



# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**FROM:** Fred Blackwell

**SUBJECT:** ENA with Harrison Bay Partners  
LLC for 2315 Valdez Street and  
2330 Webster Street

**DATE:** February 10, 2014

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City Administrator *Deanna Santana* Date *2/17/14*  
Approval

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**COUNCIL DISTRICT:** 3

## **RECOMMENDATION**

Staff recommends that the City Council approve:

**A Resolution Authorizing An Exclusive Negotiating Agreement For A Period Of One Year With The Option To Extend Administratively For 90 Days With Harrison Bay Partners LLC To Develop A Mixed-Use Project On City-Owned Properties At 2315 Valdez Street And 2330 Webster Street**

## **OUTCOME**

This authorization will allow the City Administrator to negotiate and enter into a one-year exclusive negotiating agreement ("ENA"), with an optional administrative three-month term extension, between the City of Oakland ("City") and Harrison Bay Partners LLC or related entity ("Harrison Bay"). Harrison Bay proposes to develop a mixed-use development project, including public parking (the "Project"), on City-owned properties located at 2315 Valdez Street and 2330 Webster Street ("City Property"), and on privately-owned properties located on a block bounded by Waverly Street, 23rd Street, Harrison Street and 24th Street ("Developer Property," together with City Property, known as "Property").

During the ENA period, Harrison Bay will evaluate the feasibility of the Project, refine the Project and its design with input from the community and City staff, and complete California Environmental Quality Act ("CEQA") review. The schedule of ENA activities will be coordinated with the adoption of the Broadway Valdez District Specific Plan and its associated EIR, especially the CEQA review for the Project. The City will have an appraisal and reuse appraisal completed for the City Property and negotiate with Harrison Bay the terms and

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conditions of a Disposition and Development Agreement (“DDA”) and Purchase and Sales Agreement (“PSA”) for the development of public parking for the Project.

Entering into this ENA does not constitute a binding commitment on the part of the City to any project or developer for the City Property.

### **BACKGROUND/LEGISLATIVE HISTORY**

On March 16, 2010, the Redevelopment Agency approved Resolution No. 2010-0025 C.M.S., which authorized the purchase of 2315 Valdez Street and 2330 Webster Street from Oakland PPD Return, LLC, a subsidiary of Midwest Bank for \$4,050,000. The purchase of the property secured a strategically important site for the implementation of the Central District Area’s Redevelopment Plan and the Broadway Valdez District Specific Plan.

Prior to this purchase in December 2005, the City Property was entitled for a high-rise development with 281 residential units, 10,440 square feet of retail and a combination of 242 public parking spaces and 293 residential parking spaces. These entitlements included two adjacent privately-owned parcels that were not part of the Agency’s purchase. The entitled project never went forward because of the Great Recession. The City Property is encumbered with two parking agreements for a total of 242 spaces at prevailing market rates.

The Redevelopment Agency intended to sell the City Property through a competitive developer selection process. However, in January of 2012, prior to the dissolution of the Redevelopment Agency, the Agency transferred the property to the City. At this time, these parcels are among the properties that are being transferred back to the Oakland Redevelopment Successor Agency (“ORSA”) pursuant to a directive by the State Controller’s Office. However, the site has been proposed for future development in the Long-Range Property Management Plan (“LRPMP”), which was approved by ORSA and the Oversight Board and has been submitted to the Department of Finance for final approval. Once the LRPMP is approved, the City Property should be available for future development. The implementation of a project on the Property will be dependent on the approval of the LRPMP by the California Department of Finance.

In early 2013, the City received an unsolicited proposal from the Masri family, owner of the Developer Parcel, to develop their parcels in conjunction with the City Property. This proposed partnership will allow the City to leverage private property for the development of a more complex project with at least 100,000 square feet of retail, which would facilitate the goals for the Broadway-Valdez Specific Plan. The Masri family also brought in an experienced retail mixed-use developer, Madison Marquette, to help create a project that would become the catalyst for the Broadway Valdez District. Madison Harrison Bay LLC, an entity formed by Madison Marquette, and Masri Family Limited Partnership A, LP established Harrison Bay Partners LLC, a limited liability company for the development of the Project. Madison Harrison Bay LLC will

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be its managing member. The development team currently includes MBH Architects, an Alameda-based architect. Harrison Bay Partners also anticipates separate housing developers for the residential components of the Project.

The City Property is currently a surface parking lot for 200 cars that is managed by Douglas Parking pursuant to a month-to-month parking management agreement. This temporary use provides a revenue stream to the Agency until a new project is approved and developed at this location.

The size of the City Property is approximately 1.42 acres or 62,066 square feet (see *Attachment A*, "Site Map"). The City Property is zoned CC-2/D-BR Community Commercial Zone with a Broadway Retail Frontage District overlay that encourages a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas. The City Property is located near the Lake Merritt area of downtown Oakland in the Broadway/Valdez District, approximately five blocks from the 19 Street Oakland BART Station, within two blocks to the entertainment and restaurant-filled Uptown District, and just over half of a mile from Oakland's Downtown City Center.

## ANALYSIS

### *Project Description*

Harrison Bay's proposed project is consistent with the Public Review Draft of the Broadway Valdez District Specific Plan, issued in September 2013 ("Specific Plan"). The City Property is located next to retail priority sites, which includes the Developer Property. Both are located within the Valdez Triangle Subarea, which is identified in the Specific Plan as an area that promotes pedestrian-oriented retail within a mixed use setting that includes a complementary mix of retail, office, entertainment, and residential uses.

The proposed project includes both the development of the City Property and of the Developer Property in phases. According to Harrison Bay's proposal, the City Property, which is approximately 1.42 acres, would have ground floor retail of 25,000 square feet, 200 residential units, associated common areas and 355 parking spaces. The Developer Property is 1.95 acres and Harrison Bay proposes a project with ground level retail space of approximately 75,000 square feet, including loading and service facilities for the retail, and 175 residential units with common area and facilities. The site will need to accommodate approximately 400 parking spaces. The Developer recognizes the presence of Seventh Church of Christ, a historic resource located on Harrison Street between 23<sup>rd</sup> and 24<sup>th</sup> Street. The Developer will not be including this church in the Project and will design their plans accordingly. It is also anticipated that a portion of the site at the corner of Harrison and 24<sup>th</sup> may be taken to accommodate planned intersection changes.

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The contemplated transaction between the City and Harrison Bay would involve the sale of the City Property from the City to Harrison Bay and the purchase by the City of a public parking garage on the City Property at development cost from Harrison Bay as a condominium ownership interest in the Project. The City would use a combination of bond proceeds and an as yet undetermined portion of land sale proceeds to pay for garage.

### *Parking*

The City Property is encumbered with two parking agreements for a total of 242 spaces at prevailing market rates. The parking spaces are reserved for tenants at the Ordway Building at 2150 Webster Street and the office building located at 155 Grand Avenue.

This parking lease will have an impact on the value and future development of the subject property. If these leases stay in force, then the proposed Project will be required to satisfy the requirement of the parking leases. Staff will explore options with the Planning Department and CIM Group, the owner of the Ordway Building, on how to address this parking lease. It is important to note that the Broadway Valdez District Specific Plan encourages the construction of parking that primarily serves retail uses in the early phases of development in the Specific Plan area. The Project anticipates development of a public garage and if additional parking capacity is built to support planned retail activities, then the impact of the existing parking lease is minimal on the value of the site, since the parking requirement is mitigated by development of the site with parking.

### *Project Schedule*

The Schedule of Performance during the ENA period is shown in *Attachment B*. In summary, during the ENA period, Harrison Bay will:

- Complete a market feasibility study and marketing strategy.
- Hold at least two public meetings to discuss the potential development plans for the Project.
- Submit conceptual and refined project development schedules and proformas.
- Complete design plans, including plan for public art and open space.
- Complete Project environmental review process pursuant to the California Environmental Quality Act ("CEQA"), including the preparation of the EIR and other CEQA documents as appropriate.
- Obtain all necessary planning approvals. The approval process will include public hearings with the Planning Commission, Design Review Committee, and any other necessary Boards or Committees as recommended by the Planning Commission or staff.
- Obtain letters of intent or commitment for financing from lenders and equity partners.

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- Negotiate the terms and conditions of a DDA with the City, based on City's appraisal of City Property.

Upon completion of ENA activities and agreement of terms of a DDA and PSA, staff will return to the City with a recommendation to execute a DDA and PSA between the City and Harrison Bay.

#### *The ENA*

The proposed twelve-months ENA term should be sufficient to complete environmental review required under CEQA, to negotiate the terms of a DDA and PSA between the parties, including the purchase price of a public garage that will be part of the development, and to schedule a public hearing by the City Council to consider whether to approve a DDA and a PSA between the City and Harrison Bay for the development of the Project. In the event that the initial ENA term does not provide enough time for these activities, the City Administrator may grant an ENA extension of up to three months, if she is satisfied with Harrison Bay's progress in satisfying the requirements of the twelve-month schedule of performance of the ENA.

#### **PUBLIC OUTREACH/INTEREST**

Harrison Bay will be required at least to complete a final Planned Unit Development permit which includes design review. This will require a full community review process with at least two community meetings and a public hearing before the Planning Commission. The Broadway Valdez Specific Plan and the Environmental Impact Report ("EIR"), which includes the Project, requires extensive outreach to the public such as the Notice of Preparation, scoping sessions, Landmarks Preservation Advisory Board and Planning Commission meetings. If the Project is required to prepare a supplemental EIR, there will be additional public outreach. All of these activities are required by the ENA and are part of the Schedule of Performance.

#### **COORDINATION**

The Office of Neighborhood Investment coordinated this report with the City Attorney's Office, the Budget Office, and Harrison Bay. During the ENA period, there will be coordination for the environmental review with the City's Department of Planning & Building and possibly the Public Works Agency. The execution of the ENA and negotiations for the DDA and PSA will involve extensive cooperation with the City Attorney's Office.

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### **COST SUMMARY/IMPLICATIONS**

The proposed legislation does not commit the City to expenditure of any funds. Harrison Bay will bear sole responsibility for all costs associated with developing the project for approval, including consultant fees (e.g. for market study and designs and CEQA consultant), permitting fees, legal fees, financing expenses, etc. The ENA shall require a \$25,000 Project Expense Payment ("PEP") by Harrison Bay, which is a nonrefundable good faith deposit, for purposes of reimbursing City for its staff costs and third party expenses such as appraisal costs. In the event that the City is not able to convey the City Property to Harrison Bay due to the State's Department of Finance controls, any unspent PEP funds will be refunded to Harrison Bay.

### **POLICY ALIGNMENT**

Harrison Bay's proposed use of the City Property is consistent with the goals of the City's Broadway Valdez District Specific Plan, General Plan, and Redevelopment Plan, all of which have included extensive community engagement process. It is also in alignment with the City's priority of fostering sustainable economic growth and development for the benefit of Oakland residents and businesses by:

- Developing comprehensive business attraction, retention and growth initiatives to attract green, biotech and other businesses that will result in more jobs for Oakland residents.
- Continuing to develop retail space and other attractions that will draw visitors to the City of Oakland.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The sale of land to Harrison Bay would generate land sale proceeds and provide a public parking garage that will support existing and new commercial and retail activities in the Broadway Valdez District. The Project would transform vacant underutilized land into productive use. This development would also serve as a catalyst to bring more regional serving retail and draw a larger area of consumer base to Oakland.

The Project is in pre-planning phase and projections on number of jobs and tax benefits generated as a result of this Project will be assessed during the ENA phase.

**Environmental:** By developing in established areas, this Project reduces the pressure to construct on agricultural and other undeveloped land, and thereby contributes to the prevention of urban sprawl. The location of the Project in proximity to major public transportation nodes will likely encourage project residents and retail customers to use BART and AC Transit. Staff will negotiate with the developer to incorporate as many "environmental sustainability" features into

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the design and construction of the project as are practical and financially feasible. The DDA and PSA will include specific requirements for these features.

**Social Equity:** If the City Property is not sold at its fair market value or if the City opts to acquire a public parking component in the new garage, Harrison Bay must comply with the City's contracting programs, including the Small/Local Business Construction Program, the Small/Local Business Professional Services Program (L/SLBE) and the Local Employment Program for either the entire Project or only the public parking component of the Project. All of the workers performing construction work for the City funded Project component must be paid prevailing wages. The developer will also be subject to the Living Wage Ordinance.

Staff will ensure that Harrison Bay will host at least two community design meetings during the proposed ENA period to discuss potential development plans. This community participation process will inform and engage a variety of stakeholders so that the best design possible can be created. Harrison Bay will be required to include a public art plan within the Project.

For questions regarding this report, please contact Patrick Lane, Redevelopment Manager, at 510-238-7362.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator

Reviewed by:   
Gregory Hunter  
Office of Neighborhood Investment

Patrick Lane, Redevelopment Manager

Prepared by:  
Esther Chan, Urban Economic Analyst II  
Jens Hillmer, Urban Economic Coordinator

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2315 Valdez and 2330 Webster Project  
Exclusive Negotiating Agreement  
Attachment A: Site Map





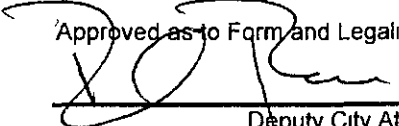
**EXCLUSIVE NEGOTIATING AGREEMENT  
ATTACHMENT B: SCHEDULE OF PERFORMANCE**

Property 2315 Valdez Street & 2330 Webster Street  
 Developer Harrison Bay Partners LLC  
 Approximate CED approval March 11, 2014  
 Approximate City Council Approval March 18, 2014  
 Negotiation Period 12 months with 90 day extension option  
 Approximate Execution of ENA March 18, 2014  
 Project Expense Payment: \$25,000

Item #	EN A SCHEDULE OF PERFORMANCE	Within Number of Calendar days of the Commencement of the Negotiation Period	Approx due date assuming March 18, 2014 execution
1	CEQA & PERMITS: City provides all existing environmental, geological, engineering and other reports about Property's condition	30	17-Apr-14
2	DDA: City provides list of approved appraisers to Developer	45	2-May-14
3	DDA: City provides draft DDA and PSA prior to start of negotiations with Developer	60	17-May-14
4	DESIGN: Developer retains design team to prepare concept plans.	60	17-May-14
5	MARKET STUDY & STRATEGY: Developer retains economic feasibility consultant (if Developer deems necessary)	60	17-May-14
6	CEQA & PERMITS: Developer retains environmental consultants to prepare documents for CEQA review of Project. Developer's CEQA consultant shall compare proposed development project with the development program assumed under the Broadway Valdez District Specific Plan. This may be delayed for an additional 30 days if the specific plan EIR approval delays.	75	1-Jun-14
7	PROJECT TEAM: Balance sheets and income/loss statements for last 2 years (2012, 2013) for Development Team, including Developer's expanded team	90	16-Jun-14
8	PROJECT TEAM: Description of financial and legal structure of the Development Team, including partnership agreements, joint venture agreements, etc	90	16-Jun-14
9	PROJECT TEAM: Developer's corporate, LLC, or partnership status	90	16-Jun-14
10	PROJECT TEAM: Development team's experience including candidate for-fee developer, architect, general contractors, marketing	90	16-Jun-14
11	PROJECT TEAM: Development team's litigation status (if required, upon request)	90	16-Jun-14
12	CEQA & PERMITS: Developer's CEQA consultant shall review the Broadway/Valdez Retail District Specific Plan Environmental Impact Report to determine if it is adequate for CEQA clearance of the proposed development project, any additional work that may be required, and if there is anything unique about the project and/or its location. Developer's CEQA consultant shall meet with the City to discuss the proposed CEQA approach. This may be delayed for an additional 30 days if the specific plan EIR approval delays.	105	1-Jul-14
13	CEQA & PERMITS: Submit Project Description for environmental review purposes to City	105	1-Jul-14
14	DDA: City submits final appraisal report	105	01-Jul-14
15	PROJECT FINANCING & SCHEDULE: Project development schedule, including construction and absorption projections and retail space schedule	120	16-Jul-14
16	CEQA & PERMITS: Based on the specific CEQA approach for the project, Developer's CEQA consultant shall prepare a draft scope of work, based upon the City's "Guidelines for Environmental Consultant Contracts Concerning Private Development Projects" (dated 1/5/12), for City review and approval, that analyzes the specific environmental topics and type of CEQA document that is required to complete CEQA clearance - Initial Study, Addendum and/or Supplemental EIR. This may be delayed for an additional 30 days if the specific plan EIR approval delays.	135	31-Jul-14
17	PROJECT FINANCING & SCHEDULE: Proforma dev't budget, sources & uses of funds, 10-yr cash flow, operating budget (including Public Garage Component). Developer submits request for gap financing with proforma	135	31-Jul-14
18	DESIGN: First public meeting on proposed development plan	150	15-Aug-14
19	CEQA & PERMITS: Submit applicable zoning and other land use permit pre-applications. This may be delayed for an additional 30 days if the specific plan EIR approval delays.	165	30-Aug-14
20	MARKET STUDY & STRATEGY: Complete market feasibility study for components City deems necessary according to proposed project (ie Retail, housing, etc.)	180	14-Sep-14
21	CEQA & PERMITS: If supplemental/subsequent EIR is required, Developer's CEQA consultant shall cause the issuance of a Notice of Preparation (NOP) subject to City review and approval. This may be delayed for an additional 30 days if the specific plan EIR approval delays.	195	29-Sep-14
22	DDA: City preliminarily responds to Developer's request for gap financing within 60 days receipt of Project Proforma. Final amount of gap financing is subject to further review upon receipt of refined proforma and contingent upon final Council approval.	195	29-Sep-14

Item #		Within Number of Calendar days of the Commencement of the Negotiation Period	Approx due date assuming March 18, 2014 execution
	<b>ENA SCHEDULE OF PERFORMANCE</b>		
23	CEQA & PERMITS	Submit applicable zoning and other land use permit applications. This may be delayed for an additional 30 days if the specific plan EIR approval delays	210 14-Oct-14
24	DESIGN	Submit Schematic Design Plans	210 14-Oct-14
25	PARKING GARAGE PLAN	Conceptual plan covering operational & management structure for pkg garage as it relates to retail tenants, residential and general public	210 14-Oct-14
26	MARKET STUDY & STRATEGY	Detailed Letters of Intent from key tenants	230 3-Nov-14
27	DESIGN	Second public meeting on proposed development plan	240 13-Nov-14
28	DESIGN	Submit List of all public improvements	240 13-Nov-14
29	DESIGN	Submit Public art plan	240 13-Nov-14
30	PROJECT FINANCING & SCHEDULE	List of lenders and investors approached	240 13-Nov-14
31	MARKET STUDY & STRATEGY	Complete marketing strategy	270 13-Dec-14
32	PROJECT FINANCING & SCHEDULE	UPDATED & REFINED Proformas dev't budget, sources & uses of funds, 10-yr cash flow, operating budget (Including Public Garage Component)	270 13-Dec-14
33	PROJECT FINANCING & SCHEDULE	UPDATED & REFINED Project development schedule	270 13-Dec-14
34	CEQA & PERMITS	If Addendum and/or other CEQA document is required, submit an administrative draft of the CEQA document This may be delayed for an additional 30 days if the specific plan EIR approval delays	285 28-Dec-14
35	CEQA & PERMITS	Submit schedule of approvals for zoning, design review, environmental review and code requirements for the Project This may be delayed for an additional 30 days if the specific plan EIR approval delays	285 28-Dec-14
36	PARKING GARAGE PLAN	Final Plan for parking garage	300 12-Jan-15
37	PROJECT FINANCING & SCHEDULE	Letters of intent (LOIs) from lenders and equity partners to finance project	300 12-Jan-15
38	CEQA & PERMITS	Complete CEQA review Developer Complete environmental assessment, identify site mitigations City complete environmental review, file Notice of Determination and/or Notice of Exemption	330 11-Feb-15
39	DDA	Complete DDA Negotiations	330 11-Feb-15
40	DDA	Submit final appraisal and reuse appraisal report City and Developer shall agree upon appraiser Developer pays for this appraisal.	330 11-Feb-15
41	CEQA & PERMITS	Obtain all necessary planning approvals The approval process will include public hearings with the Planning Commission, Design Review Committee, and the Parks and Recreation Advisory Committee (PRAC)	360 13-Mar-15

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Approved as to Form and Legality.  
  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**A RESOLUTION AUTHORIZING AN EXCLUSIVE NEGOTIATING AGREEMENT FOR A PERIOD OF ONE YEAR WITH THE OPTION TO EXTEND ADMINISTRATIVELY FOR 90 DAYS WITH HARRISON BAY PARTNERS LLC TO DEVELOP A MIXED-USE PROJECT ON CITY-OWNED PROPERTIES AT 2315 VALDEZ STREET AND 2330 WEBSTER STREET**

**WHEREAS**, the City owns approximately 1.42 acres of property located on the block bounded by Webster Street to the west, 23<sup>rd</sup> Street to the south, Valdez Street to the east, and 24<sup>th</sup> Street to the north (the "City Property"); and

**WHEREAS**, the Masri family owns approximately 1.95 acres of property located on the block bounded by Waverly Street to the west, 23<sup>rd</sup> Street to the south, Harrison Street to the east, and 24<sup>th</sup> Street to the north (the "Developer Property"); and

**WHEREAS**, Harrison Bay Partners LLC, ("Harrison Bay") a limited liability company that consists of Madison Harrison Bay LLC and Masri Family Limited Partnership A, LP, submitted a proposal to purchase the City Property and develop a mixed-use project spanning on both the City Property and Developer Property with a total of at least 100,000 square feet of retail, approximately 275 residential units, and approximately 755 parking spaces, a portion of which will be public parking (the "Project"); and

**WHEREAS**, Harrison Bay proposes to acquire the City Property and provide the City with an option to repurchase for development cost a certain number of new parking spaces in the garage to be built at the City Property ; and

**WHEREAS**, the City and Harrison Bay, as the prospective developer, wish to enter into a period of preliminary study and exclusive negotiations over the proposed Project, understanding that this does not constitute a binding commitment on the part of the City to any project or developer for the City Property; now, therefore, be it

**RESOLVED:** That the City hereby aauthorizes the City Administrator to negotiate and enter into an Exclusive Negotiating Agreement ("ENA") with Harrison Bay for the purposes of studying and evaluating the feasibility of, and negotiating terms and conditions for, the transfer

of the Property, its development for retail, residential, public parking and other uses, and the City option to repurchase a certain number of public parking spaces developed as part of the Project, and conducting California Environmental Quality Act ("CEQA") review and approval; and be it

**FURTHER RESOLVED:** That the exclusive negotiating period will be for twelve months from the date of this Resolution, with the option by the City to extend said period by an additional 90 days with the approval of the City Administrator in her sole discretion; and be it

**FURTHER RESOLVED:** That the City shall require payment of a \$25,000 Project Expense Payment by Harrison Bay for purposes of reimbursing City for its staff costs and third party expenses; and be it

**FURTHER RESOLVED:** That the \$25,000 nonrefundable Project Expense Payment from Harrison Bay will be appropriated to Miscellaneous Capital Projects Fund (Fund 5999) and a project to be created; and be it

**FURTHER RESOLVED:** That the ENA shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution; and be it

**FURTHER RESOLVED:** That the City finds and determines, after independent review and consideration, that this action complies with CEQA because it is exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it

**FURTHER RESOLVED:** That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

**FURTHER RESOLVED:** That the City Administrator is further authorized to negotiate and enter into agreements and take whatever action is necessary with respect to the ENA and the Project, consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF, and  
PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California