accommodation, and may include off-site accommodations. As part of the Alternate Accommodation, the OBRA Governing Body, in January 2003, approved zero-cost leases for the Collaborative members that are currently OARB tenants. Under the terms of the City-Port MOA, the Port will be contributing equally to the Alternate Accommodation.

- **Memorandum of Agreement with the Painters and Decorators Joint Apprenticeship Training Committee of the Bay Area (JATC)**

The Painters and Decorators Joint Apprenticeship Training Committee of the Bay Area (JATC) currently conducts training in the painting trades on the Army Base, utilizing vacant OARB buildings which will be demolished by the Port development, scheduled to start three years after conveyance.

In furtherance of their commitment to providing apprenticeship training facilities and workforce development opportunities, the Agency and OBRA will enter a Disposition and Development Agreement (DDA) with JATC for conveyance of three acres at the Army Base that could be dedicated for such a program. The conveyance will be at no cost, assuming JATC's agreement to comply with all conditions of transfer, which will be included as restrictions of the deed.

The DDA will be in lieu of JATC's original intention to seek land at the base under a PBC, with the U.S. Department of Education as the federal sponsoring agency for the conveyance. However, the Department of Education can only accept BRAC land from the Army that meets the environmental cleanup standard required for transfer under a Finding of Suitability for Transfer (FOST). Subsequent to JATC's PBC application, the Army determined that no portion of the Army Base was currently suitable for transfer by means of a FOST. As a result, the Education Department could not take title under a PBC for the benefit of JATC.

- **Community Trust Fund**

In response to concerns of the West Oakland community, OBRA and the Port agreed to establish and jointly fund a Community Trust Fund that will directly benefit the community. In 2002, OBRA conducted the outreach and selection to identify a consultant to advise on setting up the fund, selecting the Oakland-based National Economic Development and Law Center (NEDLEC).

The Community Trust Fund consultant has been conducting outreach to neighborhood associations to inform them of the Trust, assess community needs and notify the public of the consultant's responsibility to develop a framework for the prospective Trust. Outreach and assessment are the first phases of the consultant's approved Scope of work, under its contract with OBRA.

NEDLEC consultants are working with the West Oakland Community Advisory Committee's (WOCAG) Community Trust Committee to coordinate project activities. A

district-wide community meeting to advise the larger community of the Trust and the work to-date was held this spring.

It is contemplated that the Redevelopment Agency agreements with a developer for the Gateway Development Area will include a requirement that the developer fund the Agency's \$2 million contribution. Early discussions with State Lands Commission staff have indicated their concerns regarding the use of trust impressed funds for the proposed \$2 million contribution by the Port of Oakland, unless the uses are restricted to trust eligible uses. OBRA worked jointly with the Port to negotiate this restriction with State Lands Commission.

II. COUNCIL AND AGENCY ACTIONS REQUESTED

Each of the actions required of the Council and Agency in support of conveyance is summarized and discussed below.

1. AMEND THE OAKLAND BASE REUSE AUTHORITY JOINT POWERS AGREEMENT TO ELIMINATE THE COUNTY OF ALAMEDA AS A PARTY, TO RECONSTITUTE THE MEMBERSHIP OF THE GOVERNING BODY, AND TO EXTEND THE TERM AND EXPAND THE PURPOSES OF THE AUTHORITY

On April 28, 2003, the Oakland Base Reuse Authority (OBRA) Governing Body approved a resolution recommending certain amendments to the OBRA Joint Powers Agreement (JPA) and requesting the parties to the Authority to amend the JPA accordingly. The amendments address: the parties to the JPA, the term of the JPA and purposes of the Authority, and the composition of the Governing Body. The parties to the JPA are: the City of Oakland, the Redevelopment Agency of the City of Oakland and the County of Alameda.

This report formally presents the Governing Body's amendment recommendations to the City Council and Redevelopment Agency. On June 17, 2003, the Alameda County Board of Supervisors will consider OBRA's recommendation that it vote to terminate its role as party to the OBRA JPA. The "Restated and Revised JPA" will take effect upon the approval of the remaining parties: the Oakland City Council and Oakland Redevelopment Agency.

Regional Parties to the JPA

With guidance from the Department of Defense Office of Economic Adjustment (DOD OEA), the Oakland Base Reuse Authority was formed to deal with the immediate impacts of the loss of military facilities in Oakland and to create a base reuse plan. OEA was the source of OBRA's organizational and reuse planning grants. A broad regional representation was sought to gather input for reuse planning purposes. Therefore, the composition of the OBRA Governing Body drew from the 9th Congressional district office, the County of Alameda, the City of Alameda, and the Association of Bay Area Governments (ABAG), as

well as the Oakland City Council and Mayor. Under that governance, OBRA has accomplished the reuse planning and main conveyance activities for the Oakland Army Base.

Following conveyance, the remaining Army Base management, planning and environmental responsibilities of OBRA will be City-focused, and will involve close interaction with the Oakland City Council, Redevelopment Agency and the office of the Mayor. While OBRA will continue to work with regional and other city government bodies on issues with common impact, those agencies' direct involvement in decision-making for the Oakland Army Base no longer is necessary.

Governing Body Recommendation: *That the County of Alameda be terminated as a party to the OBRA JPA.*

Term and Purpose of OBRA

As originally conceived by the JPA, OBRA's duties would cease upon deed transfer of the Army Base property from the Army, causing the Authority to "sunset", or terminate, and OBRA's rights, powers and interests would be assigned to the Oakland Redevelopment Agency to start redevelopment of the property.

However, the Council/Agency, in agreement with the Port of Oakland, agreed that commencement of the redevelopment of the Army Base should not occur until approximately three years after deed transfer. The agreements which the City/Agency and OBRA have executed with the Department of the Army and with the California Environmental Protection Agency Department of Toxic Substances Control (Cal EPA DTSC) in support of the Army Base conveyance and environmental remediation programs obligate OBRA to a number of clearly-defined responsibilities over the next three years.

▪ Environmental Remediation Obligations

Under the terms of its Early Transfer Agreement with the Army and its Consent Agreement with the State of California, OBRA has the following obligations. During the three-year period following conveyance, a phased environmental remediation program will be implemented pursuant to the requirements of the Early Transfer agreements with the Department of the Army and the state. This is a highly-complex program that will require coordination with the Port of Oakland as well as regulatory agencies.

▪ Leasing Program

In addition, the Council/Agency, as part of conveyance agreements with the Port of Oakland, agreed that OBRA should continue to conduct its Army Base interim leasing program for three years after transfer in order to generate revenue for environmental remediation and future base development to reduce any funding requirements of the Redevelopment Agency.

- **State Lands Tidelands Trust Exchange**

Since portions of the Army Base to be developed by the Redevelopment Agency are currently located on public trust land, under the jurisdiction of the State Lands Commission, OBRA and the Port of Oakland intend to seek an exchange of the trust designation between the lands to be developed by the Agency and those which will be developed by the Port. This exchange would allow the City to maximize the economic development potential of its area, while the activities planned for the Port development area are consistent with the tidelands trust. As the major beneficiaries of the Army Base conveyance, OBRA and the Port will jointly undertake the tasks required for the trust exchange process.

Therefore, in order to fully implement the Final Reuse Plan for Oakland Army Base, OBRA has initiated actions with the State Lands Commission for an exchange of state tidelands trust designation on lands at the Army Base. Per the terms of the pending OBRA/City-Port MOA, the technical work to achieve a Tidelands Trust exchange is underway. This project also will include considerable negotiation with the State Lands Commission, political efforts to draft and support state legislation, followed by the work to negotiate and execute an Exchange Agreement. It is expected that those efforts will take the full three years.

- **Economic Development Conveyance Memorandum of Agreement**

OBRA also has clearly-defined responsibilities to carry out under the terms of its no-cost Economic Development Conveyance Memorandum of Agreement with the Army. These responsibilities include special financial accounting, as well as reporting and auditing requirements.

These activities are key to achieving the full implementation of the Final Base Reuse Plan for Oakland Army Base.

Governing Body Recommendation: *That the term of OBRA be extended to three years after the date of deed transfer and that the purposes of the Authority be expanded.*

Governing Body Membership

Other local reuse authorities have restructured their membership once the planning stage was complete and OEA funding had ended. The Alameda Reuse and Redevelopment Authority (ARRA), the local reuse authority for the former Alameda Naval Air Station, is OBRA's closest example, created just ahead of OBRA and also located in Alameda County. In early 2000, ARRA amended its JPA to drop regional representation on its Governing Body and to restructure its membership to include only Alameda City Council and Alameda Community Improvement Commission members.

The current JPA provides for each member agency (i.e., party to the JPA) to appoint its own representative to the OBRA Governing Body. The Mayor of Oakland has appointing power from among the City Council members, with approval by the Council. At its meeting of

April 28, 2003, the Governing Body recommended that the Mayor also designate the OBRA chairperson and vice-chairperson.

Governing Body Recommendation: *That the composition of the OBRA Governing Body be reduced from nine to five members, comprising four Oakland City Council members and the Mayor of Oakland. The Mayor would appoint the other four (4) members of the Governing Body from the Oakland City Council, and would designate the OBRA chair and vice chair.*

Proposed Amendments:

In summary, the OBRA Governing Body recommended that the OBRA Joint Powers Agreement be amended as follows:

1. Delete the County of Alameda as a party to the JPA (first paragraph)
2. Revise OBRA's purpose (*Section II.A*) to include the following purposes:
 - a. Operate a leasing program for Oakland Army Base;
 - b. Implement and manage an environmental remediation program as required by the Consent Agreement with the State of California;
 - c. Administer an exchange of trust land for non-trust land at the Army Base.
3. Revise *Paragraph II, Sec. C, "Implementation of Base Reuse Plans"* to provide for the assignment, transfer and delegation of OBRA's rights, powers and interest to the Oakland Redevelopment Agency three (3) years after Army conveyance of the Army Base property.
4. Change the composition of the OBRA Governing Body (*Section VI.A and Amendment of July 9, 1996*) to remove the following member seats: Alameda County Supervisor, ABAG Director, Mayor of Alameda, and 9th Congressional District Director.

The Mayor would appoint the other four (4) OBRA Governing Body members from the Oakland City Council, and would designate the OBRA chair and vice chair.

2. AUTHORIZE THE OAKLAND BASE REUSE AUTHORITY (OBRA) TO ADMINISTER FUNDS RECEIVED FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR ENVIRONMENTAL REMEDIATION PURPOSES

OBRA requests authorization to administer approximately \$5.6 million, plus interest earnings, which have been set aside to fund the cost of remediation of environmental conditions at the Army Base. (OBRA's authority to administer the funds is necessary to

provide the California Department of Toxic Substances Control with the financial assurance that OBRA is able to fund the difference between the estimated cost of environmental remediation, and the total amount of funds being provided by the Army to undertake cleanup.) The source of funds is one-half of a settlement agreement arising from federal and state legal actions filed by the City, in conjunction with OBRA, the Oakland Redevelopment Agency, and the Port of Oakland against Caltrans and the Federal Highway Administration regarding the conveyance of interest of parcels of land at the Oakland Army Base; the parties settled, and Caltrans paid \$11.6 million dollars. Pursuant to a Memorandum of Agreement among the ORA, OBRA, and the Port (previously approved by the Council), the City, ORA and OBRA have split the \$11.6 million dollar settlement equally with the Port.

***Recommendation:** That the Oakland Base Reuse Authority (OBRA) be authorized to administer the City/ORA/OBRA portion of the Caltrans settlement in the approximate amount of \$5.6 million dollars, plus accrued interest.*

3. AUTHORIZE THE CITY MANAGER TO ENTER INTO A MUNICIPAL SERVICES AGREEMENT WITH THE OAKLAND BASE REUSE AUTHORITY (OBRA) FOR THE PERIOD OF JULY 1, 2002 TO JUNE 30, 2003 IN THE AMOUNT OF ONE MILLION, ONE HUNDRED FORTY THOUSAND DOLLARS AND NO CENTS (\$1,140,000.00) AND AUTHORIZING OBRA TO ADMINISTER FUNDS RECEIVED FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR ENVIRONMENTAL REMEDIATION PURPOSES

The master lease between the Army and OBRA that permits OBRA to operate the Leasing Program also vests OBRA with the responsibility for safeguarding the assets of the Army Base. The master lease further requires that OBRA comply with all applicable federal, state, and local laws, ordinances, regulations, and standards related to protecting and providing the life, health, and safety of the Leasing Program tenants. To satisfy these requirements, OBRA wishes to enter into a Municipal Services Agreement with the City of Oakland to cover the fire protection services and police services provided during Fiscal Year 2002-2003 in the amount of \$1,140,000.00.

Because the City is a named party in the settlement with Caltrans and the Federal Highway Administration regarding the conveyance of interest of parcels of land at the Oakland Army Base, the City must also officially authorize OBRA to be the administrator of settlement funds, as discussed above.

***RECOMMENDATION:** That the Council approve a municipal services agreement with OBRA for the provision of municipal services at the Oakland Army Base in the amount of \$1,140,000.00 dollars, and authorize OBRA to administer the City/ORA/OBRA portion of the Caltrans settlement in the approximate amount of \$5.6 million dollars, plus accrued interest.*

4. APPROVE AN ORDINANCE ALTERING THE PORT AREA BOUNDARY TO INCLUDE AND EXCLUDE VARIOUS SPECIFIED PARCELS AT AND ADJACENT TO THE FORMER OAKLAND ARMY BASE

The Memorandum of Agreement (MOA) between the Oakland City Council/Redevelopment Agency, OBRA and the Port of Oakland provides that prior to the date of the Army's transfer of the Oakland Army Base EDC property to OBRA, the Council and the Port Board of Commissioners will adopt ordinances providing for alterations to the Port Development Area in and adjacent to the Army Base.

The alterations of the Port Development Area for Oakland Army Base will occur at the end of the three-year period following conveyance, and are subject to the execution of the MOA. The need to add and subtract parcels from each development area reflects the complex land agreements that are part of the OARB development and contain the adjustments required to accommodate claims of various regulatory agencies and claimants.

A detailed description of the affected lands is incorporated in the accompanying resolution.

SUMMARY

The past year has seen a tremendous shift in OBRA's focus from studies and planning to producing and executing the complex real estate and environmental agreements of conveyance. The next three years will consolidate these efforts and lay the programmatic and financial groundwork for redevelopment of the Oakland Army Base.

SUSTAINABLE OPPORTUNITIES

This report does not include approval of any specific projects addressing sustainable opportunities; however, when the Army Base program reaches the development stage, specific development agreements can incorporate sustainable opportunities.

DISABILITY AND SENIOR CITIZEN ACCESS

This report does not include the approval of any specific projects or programs. Disability and senior access issues will be addressed when specific development plans are submitted to the City by the developer for review and approval.

RECOMMENDATION AND RATIONALE

Staff recommends that the Redevelopment Agency and City Council accept this report and approve the accompanying resolutions and ordinance first reading.

Robert C. Bobb
June 24, 2003

23

ACTION REQUESTED OF THE AGENCY

The Oakland Redevelopment Agency/City Council is requested to accept this report and approve the accompanying resolutions and ordinance first reading.

Respectfully submitted,



ROBERT C. BOBB
City Manager for the
Community & Economic Development Agency

**APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE**

Prepared by:

Aliza Gallo, Executive Director,
Oakland Base Reuse Authority

Item 10.27 CC
ORA/Council
July 15, 2003

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUN 26 PM 12:25
CSK

RESOLUTION AMENDING THE OAKLAND BASE REUSE AUTHORITY JOINT POWERS AGREEMENT TO ELIMINATE THE COUNTY OF ALAMEDA AS A PARTY, TO RECONSTITUTE THE MEMBERSHIP OF THE GOVERNING BODY, AND TO EXTEND THE TERM AND EXPAND THE PURPOSES OF THE AUTHORITY

WHEREAS, the Council has previously taken action to enter into a Joint Powers Agreement with the Oakland Redevelopment Agency and the County of Alameda to create the Oakland Base Reuse Authority ("OBRA") for the purpose of planning the closure and reuse of military installations within the City of Oakland closed by the Federal Government pursuant to the federal Base Realignment and Closure Act; and

WHEREAS, the Joint Powers Agreement ("JPA") establishing OBRA was entered on March 21, 1995 and OBRA began operation; and

WHEREAS, the OBRA Governing Body has approved reuse plans for Naval Medical Center Oakland and the Oakland Army Base and said plans have been approved by the appropriate federal authorities; and

WHEREAS, it is anticipated that no other military installations within the City of Oakland will be closed or realigned pursuant to the Base Realignment and Closure process and that the planning function of the Governing Body has, for the most part, been completed; and

WHEREAS, the participation of regional representatives on the Governing Body is no longer necessary since the impacts of base closure on region-wide interests have been considered in the reuse planning process for Naval Medical Center Oakland and the Oakland Army Base; and

WHEREAS, Section VI, Paragraph A of the JPA sets forth the composition of the Governing Body and provides that it shall include the Mayor of the City Oakland and four council members, a member of the Board of Supervisors, the Mayor of the City of Alameda, the executive director of the Association of Bay Area Governments and the district director of the United States House of Representatives, Ninth Congressional District; and

WHEREAS, it is desirable to revise Section VI, Paragraph A, to eliminate the inclusion of a member of the Board of Supervisors, the Mayor of the City of Alameda, the executive director of the Association of Bay Area Governments and the district director of the United States House of Representatives, Ninth Congressional District as members of the Governing Body; and

Item 10.27 CC
ORA/Council
July 15, 2003

WHEREAS, the Council has previously approved the development of a Memorandum of Agreement with OBRA, the Oakland Redevelopment Agency and the Port of Oakland that provides, among other things, that the leasing program at the Oakland Army Base will continue for a period of three years following conveyance of the property from the Department of the Army and that the Port will receive title to most of the land east of Maritime Street at the end of the three year period; and

WHEREAS, development of the Oakland Army Base pursuant to the provisions of the reuse plan will not commence until the end of the three year leasing period following conveyance of the property from the Army; and

WHEREAS, OBRA has administered the interim leasing program at the Army Base since June 1999 and it is in the best interests of the City to continue the leasing program for the three year period following the conveyance of the property from the Army in order to generate funds for the reuse of the base property; and

WHEREAS, OBRA has entered into agreements with the Army and State of California that require the remediation of hazardous substances present at the Army Base within specified periods of time and OBRA is prepared to commence said cleanup within the three year period following Army conveyance of the property; and

WHEREAS, OBRA has commenced actions for an exchange of lands subject to the public trust for commerce, navigation and fisheries (“tidelands trust”) for land not subject to the tideland trust at the Oakland Army Base and it is anticipated that the exchange will be completed in three years; and

WHEREAS, Section II, Paragraph A of the JPA sets forth the purposes of OBRA and provides that its primary purpose is to develop and approve reuse plans for closed military bases within the City of Oakland, to develop and assist in the implementation of said plans and to receive federal and state grants and other funding to implement said plans; and

WHEREAS, it is in the best interests of the City to revise Section II, Paragraph A, to expand the purposes of OBRA to include (i) continued operation and management of the leasing program, (ii) implementation of the environmental remediation program, and (iii) administration of a tidelands trust exchange at the Oakland Army Base; and

WHEREAS, Section II, Paragraph C of the JPA, as amended, provides that the Oakland Redevelopment Agency is to implement the reuse plan approved by OBRA and that OBRA, upon conveyance of closed military base property, is to assign, transfer and delegate all of its rights, powers and interests thereto to the Redevelopment Agency; and

WHEREAS, the implementation of the reuse plan for the Oakland Army Base will not commence until three years after Army conveyance of the property and it is not necessary for OBRA to assign, transfer and delegate its rights, powers and interests in the base to the Redevelopment Agency until the end of the three year period; and

WHEREAS, it is desirable to revise Section II, Paragraph C of the JPA to provide that OBRA is to assign, transfer and otherwise delegate all of its rights, powers and interests related to the implementation of the Army Base reuse plan three (3) years after conveyance of fee title from the Department of the Army; and

WHEREAS, paragraph XIII of the Joint Powers Agreement provides that the JPA may be modified only a written amendment approved by the governing bodies of the parties to the JPA; and

WHEREAS, the Joint Powers Agreement was previously amended as of July 9, 1996, to extend the authority of OBRA regarding closed military bases within the City of Oakland to the transfer of title by the Department of Defense and to amend the appointment process for the County Board of Supervisors; now, therefore, be it

RESOLVED: That the Council hereby approves the amendments to the OBRA JPA as set forth in the Restated and Revised JPA, attached hereto as Exhibit A, that makes the following substantive changes to the agreement:

1. Deletion of the County of Alameda as a party;
2. The revision of Paragraph II, Section A, entitled “Purposes” to include the following purposes:
 - Operate a leasing program for the Oakland Army Base in order to obtain revenue for the remediation and redevelopment of the property
 - Implement and manage an environmental remediation program for the cleanup of hazardous materials present on the base as required by the Consent Agreement with the State of California
 - Administer an exchange of trust land for non-trust land at the Army Base
3. The revision of Paragraph II, Section C, entitled “Implementation of Base Reuse Plans” to provide for the assignment, transfer and delegation of OBRA’s rights, powers and interest to the Redevelopment Agency three (3) years after Army conveyance of the Army Base property;
4. The revision of Paragraph VI, Section A to eliminate the following members of the Governing Body: (i) the County Board of Supervisors’ appointee, (ii) the Mayor of the City of Alameda, (iii) the executive director of ABAG, and (iv) the district director of the Ninth Congressional District; and be it
5. The revision of Paragraph VIII, Section G, entitled “Chairperson” to provide that the Mayor shall select the chairperson and vice-chairperson from the members of the Governing Body.

FURTHER RESOLVED: That the City Manager is authorized to take all necessary actions to implement the amendments to the OBRA JPA and the purposes of this action; and be it

FURTHER RESOLVED: That the General Counsel shall review and approve the Revised and Restated Joint Powers Agreement prior to its execution by the City Manager.

IN SESSION, OAKLAND, CALIFORNIA, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- Brooks, Brunner, Chang, Nadel, Quan, Reid, Wan and President De La Fuente

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Secretary to the
City Council

Item *10.27CC*
ORA/Council
July 15, 2003

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2003 JUN 26 PM 12: 25

RESOLUTION No. _____ C.M.S.

CSK

**RESOLUTION AMENDING THE OAKLAND BASE REUSE AUTHORITY
JOINT POWERS AGREEMENT TO ELIMINATE THE COUNTY OF
ALAMEDA AS A PARTY, TO RECONSTITUTE THE MEMBERSHIP OF
THE GOVERNING BODY, AND TO EXTEND THE TERM AND EXPAND
THE PURPOSES OF THE AUTHORITY**

WHEREAS, the Redevelopment Agency has previously taken action to enter into a Joint Powers Agreement with the City of Oakland and the County of Alameda to create the Oakland Base Reuse Authority ("OBRA") for the purpose of planning the closure and reuse of military installations within the City of Oakland closed by the Federal Government pursuant to the Defense Base Closure and Realignment Act of 1990 (Part A of Title XXIX of Public Law 101-510, as amended); and

WHEREAS, the Joint Powers Agreement ("JPA") establishing OBRA was entered on March 21, 1995 and OBRA began operation; and

WHEREAS, the OBRA Governing Body has approved reuse plans for Naval Medical Center Oakland and the Oakland Army Base and said plans have been approved by the appropriate federal authorities; and

WHEREAS, it is anticipated that no other military installations within the City of Oakland will be closed or realigned pursuant to the Base Realignment and Closure process and that the planning function of the Governing Body has, for the most part, been completed; and

WHEREAS, the participation of regional representatives on the Governing Body is no longer necessary since the impacts of base closure on region-wide interests have been considered in the reuse planning process for Naval Medical Center Oakland and the Oakland Army Base; and

WHEREAS, Section VI, Paragraph A of the JPA sets forth the composition of the Governing Body and provides that it shall include the Mayor of the City of Oakland and four council members, a member of the Board of Supervisors, the Mayor of the City of Alameda, the executive director of the Association of Bay Area Governments and the district director of the United States House of Representatives, Ninth Congressional District; and

Item 10.27 CC
ORA/Council
July 15, 2003

WHEREAS, it is desirable to revise Section VI, Paragraph A, to eliminate the inclusion of a member of the Board of Supervisors, the Mayor of the City of Alameda, the executive director of the Association of Bay Area Governments and the district director of the United States House of Representatives, Ninth Congressional District as members of the Governing Body; and

WHEREAS, the Redevelopment Agency has previously approved the development of a Memorandum of Agreement with OBRA, the City of Oakland and the Port of Oakland that provides, among other things, that the leasing program at the Oakland Army Base will continue for a period of three years following conveyance of the property from the Department of the Army and that the Port will receive title to most of the land east of Maritime Street at the end of the three year period; and

WHEREAS, development of the Oakland Army Base pursuant to the provisions of the reuse plan will not commence until the end of the three year leasing period following conveyance of the property from the Army; and

WHEREAS, OBRA has administered the interim leasing program at the Army Base since June 1999 and it is in the best interests of the City to continue the leasing program for the three year period following the conveyance of the property from the Army in order to generate funds for the reuse of the base property; and

WHEREAS, OBRA has entered into agreements with the Army and State of California that require the remediation of hazardous substances present at the Army Base within specified periods of time and OBRA is prepared to commence said cleanup within the three year period following Army conveyance of the property; and

WHEREAS, OBRA has commenced actions for an exchange of lands subject to the public trust for commerce, navigation and fisheries (“tidelands trust”) for land not subject to the tideland trust at the Oakland Army Base and it is anticipated that the exchange will be completed in three years; and

WHEREAS, Section II, Paragraph A of the JPA sets forth the purposes of OBRA and provides that its primary purpose is to develop and approve reuse plans for closed military bases within the City of Oakland, to develop and assist in the implementation of said plans and to receive federal and state grants and other funding to implement said plans; and

WHEREAS, it is in the best interests of the City to revise Section II, Paragraph A, to expand the purposes of OBRA to include (i) continued operation and management of the leasing program, (ii) implementation of the environmental remediation program, and (iii) administration of a tidelands trust exchange at the Oakland Army Base; and

WHEREAS, Section II, Paragraph C of the JPA, as amended, provides that the Redevelopment Agency is to implement the reuse plan approved by OBRA and that OBRA, upon conveyance of closed military base property, is to assign, transfer and delegate all of its rights, powers and interests thereto to the Redevelopment Agency; and

WHEREAS, the implementation of the reuse plan for the Oakland Army Base will not commence until three years after Army conveyance of the property and it is not necessary for OBRA to assign, transfer and delegate its rights, powers and interests in the base to the Redevelopment Agency until the end of the three year period; and

WHEREAS, it is desirable to revise Section II, Paragraph C of the JPA to provide that OBRA is to assign, transfer and otherwise delegate all of its rights, powers and interests related to the implementation of the Army Base reuse plan three (3) years after conveyance of fee title from the Department of the Army; and

WHEREAS, paragraph XIII of the Joint Powers Agreement provides that the JPA may be modified only a written amendment approved by the governing bodies of the parties to the JPA; and

WHEREAS, the Joint Powers Agreement was previously amended as of July 9, 1996, to extend the authority of OBRA regarding closed military bases within the City of Oakland to the transfer of title by the Department of Defense and to amend the appointment process for the County Board of Supervisors; now, therefore, be it

RESOLVED: That the Agency hereby approves the amendments to the OBRA JPA as set forth in the Restated and Revised JPA, attached hereto as Exhibit A, that makes the following substantive changes to the agreement:

1. Deletion of the County of Alameda as a party;
2. The revision of Paragraph II, Section A, entitled "Purposes" to include the following purposes:
 - Operate a leasing program for the Oakland Army Base in order to obtain revenue for the remediation and redevelopment of the property
 - Implement and manage an environmental remediation program for the cleanup of hazardous materials present on the base as required by the Consent Agreement with the State of California
 - Administer an exchange of trust land for non-trust land at the Army Base
3. The revision of Paragraph II, Section C, entitled "Implementation of Base Reuse Plans" to provide for the assignment, transfer and delegation of OBRA's rights, powers and interest to the Redevelopment Agency three (3) years after Army conveyance of the Army Base property;
4. The revision of Paragraph VI, Section A to eliminate the following members of the Governing Body: (i) the County Board of Supervisors' appointee, (ii) the Mayor of the City of Alameda, (iii) the executive director of ABAG, and (iv) the district director of the Ninth Congressional District; and be it

5. The revision of Paragraph VIII, Section G, entitled "Chairperson" to provide that the Mayor shall select the chairperson and vice-chairperson from the members of the Governing Body.

FURTHER RESOLVED: That the Agency Administrator is authorized to execute the Revised and Restated Joint Powers Agreement and to take all necessary actions to implement the amendments to the OBRA JPA; and be it

FURTHER RESOLVED: That the General Counsel shall review and approve the Revised and Restated Joint Powers Agreement prior to its execution by the Agency Administrator.

IN SESSION, OAKLAND, CALIFORNIA, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- Brooks, Brunner, Chang, Nadel, Quan, Reid, Wan and Chairperson De La Fuente

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Secretary to the
Oakland Redevelopment Agency

Item 10.27CC
ORA/Council
July 15, 2003

Approved by OBRA Board
April 28, 2003
Revised

OAKLAND BASE REUSE AUTHORITY
JOINT POWERS AGREEMENT
(Restated and Revised: July 15, 2003)

THIS AGREEMENT, restated and revised as of July 1, 2003, is entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500, et. seq.) of the California Government Code, relating to joint exercise of powers, by and amongst between the City of Oakland, and the Redevelopment Agency of the City of Oakland, ~~and the County of Alameda~~ (sometimes collectively referred to herein as the "parties" and sometimes individually referred to herein as "party") for the purpose of establishing a public entity for assuring the effective transition of ~~Oakland's Oak Knoll Naval Medical Center Oakland Hospital~~ the Oakland Army Base (and any other military facility in the City of Oakland that may be selected for closure in the future) from federal ownership to local ownership and use which public entity is hereinafter designated "Oakland Base Reuse Authority".

WITNESSETH:

WHEREAS, it is to the mutual benefit and in the best public interest of the parties to this Agreement to join together to establish this Joint Powers Agreement for the purposes hereinafter set forth; and

WHEREAS, ~~the Oak Knoll Naval Medical Center Oakland Hospital and the Oakland Army Base has been were~~ selected for closure under the 1993 and 1995 base closure processes, respectively; and

WHEREAS, ~~both the Oak Knoll Naval Medical Center Oakland Hospital and the Oakland Army Base isare~~ located entirely within the city limits of the City of Oakland; and

~~WHEREAS, there are other military facilities located either entirely or primarily within the city limits of the City of Oakland that are not now designated for closure but may be so designated at some time in the future;~~ and

~~WHEREAS, the closure of the Oak Knoll Naval Hospital or any other military facility in the City of Oakland will have a regional impact on the surrounding communities;~~ and

~~WHEREAS, the regional impact on the surrounding communities includes social and economic impacts including impacts on local businesses providing direct services or~~

~~support services to the Military Installations (as such term is defined hereinbelow) and their employees and families; and~~

WHEREAS, the City of Oakland, and the Redevelopment Agency of the City of Oakland, and the County of Alameda ~~all~~ have an interest in the successful closure, conveyance, reuse and redevelopment of the Oak Knoll Naval Medical Center Oakland Hospital and the Oakland Army Base and any other military facility that may be selected for closure in the future; and

WHEREAS, Title 1, Division 7, Chapter 5, Article 1 (Sections 6500, et. seq.) of the California Government Code authorizes joint exercise by two or more public agencies of any power common to them; and

WHEREAS, the City of Oakland, the Redevelopment Agency of the City of Oakland, and the County of Alameda ~~have~~ determined that planning issues related to the closure of the Oak Knoll Naval Hospital Medical Center Oakland and any other military facility ~~that may be selected for closure in the future~~ can best be addressed through an entity called the Oakland Base Reuse Authority, which is created hereunder; and

WHEREAS, the Oakland Base Reuse Authority was created by a joint powers agreement by and amongst the City of Oakland, the Redevelopment Agency of the City of Oakland and the County of Alameda on March 14, 1995, for the purposed of planning for the closure and reuse of closed military bases within the City of Oakland; and

WHEREAS, the Oakland Base Reuse Authority, pursuant to the authority provided in the joint powers agreement, adopted reuse plans for Naval Medical Center Oakland and the Oakland Army Base and such plans were approved by appropriate federal authorities; and

WHEREAS, the Oakland Base Reuse Authority intends to enter into an Economic Development Conveyance Memorandum of Agreement with the Department of the Army for conveyance of the Oakland Army Base and conveyance of the base is scheduled to occur in summer or fall 2003; and

WHEREAS, the Oakland Base Reuse Authority has entered into a Memorandum of Agreement with the City of Oakland, the Redevelopment Agency of the City of Oakland and the Port of Oakland ("MOA") that provides for, among other things, the continued leasing of the Army Base property for a period of three years following conveyance of the property from the Department of the Army; and

WHEREAS, pursuant to the MOA, the implementation of the reuse plan for the Oakland Army Base will not commence until after the three year leasing period following conveyance; and

WHEREAS, in order for the full implementation of the Oakland Army Base reuse plan, there must be an exchange of land subject to the Public Trust for Navigation, Fisheries and Commerce ("Tidelands Trust") for land that is currently not subject to the trust; and

WHEREAS, the Oakland Base Reuse Authority and the Oakland Redevelopment Agency have entered into agreements with the Department of the Army (Federal Agreements) and a Consent Agreement with the State of California, Department of Toxic Substance Control, that require the remediation of hazardous substances at the Oakland Army Base within specified periods of time; and

WHEREAS, it is the desire of the parties signing this Agreement to jointly provide for the Oakland Base Reuse Authority for their mutual advantage;

NOW, THEREFORE, for and in consideration of the mutual advantages to be derived, and in consideration of the execution of this Agreement, by and ~~amongst~~between the City of Oakland, ~~and the Redevelopment Agency of the City of Oakland, and the County of Alameda,~~ each of the parties hereto does hereby agree that the Oakland Base Reuse Authority (the "Authority") be ~~created~~continued as follows:

I. DEFINITIONS AND GENERAL PROVISIONS

The terms used in this Agreement shall have the following meanings:

A. ~~"ABAG". The Association of Bay Area Governments.~~

BA. "Act". The California Joint Exercise of Powers Act as set forth in Title 1, Division 7, Chapter 5, Article 1 of the Government Code of the State of California (Gov. Code §§ 6500, et seq.).

C. ~~"Alameda". The City of Alameda.~~

DB. "Authority". The Oakland Base Reuse Authority created by this Agreement, which is the local reuse and redevelopment authority for ~~the Oak Knoll Naval~~

Medical Center Oakland, Hospital the Oakland Army Base and any other military facility located primarily within the City of Oakland that may hereafter be selected for closure pursuant to federal base closure procedures.

E. "Board of Supervisors". ~~The Board of Supervisors of Alameda County.~~

F. "County". ~~The County of Alameda.~~

G. "EBCRC". ~~The East Bay Conversion and Reinvestment Commission.~~

HC. "Executive Director". The City Manager of the City of Oakland or his/her designee.

D. "Federal Agreements". The agreements entered into with the Department of the Army for remediation of hazardous substances at the Oakland Army Base, including, but not limited to the Economic Development Conveyance Memorandum of Agreement, the Environmental Services Cooperative Agreement and the Finding of Suitability for Early Transfer.

IE. "Fiscal Year". That period of time commencing July 1 of each year and ending on the following June 30.

JF. "Governing Body". Unless the context otherwise specifies, the governing body of the Authority.

MG. "Member". Unless otherwise specified, a member is a signatory to this Agreement.

NH. "Military Facility". Any military base or facility (other than ~~the Naval Hospital~~Medical Center Oakland and the Oakland Army Base) located primarily within the city limits of the City of Oakland that may hereafter be selected for closure under federal base closure procedures.

OI. "Military Installations". The term used to refer to the Naval Medical Center Oakland Hospital, the Oakland Army Base and any other Military Facility collectively.

PJ. "Naval Hospital". ~~Oak Knoll Naval Medical Center Oakland Hospital~~ a map of which is attached hereto and incorporated by reference.

QK. "Oakland". The City of Oakland.

L. "Oakland Army Base". The approximate 425 acres of property commonly known as the Oakland Army Base, a map of which is attached hereto and incorporated by reference.

RM. "Oakland City Council". The City Council of the City of Oakland.

~~S. "OBC/CTF".~~ The Oakland Base Closure/Conversion Task Force created by the Oakland City Council, which is the base reuse advisory group to the Authority.

RN. "Redevelopment Agency". The Redevelopment Agency of the City of Oakland, an agency authorized under California Community Redevelopment law to act as the redevelopment agency for the Naval Hospital.

SO. "Redevelopment Authority". The agency within the meaning of Title 24 of the National Defense Authorization Act of 1994.

~~TP. "Reuse Plan".~~ The redevelopment plan referred to in federal base closure law that was developed by the Authority for the Naval Hospital Medical Center Oakland, and the Oakland Army Base and/or any other Military Facility and that provides for the reuse and redevelopment of the real and personal property of such Military Installations that is available for such reuse and redevelopment as a result of the closure of such Military Installations.

II. PURPOSES AND TERM

A. Purposes. The Authority is the local reuse and redevelopment authority for the Naval Hospital, the Oakland Army Base and any other Military Facility. Its primary purpose ~~is~~ was to develop and approve a base reuse plan for the Naval Hospital, the Oakland Army Base and any other Military Facility, and its purposes include the following:

1. Develop and assist in the implementation of a reuse plan for the Naval Hospital and Oakland Army Base (and any other Military Facility) which promotes the economic revitalization of the area within and surrounding such Military Installations by creating jobs, training or retraining of employees, developing technology, considering small business concerns and public purposes, and planning appropriate land uses.

2. Receive federal and state grants and other available funding in order to develop and implement the reuse plan for the Naval Hospital and the Oakland Army Base.

3. Operate a leasing program for the Oakland Army Base in order to obtain revenue for the remediation and redevelopment of the property.

4. Implement and manage an environmental remediation program for the cleanup of hazardous substances present on the Oakland Army Base (and any other Military Facility) as required by Federal Agreements and the Consent Agreement with the State of California, Department of Toxic Substance Control.

5. Administer a Tidelands Trust exchange at the Oakland Army Base (and any other Military Facility).

B. Term. This Restated and Revised Agreement shall become effective as of the date hereof, and shall continue in full force and effect until terminated as provided herein. ~~However, in no event shall this Agreement be terminated before the expiration of five years from the date this Agreement is fully executed by the parties.~~ In the event this Agreement is terminated for any reason, any and all remaining rights, powers, and authority together with any property, funds or assets of the Authority under this Agreement shall be assigned by the Authority to the Redevelopment Agency. If, however, the Agency refuses to accept such an assignment, the provisions of Article XV below shall govern.

C. Implementation of Base Reuse Plans. It is the intent of this Agreement that the Redevelopment Agency be the Redevelopment Authority with the power to implement the base reuse plan adopted by the Authority for the Naval Hospital, the Oakland Army Base or any other Military Facility. Upon the conveyance of fee title from the Department of Defense to the Authority of the Naval Hospital or any other Military Facility, and three years following conveyance of fee title from the Department of the Army of the Oakland Army Base, the Authority shall assign, transfer, and otherwise delegate all rights, powers, and interests of the Authority to the Redevelopment Agency to implement such base reuse plan, including without limitation the following rights, powers, and interests:

1. To acquire, hold, lease, manage, maintain, and dispose of real and personal property of the Naval Hospital or any other Military Facility, and other real and personal property as appropriate, to carry out the provisions of this Agreement;

2. Development of infrastructure financing techniques for infrastructure facilities necessary to serve the Naval Hospital or any other Military Facility;

3. To exercise such powers under the California Community Redevelopment Law (California Health and Safety Code Sections 33000, et. seq.) to the extent such may be

authorized by law, and are consistent with the base reuse plan for the Naval Hospital or any other Military Facility. No base reuse plan for any of the Military Installations shall be modified without the approval of the Authority during the term of this Agreement. However, if this Agreement has been terminated for any reason, a base reuse plan may be modified by the Redevelopment Agency in accordance with the procedures set forth in the California Community Redevelopment Law for the adoption and/or amendment of a redevelopment plan.

4. To complete the other activities set forth hereinabove in Section IIA.

III. CREATION OF AUTHORITY

Pursuant to Sections 6500, et seq. of the Government Code, there is hereby created a public entity, separate and apart from the parties hereto, to be known as the Oakland Base Reuse Authority. Pursuant to Government Code Section 6508.1, the debts, liabilities, and obligations of the Authority shall not constitute debts, liabilities, or obligations of any party to this Agreement.

IV. POWERS OF AUTHORITY

A. The Authority shall have the following common powers and is hereby authorized to do all acts necessary for the exercise of said common powers:

1. To prepare, and amend as necessary, appropriate plans and policies relating to the Naval Hospital, the Oakland Army Base or any other Military Facility, including any interim and final base reuse plans;

2. To appear and participate in hearings, meeting, discussions, or other necessary or desirable interaction with the United States federal government or State of California, or any branch or department, or other groups or entities as may be appropriate to further the purpose of this Agreement;

3. To solicit and accept funds to assist in the reuse and redevelopment process.

4. To make and enter into contracts, including but not limited to in lieu and reimbursement agreements and leases, to the extent and in the manner permitted under Government Code Section 6508, or other applicable provisions of law.

5. To invest and reinvest money in the treasury of the Authority pursuant to Government Code Section 53601;

6. To incur debts, liabilities, or obligations, but no debt, liability, or obligation of the Authority shall be a debt, liability, or obligation of any party to this Agreement, except as otherwise provided herein.

7. To appoint standing and special committees from the members of the Governing Body to assist the Authority. The Governing Body may delegate as much authority to such committees as it deems desirable to fulfill their duties. In addition to standing and special committees, the Governing Body may appoint advisory bodies from outside the membership of the Governing Body to provide advice in the performance of its duties.

8. To sue and be sued in its own name; and

9. To exercise all powers necessary and proper to carry out the terms and provisions of this Agreement, including but not limited to those noted in Article 4 of the Act, or otherwise authorized by law, and to do all acts necessary or convenient to the exercise of such powers or as otherwise authorized by law.

B. The Authority shall proceed to do all acts necessary or desirable to accomplish the purposes of this Agreement. Such acts may, but need not necessarily include, all or part of the following:

1. Coordinating efforts of the parties in:

- (a) Promoting the economic revitalization of the area within and surrounding the Naval Hospital, the Oakland Army Base or any other Military Facility;
- (b) Job creation;
- (c) Training;
- (d) Technology development;
- (e) Planning for the reuse of the Naval Hospital, the Oakland Army Base or any other Military Facility;

- (f) Provision for endangered species and wetlands mitigation at the Naval Hospital, the Oakland Army Base or any other Military Facility;
- (g) Planning for the provision of utility and infrastructure services at the Naval Hospital, the Oakland Army Base or any other Military Facility;
- (h) Planning for the protection and enhancement of the environment at the Naval Hospital, the Oakland Army Base or any other Military Facility and the surrounding area.
- (i) Development of plans and policies related to housing resources and the homeless.

2. Providing information for public dissemination and establishing a clearinghouse for exchange of information and the coordination and communication of all efforts by any Member which would affect or otherwise relate to the Naval Hospital, the Oakland Army Base or any other Military Facility and their reuse.

3. Applying for, receiving, and using grants and/or loans from federal, state, or local governments or from any other source.

4. Negotiating and entering into appropriate agreements with the United States or any agency or department thereof, for the purpose of determining the disposition, reuse and/or conservation of the Naval Hospital, the Oakland Army Base or any other Military Facility property or facilities.

The listing of the above acts is not intended to indicate any priority of one act over the other, nor is such listing intended to be inclusive, and the Governing Body may authorize other acts to be done in the accomplishment of the purposes of this Agreement. One or several acts may take place concurrently or in sequence, as the Governing Body shall direct.

V. RESERVATION OF POWERS

A. The powers of the Authority are non-exclusive and shall not be construed as restricting or limiting any Members, individually or severally, from performing any government or regulatory powers or duties of the Members under the law.

B. Each Member expressly reserves and retains the right to develop, adopt, implement, and enforce, in its sole discretion, land use plans, land use, zoning and building regulations, redevelopment plans, capital improvement plans, and public improvement or service plans for property, buildings, and facilities which are within the Naval Hospital, the Oakland Army Base or any other Military Facility and within such Member's jurisdiction.

C. To the extent permitted by law, the governing body of any Member may specifically delegate these functions or portions thereof to the Authority. Otherwise, such functions shall remain the duty of the Member with jurisdiction under California law. Such delegations shall be effective when accepted by the Authority.

VI. AUTHORITY GOVERNING BODY

A. The Authority shall be governed by the Governing Body which is hereby established and which shall be composed of:

- ~~Five~~ the Mayor and four members of the Oakland City Council/Oakland Redevelopment Agency, including the Mayor and four members of the ~~Oakland City Council~~ appointed by the Mayor and approved by the Oakland City Council/Oakland Redevelopment Agency;

- ~~The Board of Supervisors shall appoint one its members; and~~

- ~~The Board of Supervisors shall enter into a Memorandum of Understanding with EBCRC, which shall provide that the Board of Supervisors shall appoint the following three Members:~~

- ~~1. the Mayor of Alameda; and~~
- ~~2. the executive director of the Association of Bay Area Governments; and~~
- ~~3. the district director for the United States House of Representatives' member representing the Ninth Congressional District.~~

~~If any of the three members resigns from the Governing Body, the Board of Supervisors shall appoint a replacement that is selected by the EBCRC, who shall be an EBCRC commissioner, subject to the ratification and veto by majority vote of the Governing Body.~~

~~If EBCRC is no longer in existence and if any of the three members resigns from the Governing Body, the Board of Supervisors shall appoint replacements directly, subject to the ratification and veto by majority vote of the Governing Body.~~

B. Each member of the Governing Body shall appoint one alternate as a representative. The alternate shall have all the rights and authority of a member of the Governing Body; however, these rights and authority may only be exercised in the absence of the designated member of the Governing Body.

C. Each member of the Governing Body shall have one vote.

D. Members of the Governing Body shall hold membership on the Governing Body until they are no longer qualified as determined by the public entity which appointed them. In the case of a vacancy in the membership of the Governing Body, the vacancy shall be promptly filled, subject to the restriction in Paragraph A above, by the public entity which had appointed that representative.

VII. POWERS OF THE GOVERNING BODY

A. The Governing Body shall have the power to conduct, on behalf of the Authority, all business of the Authority, which the Authority may conduct under the provisions hereof and pursuant to law.

B. Subject to the provisions of paragraph IX.C.3., the Governing Body may hire employees and contract with consultants and special legal counsel.

C. The Governing Body shall have such other powers and functions as are provided for in this Agreement or in the bylaws.

VIII. MEETINGS OF THE GOVERNING BODY

A. Meetings. The Governing Body shall establish a regular meeting date.

B. Minutes. The Secretary (as defined in Article IX, subparagraph C.2 below) of the Authority shall cause minutes of regular, adjourned regular, and special meetings to be kept.

C. Voting. A majority of the members of the Governing Body shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from

time to time. A vote of the majority of a quorum present at a meeting shall be sufficient to constitute action by the Governing Body, except as otherwise specifically set forth in this Agreement or in the bylaws. Votes shall be cast in person and may not be cast by proxy.

The vote of 53 members of the Governing Body, ~~three of whom shall be representatives of the Oakland City Council~~, is required to take any action on the following:

1. Adoption of a Reuse Plan;
2. Adoption of any recommended plan or land use proposal in contradiction to the City's land use plan, redevelopment, and zoning plan. No action of the Governing Body shall be construed to amend or otherwise relieve any person or entity from the necessity of complying with such land use and zoning laws and regulations that apply to the Naval Hospital, the Oakland Army Base or any other Military Facility, ~~regardless of the number of Oakland City Council representatives who may vote in favor of such action~~. Oakland land use and zoning laws and regulations that apply to the Naval Hospital or any other Military Facility may only be amended in accordance with the procedures set forth in the Oakland City Charter and such other procedures that may be established by the Oakland City Council.
3. Delegation of any authority to another body by the Authority;
4. Adoption of any amendments to the Authority's Bylaws;
5. Termination of this Agreement; and
6. ~~Selecting the Chairperson of the Governing Body.~~

E. Brown Act. All meetings of the Governing Body shall comply with the requirements of the Ralph M. Brown Act (Gov. Code §§ 54850, et seq.).

F. Rules and Regulations. The Governing Body may adopt bylaws, rules and regulations for the conduct of its meetings and affairs.

G. Chairperson. A chairperson and vice-chairperson of the Governing Body shall be selected by the ~~Board~~Mayor from ~~its~~the Members. The term of office of the chairperson and vice-chairperson shall be one year.

IX. FINANCES

A. Accounting.

1. Accounting Procedures. The Authority shall maintain full books and accounts in accordance with sound accounting practices and consistent with those utilized by municipalities. In particular, the Treasurer and Auditor of the Authority shall comply with the requirements of the Act.

2. Audit. The records and accounts of the Authority shall be audited annually, and copies of such audit reports shall be filed as public records with the Auditor of each Member, ~~and each member of the Governing Body within twelve (12) months after the end of the fiscal year under examination.~~

B. Budget.

1. Sources of Funds. Funds for the Authority shall come from Member contributions, state or federal grants, leasing revenues and from any other source. The Executive Director may take such steps as are necessary to arrange for the Authority's receipt of such funds as are available to it and as necessary for the conduct of its affairs.

2. General Budget. ~~Within sixty (60) days after this Agreement is effective, and annually thereafter, {~~The Governing Body shall adopt a general budget on an annual basis for the ensuing fiscal year. The fiscal year shall be from July 1 of one year to June 30 of the following year. The budget shall be prepared in sufficient detail to constitute an operating outline for the source and amount of funds available to the Authority and expenditures to be made during the ensuing year.

3. Approval of the budget. The general budget or any amendment to the general budget shall be approved by a majority of the Governing Body. Until such time as formal approval has been received, the budget shall be subject to further consideration and revisions.

4. Expenditure of Funds. All expenditures within the designations and limitations of an approved general budget shall be made on the authorization of the Governing Body. The Authority shall not expend funds except as specified in the approved budget.

C Personnel.

1. The Oakland City Manager or his/her designee shall serve as the Executive Director of the Authority and shall be responsible for the administration of the Authority through contract with the City of Oakland.

2. The Oakland City Treasurer, City Auditor, City Attorney, Finance Director, and City Clerk shall serve as the Treasurer, Auditor, Legal Counsel, Finance Director, and Secretary for the Authority.

3. Any employees of the Authority shall be hired, compensated, disciplined, and discharged in accordance with all applicable laws.

D. Member Contributions. Except as prohibited by law and this Agreement, each Member may:

1. Make contributions and make or arrange for payments of public funds to defray the costs related to the purposes of this Agreement; and

2. Make advances of public funds for such purposes, such advances or payments to be repaid.

X. PROPERTY

Except as provided herein, all assets acquired by the Authority during the course of its operations under the terms of this Agreement shall be the assets of the Authority alone, and not of the Members. The Governing Body may, by majority vote, transfer or distribute all or any part of the Authority's funds, property, or assets.

XI. LIABILITIES

Except as provided herein, the debts, liabilities, and obligations of the Authority shall be the debts, liabilities and obligations of the Authority, and not of any or all Members.

XII. INDEMNIFICATION

The Authority agrees to hold harmless, indemnify, and to defend the Members and their officers, employees, and agents from any and all claims for injury or damage of whatever type brought by or on behalf of any third party, including but not limited to the Authority's officers, employees, and agents, arising from or connected with any acts or omissions in the performance of this Agreement by the Authority, except from any such claim arising solely out of the negligent acts or omissions attributable to the Member or its officers, employees, or agents.

XIII. AMENDMENTS

This Agreement may be modified only by a written amendment approved by the governing bodies of the Members.

XIV. ASSIGNMENT

Except as may be otherwise stated in this Agreement, the parties to this Agreement shall not assign any right or obligation hereunder without the written consent of the other Member.

XV. TERMINATION

A. This Agreement may be terminated by a majority vote of the members of the Governing Body; provided, however, that no such termination shall relieve the Authority or any succeeding agency of any financial obligations incurred by the Authority while acting pursuant to this Agreement.

B. Upon the termination of this Agreement, any (i) property, funds or assets acquired or (ii) liabilities incurred as a result of this Agreement shall be assigned by the Authority to the Redevelopment Agency. If, however, the Agency refuses to accept such an assignment, any such property, funds or assets shall be divided or distributed in accordance with majority vote of the Governing Body.

XVI. BINDING EFFECT

This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the Members.

XVII. NOTICES

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests or approvals to the City of Oakland and the Redevelopment Agency of the City of Oakland shall be addressed as follows:

City of Oakland
Attention: Base Conversion Project Director

Approved by OBRA Board
April 28, 2003
Revised

~~505 14th Street, 5th Floor~~ 250 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94501 94612

Copy to: Oakland City Attorney
One City Hall Frank Ogawa Plaza, 6th Floor
Oakland, California 94612

~~All notices, demands, requests or approvals to County shall be addressed as follows:~~

~~County of Alameda~~
~~Attention: County Administrator~~
~~1221 Oak Street~~
~~Oakland, CA 94612~~

XVIII. COST OF LITIGATION

If any legal action is necessary to enforce any provision hereof or for damages by reason of an alleged breach of any provisions of this Agreement, the prevailing party shall be entitled to receive from the losing party all costs and expenses in such amount as the court may adjudge to be reasonable attorneys' fees.

XIX. CONFLICT OF LAW

This Agreement shall be interpreted under and enforced by the laws of the State of California, excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

XX. WAIVER

A waiver by a Member of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein whether of the same or a different character.

XXI. INTEGRATED CONTRACT

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto and all preliminary negotiations and agreements or whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by all Members.

XXII. SEVERABILITY

In the event that a court of competent jurisdiction determines that any provision of this Agreement shall be invalid or unenforceable or in conflict with any law or regulation having the force of law, each Member shall have the right to withdraw from this Agreement within ninety (90) days from the date of entry of a final non appealable decision, without providing the one year notice of withdrawal specified in Section XII of this Agreement. Except as otherwise provided in this section, the remaining portions of this Agreement shall be in full force and effect.

XXIII. CAPTIONS

The captions in this Agreement are for convenience only, are not a part of the Agreement, and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on this _____ day of _____ 1920.

COUNTY OF ALAMEDA

CITY OF OAKLAND

Title: _____

Title: _____

Attest:

Attest:

Clerk _____

City Clerk _____

Approved as to form:

Approved as to form:

County Counsel

City Attorney

Approved by OBRA Board
April 28, 2003
Revised

THE REDEVELOPMENT AGENCY OF
THE CITY OF OAKLAND

—Title:

Attest:

Agency Secretary

Approved as to form:

Agency General Counsel

The County of Alameda, by action of the Board of Supervisor on _____, 2003, hereby agrees and consents to its termination as a member to the Joint Powers Agreement and as of July 15, 2003, shall have no rights, duties or obligations under the Revised and Restated Joint Powers Agreement.

COUNTY OF ALAMEDA

Title:

Resolution No.

Clerk

Approved as to form:

Approved by OBRA Board
April 28, 2003
Revised

County Counsel

[03/14/95]

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION NO. _____ C.M.S.

2003 JUN 25 PM 12: 25

A RESOLUTION AUTHORIZING THE OAKLAND BASE REUSE
AUTHORITY (OBRA) TO ADMINISTER FUNDS RECEIVED
FROM THE CALIFORNIA DEPARTMENT OF
TRANSPORTATION FOR ENVIRONMENTAL REMEDIATION
PURPOSES

WHEREAS, the Oakland Redevelopment Agency ("Agency"), in conjunction with the Oakland Base Reuse Authority ("OBRA") and the City of Oakland ("City") and the Port of Oakland ("Port") filed legal actions against the California Department of Transportation ("CalTrans") and the Federal Highway Administration ("FHWA") in State and federal courts regarding the conveyances of interests in certain parcels of land at the Oakland Army Base; and

WHEREAS, the Agency along with OBRA, the City and the Port, reached a settlement with CalTrans and FHWA on a portion of the two lawsuits whereby CalTrans agreed to pay Eleven Million, Six Hundred Thousand Dollars (\$11,600,000) ("CalTrans' money") for the use of approximately 26 acres of land at the Oakland Army Base for the Oakland-San Francisco Bay Bridge retrofit project; and

WHEREAS, the Agency has previously approved the development of a Memorandum of Agreement ("MOA") with and among the City, OBRA and the Port that expresses the intention of the parties to equally split the CalTrans' money between the Agency, City, and OBRA (50%) and the Port (50%); and

WHEREAS, the MOA further expresses the intention of the parties that the unfunded costs of remediation of environmental conditions at the Army Base be evenly split between OBRA and ORA (50%) and the Port (50%) and it has been estimated that the unfunded cost of such cleanup is approximately Eleven Million, Two Hundred Thousand Dollars (\$11,200,000); and

WHEREAS, the Agency took action at its meeting of June 3, 2003 to commit to providing the funds necessary to implement and complete the environmental remediation at the Oakland Army Base; and

WHEREAS, it is in the best interests of the Agency, as OBRA's successor in interest, that the Agency's share of the CalTrans' money be administered by OBRA for the remediation of hazardous materials at the Army Base; **now, therefore, be it**

Item 10.27 CC
ORA/Council
July 15, 2003

RESOLVED: That OBRA is hereby authorized to handle and administer the Agency's portion of the CalTrans' money, if any, for the remediation of hazardous materials at the Oakland Army Base and reasonably related activities.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2000

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, and CHAIRPERSON DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

Item *10.27 CC*
ORA/Council
July 15, 2003

ATTEST: _____

CEDA FLOYD
Secretary of the Redevelopment Agency
of the City of Oakland

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUN 26 PM 12: 25

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

CSK

RESOLUTION AUTHORIZING A MUNICIPAL SERVICES AGREEMENT WITH THE OAKLAND BASE REUSE AUTHORITY (OBRA) FOR THE PERIOD OF JULY 1, 2002 TO JUNE 30, 2003 IN THE AMOUNT OF ONE MILLION, ONE HUNDRED FORTY THOUSAND DOLLARS (\$1,140,000) AND AUTHORIZING OBRA TO ADMINISTER FUNDS RECEIVED FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR ENVIRONMENTAL REMEDIATION PURPOSES

WHEREAS, the Powers Agreement establishing the Oakland Base Reuse Authority provides that OBRA is to contract with the City of Oakland for the provision of various specified municipal services; and

WHEREAS, the City, during the period of July 1, 2002 to June 30, 2003, has and will provide municipal services of fire protection and police services to OBRA in relation to OBRA's possession and use of the Oakland Army Base; and

WHEREAS, the cost of providing said municipal services to OBRA during the period of July 1, 2002 to June 30, 2003, is \$1,140,000; and

WHEREAS, the OBRA Governing Body, at its meeting of February 24, 2003, passed Resolution No. 2003-05, thereby authorizing the negotiation and execution of a municipal services agreement with the City in the amount \$1,140,000; and

WHEREAS, the City, in conjunction with OBRA and the Oakland Redevelopment Agency ("ORA") and the Port of Oakland ("Port") filed legal actions in the California Department of Transportation ("CalTrans") and the Federal Highway Administration ("FHWA") in State and federal courts regarding the conveyances of interests in certain parcels of land at the Oakland Army Base; and

WHEREAS, the City, along with OBRA, ORA and the Port, reached a settlement with CalTrans and FHWA on a portion of the two lawsuits whereby CalTrans agreed to pay Eleven Million, Six Hundred Thousand Dollars (\$11,600,000) ("CalTrans' money") for the use of approximately 26 acres of land at the Oakland Army Base for the Oakland-San Francisco Bay Bridge retrofit project; and

WHEREAS, the Council has previously approved a Memorandum of Agreement ("MOA") with and among ORA, OBRA and the Port that expresses the intention of the parties to equally split the CalTrans' money between the City, ORA and OBRA (50%) and the Port (50%); and

Item **10.27 CC**
ORA/Council
July 15, 2003

equally split the CalTrans' money between the City, ORA and OBRA (50%) and the Port (50%); and

WHEREAS, the MOA further expresses the intention of the parties that the unfounded costs of remediation of environmental conditions at the Army Base be evenly split between OBRA and ORA (50%) and the Port (50%) and it has been estimated that the unfounded cost of such cleanup is approximately Eleven Million, Two Hundred Thousand Dollars (\$11,200,000); and

WHEREAS, the Council took action at its meeting of June 3, 2003 to support the commitment to provide the funds necessary to implement and complete all environmental remediation actions at the Oakland Army Base; and

WHEREAS, it is in the best interests of the City that the City's share of the CalTrans' money be administered by OBRA for environmental remediation activities at the Army Base; **now, therefore, be it**

RESOLVED: That Council hereby approves a municipal services agreement with the Oakland Base Reuse Authority for the provision of municipal services related to OBRA's possession and use of the Oakland Army Base in the amount of One Million, One Hundred Forty Thousand Dollars (\$1,140,000); **and be it**

FURTHER RESOLVED: That the City Manager is hereby authorized to accept \$1,140,000 from OBRA pursuant to the municipal services agreement and to appropriate such funds; **and be it**

FURTHER RESOLVED: That the City Attorney shall review and approve the agreement with OBRA prior to the City Manager's execution of said agreement; **and be it**

FURTHER RESOLVED: That OBRA is hereby authorized to handle and administer the City's portion of the CalTrans' money for environmental remediation activities at the Oakland Army Base.

IN SESSION, OAKLAND, CALIFORNIA, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES-
NOES-
ABSENT-
ABSTENTION-

Item 10.27 CC
ORA/Council
July 15, 2003

Attest: _____
CEDA FLOYD
CITY CLERK AND SECRETARY TO
THE CITY COUNCIL



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUN 26 PM 12: 25

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE ALTERING THE PORT AREA BOUNDARY TO INCLUDE AND EXCLUDE VARIOUS SPECIFIED PARCELS AT AND ADJACENT TO THE FORMER OAKLAND ARMY BASE

WHEREAS, Sections 706(4), 706(15) and 725 of the Charter authorize the Port of Oakland ("Port") to own and have control and jurisdiction of real property in the Port Area, and

WHEREAS, Sections 706(4), 706(15) and 725 of the Charter authorize the Port to relinquish and transfer control and jurisdiction over any such property to the City of Oakland, acting by and through its City Council, upon the request and recommendation of the Board of Port Commissioners (the "Port Board") and the approval of the City Council; and

WHEREAS, Sections 706(4) and 725 of the Charter also authorize the City Council to enlarge the Port Area upon the request of the Port Board; and

WHEREAS, the City Council has previously approved and authorized the negotiation and entrance of a Memorandum of Agreement with the Port, the Oakland Redevelopment Agency and the Oakland Base Reuse Authority regarding the conveyance and development of the former Oakland Army Base ("MOA") pursuant to certain specified terms and conditions; and

WHEREAS, the MOA, although not in final form and not executed by the representatives of the parties, sets forth the intentions of the parties thereto that the following specified parcels of land at and adjacent to the former Army Base that are currently within the Port Area will be owned and developed by the Redevelopment Agency ("City Parcels") and that the Port Area Boundary will be altered to exclude the City Parcels:

- 1) An approximate 140 acre parcel of land west of Maritime Street as more particularly described on Exhibit A, attached hereto, and commonly referred to as the "West Maritime Property";
- 2) An approximate one acre parcel of land north of West Grand Avenue as more particularly described on Exhibit A, attached hereto, and commonly referred to as the West Maritime Army Reserve Property;

Item 10.27 CC
ORA/Council
July 15, 2003

- 3) Three parcels of land of approximately 8 acres adjacent to the former Army Base as more particularly described on Exhibit A and commonly referred to as CalTrans Parcels Nos. 5, 6 and 7; and

WHEREAS, the MOA further sets forth the intentions of the parties that the following specified parcels of land at and adjacent to the former Army Base that are currently not within the Port Area will be owned or developed by the Port (“Port Parcels”) and that the Port Area Boundary will be altered to include the Port Parcels; and

- 1) An approximate 171 acre parcel of land east of Maritime Street at the former Army Base as more particularly described on Exhibit B and commonly referred to as the East Maritime Property;
- 2) Three parcels of land of approximately 9.4 acres adjacent to the former Army Base as more particularly described on Exhibit B and commonly referred to as the East Maritime Army Reserve Property;
- 3) Four parcels of land of approximately 6 acres adjacent to the former Army Base as more particularly described on Exhibit B and commonly referred to as CalTrans Parcels Nos. 1, 1A, 2 and 2A; and

WHEREAS, it is the intention of the parties that the alteration of the Port Area Boundary, with the exception of the West Maritime Army Reserve Property, shall not be effective until three years after conveyance of the former Army Base from the Army; and

WHEREAS, the Port Board has passed a Port Ordinance finding that, subject to certain specified terms and conditions, the City Parcels are no longer necessary for port purposes and approving the alteration of the Port Area to exclude the City Parcels (the “Port Ordinance”); and

WHEREAS, the Port Board, by passage of the Port Ordinance, has also approved a request of the City Council to alter the Port Area to include the Port Parcels within the Port Area; and

WHEREAS, the requirements of California Environmental Quality Act of 1970 (“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 with the completion and certification of the Oakland Army Base Redevelopment Area Environmental Impact Report (“EIR”);

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Pursuant to Sections 706(4), 706(15) and 725 of the Charter, the City Council, subject to the terms and conditions set forth herein, hereby alters the Port Area to exclude the City Parcels.

Section 2. Pursuant to Sections 706(4) and 725 of the Charter, the City Council, subject to the terms and conditions set forth herein, hereby alters the Port Area to include the Port Parcels.

Section 3. That the actions set forth in Sections 1 and 2 above are conditioned on (i) the conveyance of the former Army Base from the Army to Oakland Base Reuse Authority, and (ii) the completion, execution and continued existence of (non-default by the parties to) the MOA.

Section 4. That the alterations of the Port Area, as set forth in Sections 1 and 2, with the exception of the West Maritime Army Reserve Property, are also conditioned on the expiration of the three year period following the conveyance of the former Army Base from the Army.

Section 4. The City Manager or his designee is hereby authorized to negotiate and execute documents and take whatever other action is necessary in order to implement the purpose of this Ordinance.

Section 5. This Ordinance shall be effective only upon the effectiveness of the Port Ordinance.

Section 6. That the Council finds that this Ordinance is in compliance with the requirements of the California Environmental Quality Act of 1970, the CEQA Guidelines and the City's Environmental Review Regulations.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

Item 10.27 CC
ORA/Council
July 15, 2003

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUN 26 PM 12: 25

**AN ORDINANCE ALTERING THE PORT AREA BOUNDARY TO
EXCLUDE VARIOUS PARCELS AT AND ADJACENT TO THE
FORMER OAKLAND ARMY BASE AND TO INCLUDE
VARIOUS PARCELS AT AND ADJACENT TO THE FORMER
OAKLAND ARMY BASE**

NOTICE AND DIGEST

This Ordinance alters the Port Area boundary to exclude an approximate 140 acre parcel of land located west of Maritime Street at the former Army Base, an approximate one acre parcel of land north of the former Army Base and three parcels of land of approximately 8 acres adjacent to the former Army Base and to include an approximate 171 acre parcel of land east of Maritime Street at the former Army Base, three parcels of land of approximately 9.4 acres adjacent to the former Army Base and four parcels of land of approximately 6 acres of land adjacent to the former Army Base. The Ordinance provides that the exclusion and inclusion of parcels from and in the Port Area boundary, with the exception of the exclusion of the one acre parcel, will be effective three years after the conveyance of the former Army Base from the Army.