

OFFICE OF THE CITY CLERK

2006 MAR 29 PM 6:49

Approved as to Form and Legality

Robert Tang
Oakland City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. 79874 C. M. S

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART) RELATING TO THE OAKLAND AIRPORT CONNECTOR PROJECT AND TO NEGOTIATE REIMBURSEMENTS AND PERMITS

WHEREAS, the San Francisco Bay Area Rapid Transit District ("BART") plans to construct the Oakland Airport Connector Project (the "Project"), a 3.2-mile long Automated Guide Way Transit ("AGT") System as described in the Project Limit Map attached hereto as Exhibit A; and

WHEREAS, the Oakland International Airport Connector Project will impact City infrastructure improvements including landscaping; and

WHEREAS, BART will be required to replace at their sole expense any City infrastructure improvements impacted by their operation and warranty the landscaping for three years; and

WHEREAS, BART and the City acknowledge that it will be necessary to develop procedures to ensure careful and continued cooperation between the parties, including the following: (1) procedures for finalizing any necessary design and construction options relating to City infrastructure; (2) procedures for protecting in place and/or relocating certain City-owned facilities; (3) procedures to avoid all unnecessary delays to either the contracting or construction process; (4) procedures for inspecting the construction, relocation, and replacement, as necessary, of City infrastructure; (5) procedures for conveyance of property interest rights by City to BART; and (6) procedures for securing necessary permits and reimbursement to the City; and

WHEREAS, the estimated costs for City plan review, construction monitoring, and administration for the project is approximately \$725,000.00; and

WHEREAS, this agreement is contingent on the Redevelopment Agency approving a contribution from the Coliseum Tax Allocation Bond Fund (9453); Capital Improvement Project–Economic Development Organization (94800), Miscellaneous Contract Services Account (54919), Coliseum Redevelopment Tax Allocation Bond Series 2003 Project (P233410) to the City in an amount not to exceed \$725,000.00 to fund the plan review, construction monitoring, and administration costs of the City for the project; and

WHEREAS, the Redevelopment Agency has an interest in the development of the area and desires to contribute towards the cost for plan review and construction monitoring; and

WHEREAS, in a companion City and Redevelopment Agency report with two resolutions, the Redevelopment Agency authorizes a contribution of \$725,000.00 which the City accepts and appropriates, to provide to BART as credit to cover plan review and related city costs; and

WHEREAS, BART certified an Environmental Impact Statement and Environmental Impact Report for the project on March 28, 2002, and thus the requirements of the California Environmental Quality Act (“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; and

WHEREAS, BART and the City acknowledge that the work performed under this agreement shall be in conformance with all applicable Federal and/or State grant conditions and all applicable laws, and

WHEREAS, the City and BART recognize and agree that this agreement may not reasonably anticipate all aspects of the project and changes thereto which may occur due to unforeseen circumstances. Accordingly, the City and BART acknowledge their respective obligations to act reasonably and in good faith and to modify the terms hereof when necessary to accomplish their mutual goals; and

WHEREAS, BART and the City agree that the agreement applies solely to work performed under the Oakland Airport Connector Project; and

WHEREAS, the City and the Redevelopment Agency entered into a Cooperation Agreement in July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies; now, therefore, be it

RESOLVED: That the Council of the City of Oakland authorizes and empowers the City Administrator or her designee to enter into a Cooperative Agreement with BART for the construction of the Airport Connector Project, and negotiate reimbursements and credits to BART in an amount not to exceed \$725,000.00 for permits related to the project; and be it

FURTHER RESOLVED: That this agreement applies solely to work performed under the Oakland Airport Connector Project.

MAY 2 2006

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, ~~WILLIAMS~~, QUAN, REID AND
PRESIDENT DE LA FUENTE - 7

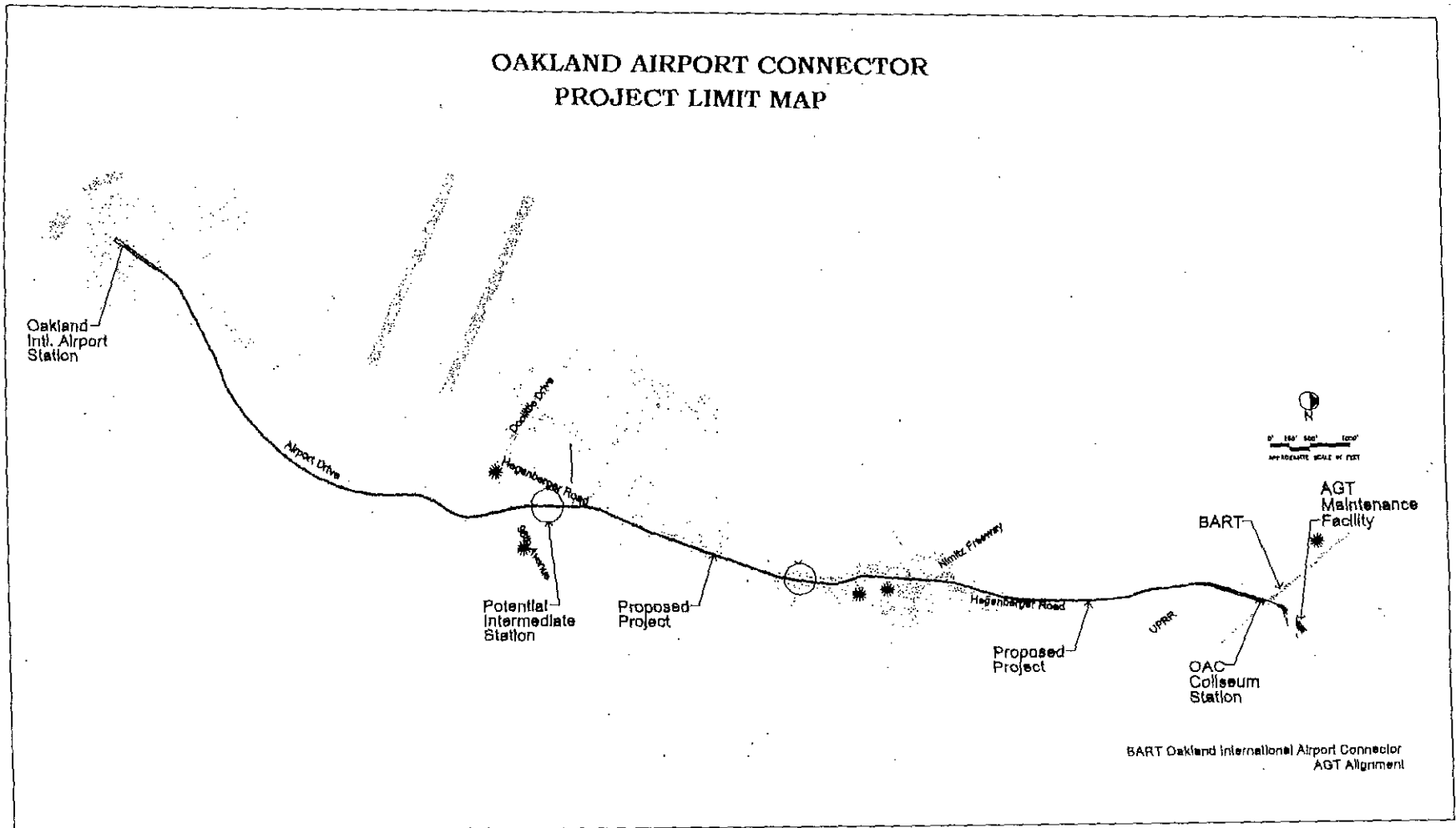
NOES- 0

ABSENT- Nadel - 1

ABSTENTION- 0

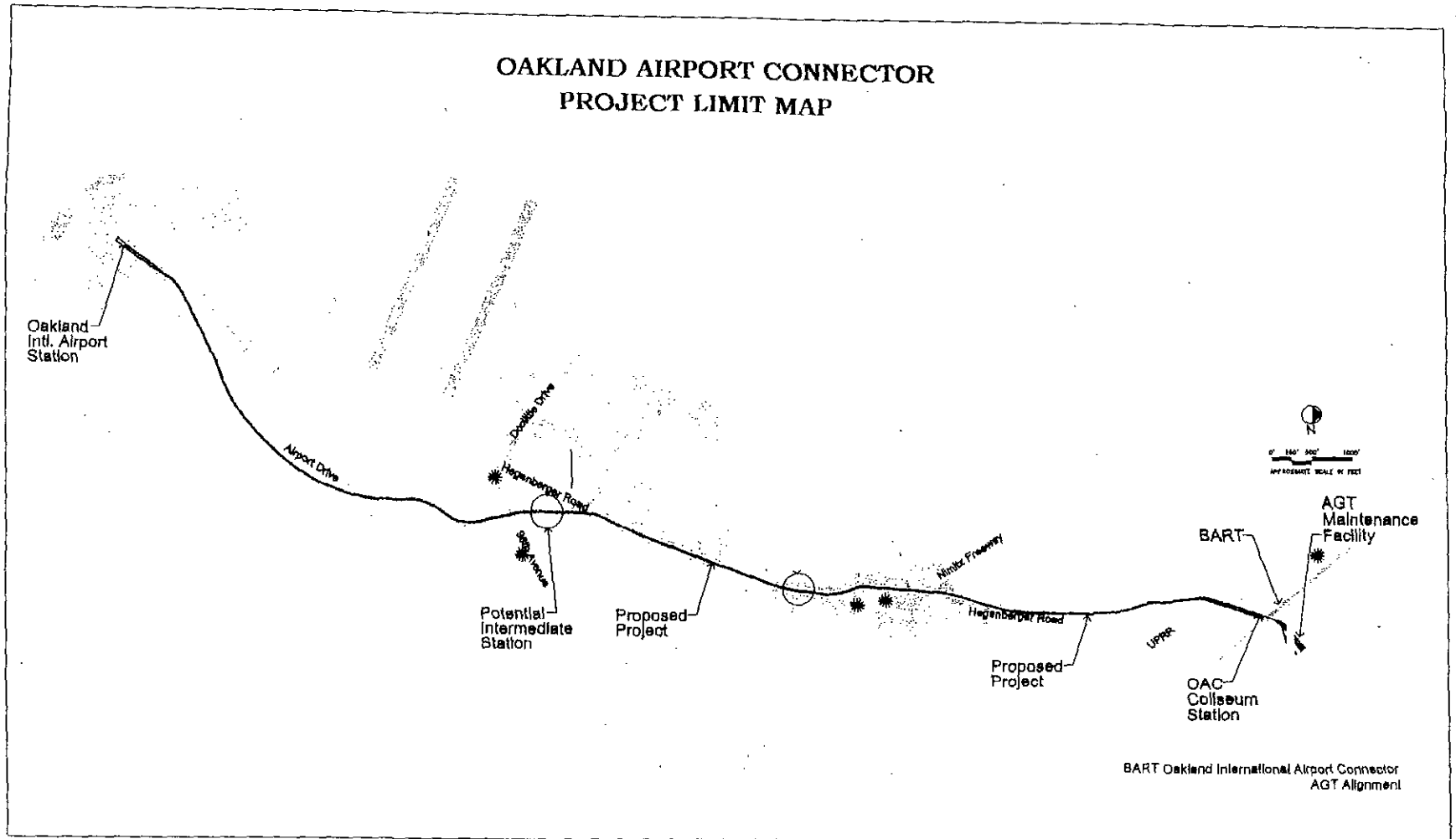
ATTEST: Latonda Simmons
LATONDA SIMMONS
City Clerk and Clerk of the
Council of the City of Oakland, California

EXHIBIT A



* Approximate Banner Sign Locations

EXHIBIT A



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