

OAKLAND CITY COUNCIL
RESOLUTION No. 77977 C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2003 JUL 17 PM 6:49



**RESOLUTION AMENDING RESOLUTION NO. 77510 C.M.S.
REGARDING THE NEGOTIATION AND ENTERANCE OF A
MEMORANDUM OF AGREEMENT WITH THE CITY OF OAKLAND, THE
OAKLAND BASE REUSE AUTHORITY AND THE PORT OF OAKLAND
REGARDING THE CONVEYANCE AND DEVELOPMENT OF THE
OAKLAND ARMY BASE**

WHEREAS, the City Council, at its meeting of October 29, 2002, passed Resolution No. 77510 C.M.S. thereby authorizing the City Manager to negotiate and enter into a Memorandum of Agreement with the Redevelopment Agency of the City of Oakland ("Agency"), the Oakland Base Reuse Authority ("OBRA") and Port of Oakland ("Port") ("MOA") setting forth the terms and conditions for the conveyance and development of the former Oakland Army Base; and

WHEREAS, Resolution No. 77510 C.M.S. provides that the MOA is to be consistent with the terms and conditions set forth in the Oakland Army Base Term Sheet ("Term Sheet") which is attached to the resolution as Exhibit A; and

WHEREAS, the Term Sheet provides, among other things, that (i) the Port is to pay to the City (the City, Agency and/or OBRA) \$30 million over 30 years, or such shorter period of time to which the parties agree, for conveyance of the Knight Railroad Yard ("Knight Yard payment"), and (ii) the Port is to pay the appraised fair market value for the property west of Maritime Street ("OARB-West"), negotiate a joint development agreement or negotiate alternative agreement terms if a exchange of the tideland trust designation from OARB-West to the property east of Maritime Street ("OARB-East") cannot be completed or more than \$4 million of the consideration to be paid by the Port under the MOA is invalidated as inconsistent with the public trust for navigation, commerce and fisheries ("tideland trust") ("cash-out remedy"), and

WHEREAS, Resolution No. 77510 C.M.S. further acknowledges that the Term Sheet provisions that involve funds and property subject to the tideland trust will be reviewed by the staffs of the State Lands Commission and California Attorney General's Office;

WHEREAS, the parties to the Term Sheet and MOA, in order to provide greater flexibility to the Knight Yard payment and cash-out remedy, have negotiated additional terms and alternatives to those provisions; and

WHEREAS, the additional terms to the Knight Yard payment are that if the Port, due to supervening constraints or operation of law, is unable to make such payments, or any portion thereof, then the City can select other funding activities to make up for payments that are unable to be made including (i) assumption of the full relocation costs of the Alameda County Homeless

Base Conversion Collaborative (“Homeless Collaborative”), (ii) contribution to the development of a trust park in the Gateway Development Area, (iii) extension of the interim leasing program for up to two additional years, and (iv) funding of other projects on or off of the base property that are consistent with the tideland trust; and

WHEREAS, the additional terms to the cash-out remedy identify funding opportunities by the Port that may be negotiated if the Port is unable, due to supervening statutory constraints or operation of law, to make the payments pursuant to the cash-out remedy and include (i) purchase/sale of a portion of the Gateway Development Area not currently subject to the tideland trust, (ii) assumption of additional infrastructure and environmental remediation costs, and (iii) funding of other projects on or off of the base property that are consistent with the tideland trust; and

WHEREAS, the parties have further clarified other terms of the Term Sheet and MOA, including (i) cash-out remedy—environmental conditions will be a deduction from the determination of fair market value of OARB-West, (ii) cash-out remedy—the City will not be obligated to pay to the Port any amount of the CalTrans’ settlement if the City exercises the cash-out remedy and the Port takes ownership of OARB-West, and (iii) Port Sliver Parcels—the Port’s use of the two Sliver Parcels during the construction of Berth 21 will be coordinated with the City’s development of OARB-West; and

WHEREAS, the parties have agreed to negotiate and resolve any remaining issues related to the Term Sheet and MOA following conveyance of the Army Base from the Department of the Army which may include technical modifications to the cash-out remedy, City payment of a portion of the CalTrans’ settlement to the Port for the period prior to conveyance of the Army Base, continued leasing of parcels on OARB-East by the Homeless Collaborative after the Port obtains ownership of the property and the inclusion of other Port properties as part of the alternative options; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 (“CEQA”), the CEQA Implementing Guidelines and the City of Oakland’s Environmental Review Regulations have been satisfied with the previous certification of the Oakland Army Base Area Redevelopment Plan Environmental Impact Report; **now, therefore, be it**

RESOLVED: That the City Council hereby approves an amendment to Resolution No. 02-80 C.M.S. as set forth hereinabove;

FURTHER RESOLVED: That the City Manager is hereby authorized to negotiate and enter into the Memorandum of Agreement with the Redevelopment Agency, the Oakland Base Reuse Authority and the Port of Oakland that incorporates the terms and conditions set forth in the Term Sheet as amended hereby; and be it

FURTHER RESOLVED: That the City Manager is further authorized to negotiate and enter into an amendment, or amendments, to the MOA following the conveyance of the Oakland Army

Base to resolve any remaining issues, including those issues set forth above, as is consistent with the intent of this resolution and so that the benefits to the City are not diminished; and be it

FURTHER RESOLVED: That the City Council finds and determines that this Resolution complies with CEQA, the CEQA Implementing Guidelines and the City's Environmental Review Regulations.

IN COUNCIL, OAKLAND, CALIFORNIA, July 29, 2003


PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, ^{BROOKS}~~MARTE~~, NADEL, REID, WAN, ^{QUAN}~~SPEER~~, AND
PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
CEDA FLOYD
City Clerk of the City of Oakland, California