

**REDEVELOPMENT AGENCY AND THE  
CITY OF OAKLAND  
AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 OCT 30 PM 3:38

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: November 12, 2008

RE: **1) Agency Resolution Authorizing the Agency Administrator to: (a) Negotiate and Execute an Amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to Extend Caltrans' Use of 26 Acres of West Gateway Area Property from April 2013 to December 2015, and (b) Accept from Caltrans an Additional Settlement Agreement Payment Amount of at Least Ten Million Eight Hundred Thirty-Five Thousand Two Hundred Eighty-Three Dollars (\$10,835,283);**

**2) Agency Resolution:**

- A. Authorizing the Agency Administrator to Negotiate and Execute an Amendment to the April 29, 2005 Under-Freeway Easement from Caltrans to Expand the Agency's Easement Uses to Include Vehicles and Vehicle Storage; and**
- B. Authorizing the Agency Administrator to Negotiate and Execute a Phase II Tidelands Trust Exchange Agreement for Oakland Army Base Under-Freeway Property and Take Any Actions Necessary to Implement the Agreement.**
- C. Authorizing the Agency Administrator to Negotiate and Execute an Amendment to May 23, 2005 Purchase and Sale Agreement with Caltrans for 6.5-acres of Oakland Army Base Property**
- D. Authorizing the Agency Administrator to Negotiate and Execute an Easement in Favor of Caltrans for a San Francisco Bay Trail Connection to Maritime Street.**

**3) City Council Resolution:**

- A. Authorizing the City Administrator to Negotiate and Execute an Amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to Extend Caltrans' Use of 26 Acres of West Gateway Area Property from April 2013 to December 2015.**
- B. Authorizing the City Administrator to Negotiate and Execute an Amendment to May 23, 2005 Purchase and Sale Agreement with Caltrans for 6.5-acres of Oakland Army Base Property**

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Item: \_\_\_\_\_  
Finance & Management Committee  
November 12, 2008

## SUMMARY

In January 2008 the Agency Board authorized staff to execute an agreement with Caltrans to extend Caltrans' use of Pier 7 at the Army Base through 2015 and to accept \$10,553,347 as payment from Caltrans. Staff is returning to request authorization to accept a greater amount of payment from Caltrans and to request authorization for additional Caltrans related items.

In 2002, as part of the settlement of a lawsuit brought by the Port of Oakland ("Port"), the City of Oakland, the Oakland Redevelopment Agency ("Agency"), and the Oakland Base Reuse Authority ("OBRA"), the Oakland parties agreed not to challenge an easement granted by the federal government to the California Department of Transportation ("Caltrans") over approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7. The parties agreed to an original term of eight years, from April 2002 through April 2010, with an option to extend for three additional years, through April 2013. In exchange, Caltrans paid the Agency and the Port \$11.6 million for the original eight-year easement, as a part of a larger settlement.

Caltrans notified the Agency that it wishes to exercise its three-year option, and requested an additional two years, extending the easement through April 17, 2015. Caltrans is using the Pier 7 property as a lay-down yard for their Bay Bridge Project, and they anticipate that their project will be delayed by two additional years. In exchange for the three-year option period, and the additional two-year extension, Caltrans has offered the Agency a one-time easement fee of at least \$10,835,283, which represents fair market value for the use of the property as of the payment date of December 1, 2008. In the event the payment is delayed the payment would increase.

As part of the same settlement of the 2002 lawsuit, Caltrans agreed to grant the Agency limited easement rights to Army Base under-freeway property to allow for landscaping, utilities, roadways and unladen truck parking. The limitation on the easement rights was based in part on Interstate Highway security concerns. Caltrans has agreed to expand the easement rights to include parking of any vehicle and storage of commercial vehicles in addition to the existing easement rights.

In August 2006, the Oakland Army Base Tidelands Title Settlement and Trust Exchange was completed, which settled the tidelands status of the entire Army Base property except the under-freeway portions of Army Base property. Agency staff has been working with State Lands and Caltrans to settle the status of the Agency-owned under-freeway property and to remove portions of it from tidelands trust status.

In 2004, when staff originally brought forth the Oakland Army Base Tidelands Title Settlement and Trust Exchange legislation, the Governor vetoed it based on Caltrans' objection and stated requirement of 6.5 acres of Army Base property to support its bridge construction project and long-term bridge maintenance facilities. Following the Governor's veto, the Agency and City agreed, as part of resubmitting the Army Base Exchange legislation, to transfer 6.5 acres of Army Base property to Caltrans. The Agency, City and Caltrans have agreed it is mutually beneficial to relocate the 6.5 acres from its current location in the Central Gateway Area to the North Gateway Area (**See Attachment A – Conceptual Diagram of the Relocation**). Since the 2005 Purchase & Sale Agreement has not yet resulted in a transfer of the 6.5-acre parcel, all that is needed to relocate the parcel is an amendment to the property description in that agreement. Staff is requesting Agency and City authorization to amend the 2005 Purchase & Sale Agreement to relocate the 6.5-acres transfer parcel.

Caltrans has requested an easement across a portion of the Army Base Central Gateway property to connect the San Francisco Bay Trail segment along Interstate 80 to Maritime Street. The Agency and Caltrans have collaborated to design a Bay Trail alignment that will create the least impact on possible development of the Army Base property. In addition, the Agency has negotiated an easement that would allow the Agency to relocate the easement in the future if necessary.

### **FISCAL IMPACT**

Caltrans has offered the Agency an easement fee of at least \$10,835,283 for the two-year extension at Pier 7, which represents fair market value for the use of the property. The payment will be deposited into the Oakland Redevelopment Agency OBRA Leasing and Utility Fund (9575), General Ledger Organization (08222), OBRA Leasing and Utility Project (S294210), Undetermined Program (0000). If the Agency grants the extension, this will delay the development of the West Gateway Area of the former Oakland Army Base, and the tax increment to be generated by such development. It will also prevent the Agency from leasing the property to any other party. However, it will be very difficult to relocate Caltrans from the property until the new Bay Bridge is completed.

Expanding the existing under-freeway property easement rights to include parking of any vehicle and storage of commercial vehicles and removing some or all of the trust designation from the under-freeway property would most likely increase the rental income generation potential of the under-freeway property.

## **BACKGROUND**

In March 2002, the City of Oakland, the Agency and OBRA sued Caltrans and the Federal Highway Administration (“FHWA”) challenging Quitclaim Deeds executed by FHWA to Caltrans granting to Caltrans a temporary construction easement for Pier 7 and fee title conveyance of approximately 22 acres of under-freeway property. The Federal and State Court actions sought to void the conveyances of the Oakland Army Base parcels on numerous grounds including FHWA’s lack of statutory authority to make the conveyances and its failure to comply with conveyance procedures set forth in various statutes.

Shortly after the lawsuits were filed, the parties reached agreement on terms to settle the claims related to use of Pier 7 for construction lay down purposes. The Oakland parties agreed to not challenge the federal government’s grant to Caltrans, and Caltrans agreed to limit the use of the easement over the Pier 7 property for eight years, from April 2002 through April 2010, with an option to extend for three additional years, through April 2013. The Port had control of the Property through August 7, 2006, at which time this portion of the former Oakland Army Base was transferred to the Agency. As payment for the 8-year easement from 2002 to 2010, Caltrans paid the Agency and the Port \$11.6 million. The terms for settlement stipulated that the Agency and Port would each receive a portion of the payment based on the number of years each entity controlled the property.

Subsequently, in July 2003, the parties reached agreement on terms to settle the claims related to the under-freeway property fee title conveyance. The Oakland parties agreed to not challenge the federal government’s fee title conveyance to Caltrans, and Caltrans agreed to grant the Agency permanent easement rights to approximately 12 acres of Army Base under-freeway property, limited to landscaping, utilities, roadways and unladen truck parking uses. The limited easement rights were based in part on Interstate Highway security concerns arising in the aftermath of 9/11.

The Oakland Army Base property includes lands that were tidal and submerged lands in 1852 and therefore these lands were subject to the Public Trust at the time California became a state. Property that is designated as Public Trust (Tidelands Trust) property is limited to maritime and maritime-related uses. During the acquisition of the Army Base by the City of Oakland from the federal government, the State of California asserted a claim to all of the Army Base property as Tidelands Trust property. In August 2006, the Oakland Army Base Tidelands Title Settlement and Trust Exchange was completed which settled the Tidelands Trust status of the entire Army Base property except the under-freeway portions of Army Base property. Agency staff has been working with the California State Lands Commission (State Lands) and Caltrans to settle the

status of the Agency-controlled under-freeway property and to remove portions of it from the Tidelands Trust.

In May 2005, the Agency, City and Caltrans executed a Purchase & Sale Agreement for 6.5 acres of Oakland Army Base property to be conveyed to Caltrans at a later date as part of the Tidelands Title Settlement and Trust Exchange legislation actions.

In January 2008 staff requested and received authorization: 1) to execute an agreement with Caltrans to extend its use of Pier 7 at the Army Base through 2015, and 2) to accept \$10,553,347 as payment from Caltrans. Caltrans and the Agency were unable to execute an agreement prior to July 1 and the state budget expiration. The \$10,553,347 payment was calculated based on an April 2008 payment date. Because of the delay in payment, the net present value of a December 2008 payment has increased by \$281,936 from \$10,553,347 to \$10,835,283. Staff is requesting authorization to accept \$10,835,283 or more in case the payment is delayed again.

**KEY ISSUES AND IMPACTS**

The April 18, 2002 Oakland Army Base Settlement Agreement among Caltrans, the Port of Oakland, the City of Oakland, the Agency, and OBRA provided that if Caltrans failed to complete its project by April 2010, it could extend the easement by three years, and it would pay the Agency the net present value of \$2.4 million for each additional year. Caltrans has informed the Agency that it will be exercising the three-year option, and has asked the Agency for an additional two years, through April 2015. Caltrans has agreed to pay the net present value of \$2.7 million for the two year extension (2013-2015). In January, staff presented the following calculations for the net present value, as of April 2008, of the five payments as follows:

April 2010-11	April 2011-12	April 2012-13	April 2013-14	April 2014-15	<b>TOTAL</b>
\$2.4 million	\$2.4 million	\$2.4 million	\$2.7 million	\$2.7 million	<b>\$11.16 million</b>
Net Present Value \$2,197, 752	Net Present Value \$2,103,112	Net Present Value \$2,012,547	Net Present Value \$2,166,618	Net Present Value \$2,073,318	Net Present Value <b>\$10,553,347</b>

Item: \_\_\_\_\_  
 Finance & Management Committee  
 November 12, 2008

Staff has recalculated the net present value of the five payments with a December 2008 payment as follows:

April 2010-11	April 2011-12	April 2012-13	April 2013-14	April 2014-15	<b>TOTAL</b>
\$2.4 million	\$2.4 million	\$2.4 million	\$2.7 million	\$2.7 million	<b>\$11.16 million</b>
Net Present Value \$2,260,489	Net Present Value \$2,161,203	Net Present Value \$2,066,279	Net Present Value \$2,222,464	Net Present Value \$2,124,849	Net Present Value <b>\$10,835,283</b>

Extending the easement by two years will delay the development of the West Gateway Area of the former Oakland Army Base, and the tax increment to be generated by such development. It will also prevent the Agency from leasing the property to any other party. However, staff does not believe that any other use would generate as much revenue as Caltrans has agreed to pay in exchange for the easement extension and failure to reach agreement with Caltrans may result in lengthy and potentially costly litigation and will hinder the completion of the new Bay Bridge project.

Expanding the existing under-freeway property easement rights to include parking of any vehicle and storage of commercial vehicles in conjunction with removing some or all of the trust designation from the under-freeway property will allow broader use(s) of the property, most likely increase the rental income generation of property, and will remove the trust encumbrance from any funds generated on the property. Any funds generated on trust designated property must be used in a trust consistent fashion, which means the funds must either be used to administer trust property or be reinvested back into trust property. The Agency and City have limited trust property, therefore, the funds generated would have limited uses.

Relocating the 6.5-acre transfer parcel will increase the Central Gateway Area's size and development opportunities. Conversely, the relocation will reduce the North Gateway Area's size and development opportunities. Given the North Gateway Area's proximity to the East Bay MUD Waste Water Treatment plant, staff believes the development opportunities and the compatibility of uses for the Central Gateway Area development outweigh those of the North Gateway Area and will enhance the entrance into Oakland and the East Bay.

Item: \_\_\_\_\_  
 Finance & Management Committee  
 November 12, 2008

The requested San Francisco Bay Trail easement connecting segments of the Interstate 80 and Maritime Street to each other will reduce the development area footprint of the Central Gateway by approximately less than ½ an acre. The Bay Trail is a requirement of the Bay Conservation and Development Commission.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** The local economy will benefit by the jobs created and supported by the continued construction of the bridge. Expanding the under-freeway easement rights will mostly likely result in increased rental income generation from the property. Removal of the trust designation from the under-freeway property will provide the Agency with the ability to utilize any funds generated on the property on Agency-wide projects. Relocating the 6.5-acres transfer parcel will have a net development opportunities increase for the Agency, because Caltrans will be moving to property adjacent to the EBMUD wastewater treatment plant, and transferring to the Agency high value property adjacent to the Bay Bridge Toll Plaza.

**Environmental:** Caltrans is constructing the Oakland Touchdown structure for the San Francisco – Oakland Bay Bridge. When completed, this section of the bridge will connect the Skyway to Interstate 80 in Oakland. Work will involve building two roadway sections and a new electrical substation, in addition to extensive relocation of underground utilities. The westbound approach of the Touchdown will be built over the geofill. The geofill is the underlying soil that bridge builders stabilized to support the roadbed created for the Touchdown.

**Social Equity:** There are no social equity opportunities created as the result of the extended construction period for the bridge. The San Francisco Bay Trail easement connecting Interstate 80 and Maritime Street segments of the Bay Trail to each other will enhanced recreational opportunities and services for Oakland and East Bay residents and will potentially result in a future increase in bicycle commuter options between San Francisco and the East Bay.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

The proposed use of the subject property has no direct impact on access by seniors and people with disabilities.

## **RECOMMENDATION(S) AND RATIONALE**

Staff recommends the City Council and Agency agree to the two-year extension of the April 18, 2002 Oakland Army Base Settlement Agreement among Caltrans, the Port of Oakland, the City of Oakland, the Agency, and OBRA, through April 17, 2015, to complete the construction of the San Francisco – Oakland Bay Bridge, and to accept a one-time easement fee of at least \$10,835,283.

Staff recommends the Agency authorize the Agency Administrator to negotiate and execute an amendment to the under-freeway easement to expand the easement rights to include parking of any vehicle and storage of commercial vehicles to allow broader use(s) of the property and potentially increase the rental income generation from the property.

Staff recommends the Agency authorize the Agency Administrator to negotiate and execute a Phase II Tidelands Trust Exchange Agreement for Oakland Army Base Under-Freeway Property to allow broader use(s) of the under-freeway property, potentially increase the rental income generation from the property and provide the Agency with greater flexibility in utilizing any funds generated by the under-freeway property.

Staff recommends the Agency and City authorize the Agency/City Administrator to negotiate and execute an amendment to May 23, 2005 Purchase and Sale Agreement with Caltrans for 6.5 acres of Oakland Army Base property to increase Central Gateway development opportunities and relocate a portion of the Caltrans maintenance facility to a more compatible site adjacent to the East Bay MUD Waste Water Treatment facility.

Staff recommends the Agency authorize the Agency Administrator to negotiate and execute an easement in favor of Caltrans for a San Francisco Bay Trail Connection to Maritime Street.



**ACTION REQUESTED OF THE CITY COUNCIL/ REDEVELOPMENT AGENCY**

In order to facilitate the construction of the Bay Bridge Project, staff recommends the Agency and City approve the resolution to extend the Pier 7 Temporary Construction Easement through April 17, 2015, and accept the one time easement fee of at least \$10,835,283 in exchange for the extension. To allow for greater use(s) of the under-freeway property, staff recommends the Agency approve the resolution to amend the Under-Freeway Easement and execute a Phase II Tidelands Trust Exchange Agreement. To enhance recreational opportunities and services for Oakland and East Bay residents, staff recommends the Agency approve the resolution authorizing staff to execute an easement for a San Francisco Bay Trail connection to Maritime Street. To increase development opportunities and relocate a portion of the Caltrans maintenance facility to a more compatible site, staff recommends the Agency and City approve the resolution to amend the May 23, 2005 Purchase and Sale Agreement.

Respectfully submitted,

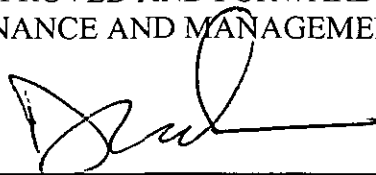


*for* \_\_\_\_\_  
Dan Lindheim, Director  
Community and Economic Development Agency

Reviewed by: Frank Fanelli, Manager  
Real Estate Division

Prepared by: John Monetta, Program Analyst III

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:



\_\_\_\_\_  
Office of the City/Agency Administrator

Item: \_\_\_\_\_  
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Current location of 6.5 acre Caltrans Parcel

# AREA MAP



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Approved as to Form and Legality  
*[Signature]*  
Agency Counsel

# REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE APRIL 18, 2002 OAKLAND ARMY BASE SETTLEMENT AGREEMENT TO EXTEND CALTRANS' USE OF 26 ACRES OF THE WEST GATEWAY AREA PROPERTY FROM APRIL 2013 TO DECEMBER 2015 AND TO ACCEPT FROM CALTRANS A ONE-TIME EASEMENT FEE OF AT LEAST \$10,835,283 IN EXCHANGE FOR THE EXTENSION**

**WHEREAS**, in 2002 as part of the settlement of a lawsuit brought by the Port of Oakland (Port), the City of Oakland (City), the Oakland Redevelopment Agency (Agency) and the Oakland Base Reuse Authority (OBRA) against the California Department of Transportation (Caltrans), the Oakland parties agreed not to challenge an easement granted by the federal government to Caltrans over approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7; and

**WHEREAS**, on April 18, 2002, the parties executed the 2002 Oakland Army Base Settlement Agreement, providing in part that Caltrans may use and occupy Pier 7 for eight years from April 2002 to April 2010, with an option to extend for three additional years to 2013; and

**WHEREAS**, Caltrans paid the Agency and the Port \$11.6 million for its use of Pier 7 through 2010 pursuant to the Settlement Agreement; and

**WHEREAS**, Caltrans has given notice that it will exercise the three-year option to extend the easement, and it has requested an additional two-year extension to the easement; and

**WHEREAS**, in exchange for the three-year option period and the additional two-year extension, Caltrans has offered the Agency a one-time payment of at least \$10,835,283 which represents the net present value of the fair market value for the use of the property; and

**WHEREAS**, the granting of easements and conveyance of properties are exempt from the requirements of the California Environmental Quality Act (CEQA) by Section

15269 (emergency projects) and Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; now, therefore, be it

**RESOLVED**, that the Agency hereby authorizes the Agency Administrator to negotiate and execute an amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to allow for Caltrans to use and occupy approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7, to facilitate completion of the Caltrans Bay Bridge Project, through April 17, 2015; and be it

**FURTHER RESOLVED:** That the Agency hereby accepts a one-time payment of at least \$10,835,283 in exchange for extending Caltrans' use and occupancy of Pier 7 through April 17, 2015; and be it

**FURTHER RESOLVED:** That the funds be deposited into Oakland Redevelopment Agency's OBRA Leasing and Utility Fund (9575), General Ledger Organization(08222), OBRA Leasing and Utility Project (S294210), and be it

**FURTHER RESOLVED:** That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA under Section 15269 (emergency projects), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines, and directs the Agency Administrator to file a Notice of Exemption with the County of Alameda; and be it

**FURTHER RESOLVED:** That the amendment to the Settlement Agreement shall be approved as to form and legality by Agency Counsel prior to execution and a copy shall be filed with the Agency Secretary; and be it

**FURTHER RESOLVED:** That the Agency Administrator or his designee is hereby authorized to take whatever other actions are necessary consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

LATONDA SIMMONS

Secretary of the Redevelopment Agency  
of the City of Oakland, California

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OAKLAND  
2008 OCT 30 PM 3:38

Approved as to Form and Legality

*Cliff A. Kowalski*  
Agency Counsel

## REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO:**

- 1) **NEGOTIATE AND EXECUTE AN AMENDMENT TO THE APRIL 29, 2005 UNDER-FREEWAY EASEMENT FROM CALTRANS TO EXPAND THE AGENCY'S EASEMENT USES TO INCLUDE VEHICLES AND VEHICLE STORAGE;**
- 2) **NEGOTIATE AND EXECUTE A PHASE II TIDELANDS TRUST EXCHANGE AGREEMENT FOR OAKLAND ARMY BASE UNDER-FREEWAY PROPERTY AND TAKE ANY ACTIONS NECESSARY TO IMPLEMENT THE AGREEMENT;**
- 3) **NEGOTIATE AND EXECUTE AN AMENDMENT TO THE MAY 23, 2005 PURCHASE AND SALE AGREEMENT WITH CALTRANS FOR 6.5 ACRES OF OAKLAND ARMY BASE PROPERTY; AND**
- 4) **NEGOTIATE AND EXECUTE AN EASEMENT IN FAVOR OF CALTRANS FOR A SAN FRANCISCO BAY TRAIL CONNECTION TO MARITIME STREET**

**WHEREAS**, as part of a settlement of the 2002 lawsuit among the Port of Oakland, the City of Oakland, the Oakland Redevelopment Agency (Agency), the Oakland Base Reuse Authority, and the California Department of Transportation (Caltrans), Caltrans granted the Agency an easement to Army Base under-freeway property limited to landscaping, utilities, roadways and un-laden truck parking. The limitation on the easement rights was based in part on Interstate Highway security concerns; and

**WHEREAS**, Caltrans has agreed to expand the easement rights to include parking of any vehicle and storage of commercial vehicles in addition to the existing easement rights; and

**WHEREAS**, in August 2006, the Oakland Army Base Tidelands Title Settlement and Trust Exchange was executed and recorded settling the Tidelands Trust status of the entire Army Base property except the under-freeway portions; and

**WHEREAS**, Agency staff has been working with State Lands and Caltrans to settle the status of the Agency-owned under-freeway property and to remove portions of it from the public trust; and

**WHEREAS**, on May 23, 2005, the Agency, City and Caltrans executed a Purchase and Sale Agreement for 6.5 acres of Oakland Army Base property to support the ongoing Bay Bridge construction project and the bridge maintenance functions of Caltrans; and

**WHEREAS**, the transfer of 6.5 acres as contemplated by the 2005 Purchase and Sale Agreement has not yet been consummated; and

**WHEREAS**, the Agency, City and Caltrans have agreed it is mutually beneficial to amend the 2005 Purchase and Sale Agreement to relocate the 6.5 acres from its current location in the Central Gateway Area to another area within the Gateway Development Area at the former Oakland Army Base; and

**WHEREAS**, Caltrans has requested an easement across a portion of the Central Gateway Area property to connect the San Francisco Bay Trail segment along Interstate 80 to Maritime Street; and

**WHEREAS**, the Agency and Caltrans wish to enter into such an easement agreement to facilitate and enhance the recreational opportunities and services for Oakland residents and East Bay residents; and

**WHEREAS**, the actions taken pursuant to this resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15269 (emergency projects), Section 15282(f) (settlement of tidelands trust title and boundary problems), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; now, therefore, be it

**RESOLVED:** The Agency Administrator is authorized to negotiate and execute an amendment to the April 29, 2005 Under-Freeway Easement between Caltrans and the Agency to expand the allowable uses to include parking of any vehicle and storage of commercial vehicles in addition to the existing easement rights; and be it

**FURTHER RESOLVED:** The Agency Administrator is authorized to negotiate and execute a Phase II Tidelands Trust Exchange Agreement for Oakland Army Base Under-Freeway Property and to take any actions necessary to implement the agreement; and be it

**FURTHER RESOLVED:** The Agency Administrator is authorized to negotiate and execute an amendment to the May 23, 2005 Purchase and Sale Agreement among the Agency, City and Caltrans to relocate the 6.5-acre parcel to be transferred pursuant to that agreement, from its current location in the Central Gateway Area to another area within the Gateway Development Area on the former Oakland Army Base; and be it

**FURTHER RESOLVED:** The Agency Administrator is authorized to negotiate and execute an easement benefitting Caltrans across a portion of the Central Gateway

Area property to connect the San Francisco Bay Trail segment along Interstate 80 to the Maritime Street San Francisco Bay Trail segment; and be it

**FURTHER RESOLVED:** That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA under Section 15269 (emergency projects), Section 15282(f) (settlement of tidelands trust title and boundary problems), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines, and directs the Agency Administrator to file a Notice of Exemption with the County of Alameda; and be it

**FURTHER RESOLVED:** That the agreements shall be approved as to form and legality by Agency Counsel prior to execution and a copy shall be filed with the Agency Secretary; and be it

**FURTHER RESOLVED:** That the Agency Administrator or his designee is hereby authorized to take whatever other actions are necessary consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

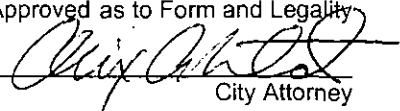
ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
Secretary of the Redevelopment Agency  
of the City of Oakland, California



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 OCT 30 PM 3:38

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) NEGOTIATE AND EXECUTE AN AMENDMENT TO THE APRIL 18, 2002 ARMY BASE SETTLEMENT AGREEMENT TO EXTEND CALTRANS' USE OF 26 ACRES OF THE WEST GATEWAY AREA PROPERTY FROM APRIL 2013 TO DECEMBER 2015, AND 2) NEGOTIATE AND EXECUTE AN AMENDMENT TO THE MAY 23, 2005 PURCHASE AND SALE AGREEMENT WITH CALTRANS FOR 6.5 ACRES OF OAKLAND ARMY BASE PROPERTY**

**WHEREAS**, in 2002 as part of the settlement of a lawsuit brought by the Port of Oakland (Port), the City of Oakland (City), the Oakland Redevelopment Agency (Agency) and the Oakland Base Reuse Authority (OBRA), against the Department of Transportation (Caltrans), Oakland parties agreed not to challenge an easement granted by the federal government to Caltrans over approximately 26 acres of land in the West Gateway portion of the former Oakland Army Base, located at what is known as Pier 7; and

**WHEREAS**, on April 18, 2002, the parties executed the 2002 Oakland Army Base Settlement Agreement, providing in part that Caltrans may use and occupy Pier 7 for eight years from April 2002 to April 2010, with an option to extend for three additional years to 2013; and

**WHEREAS**, Caltrans paid the Agency and the Port \$11.6 million as a settlement agreement payment for the eight-year easement, as part of a larger settlement; and

**WHEREAS**, Caltrans has given notice that it will exercise the three year option to extend the easement, and it has requested an additional two year extension to the easement; and

**WHEREAS**, in exchange for the three-year option period and the additional two-year extension, Caltrans has offered the Agency a one-time payment of at least \$10,835,283 which represents the net present value of the fair market value for the use of the property; and

**WHEREAS**, on May 23, 2005, the Agency, City and Caltrans executed a Purchase and Sale Agreement for 6.5 acres of Oakland Army Base property to support

the ongoing Bay Bridge construction project and the bridge maintenance functions of Caltrans; and

**WHEREAS**, the transfer of 6.5 acres as contemplated by the 2005 Purchase and Sale Agreement has not yet been consummated; and

**WHEREAS**, the Agency, City and Caltrans have agreed it is mutually beneficial to amend the 2005 Purchase and Sale Agreement to relocate the 6.5 acres from its current location in the Central Gateway Area to another area within the Gateway Development Area at the former Oakland Army Base; and

**WHEREAS**, the actions taken pursuant to this resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15269 (emergency projects) and Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator to negotiate and execute an amendment to the April 18, 2002 Oakland Army Base Settlement Agreement to allow for Caltrans to use and occupy approximately 26 acres of the West Gateway Area of the former Oakland Army Base, known as Pier 7, to facilitate completion of the Caltrans Bay Bridge Project, through April 17, 2015; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to negotiate and execute an amendment to the May 23, 2005 Purchase and Sale Agreement among the Agency, City and Caltrans to relocate the 6.5-acre parcel to be transferred pursuant to that agreement, from its current location in the Central Gateway Area to another area within the Gateway Development Area on the former Oakland Army Base; and be it

**FURTHER RESOLVED:** That the City Council has independently reviewed and considered this environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA under Section 15269 (emergency projects), Section 15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines, and directs the City Administrator to file a Notice of Exemption with the County of Alameda; and be it

**FURTHER RESOLVED:** That the amendments to the 2005 Purchase and Sale Agreement and the 2002 Settlement Agreement shall be approved as to form and legality by City Attorney prior to execution and a copy shall be filed with the City Clerk; and be it

**FURTHER RESOLVED:** That the City Administrator or his designee is hereby authorized to take whatever other actions are necessary consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG AND  
PRESIDENT DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California