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OAKLAND CITY COUNCIL
Resolution No. 78247 C.M.S.

OFFICE OF THE CITY CLERK
OAKLAND
2003 NOV 25 AM 9:11

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIRST AMENDMENT TO THE THIRD AMENDED AND RESTATED EASEMENT AGREEMENT REGARDING THE EXISTING VEHICULAR RAMP SERVICING THE CITY CENTER GARAGE WHICH WOULD: (1) PERMIT MODIFICATION OF THE EXISTING RAMP OR REPLACEMENT OF THE EXISTING RAMP WITH A NEW RAMP; AND (2) ALLOW THE MODIFIED OR NEWLY CONSTRUCTED RAMP TO CONTINUE TO HAVE AN ENTRY AND EXIT ON 11TH STREET IN DOWNTOWN OAKLAND

WHEREAS, the Redevelopment Agency of the City of Oakland (Agency), the City of Oakland (City), and Shorenstein Realty Investors Three, L.P. (Developer) are parties to a Disposition and Development Agreement, as amended (DDA) governing the development of a twelve block area of downtown Oakland, bounded by Broadway, 11th Street, Martin Luther King, Jr. Way, and 14th Street (the "City Center"); and

WHEREAS, the Agency owns the property referred to in the DDA as City Center Parcel T-5/6 (within the boundaries of 11th, 12th, Clay Streets and Broadway) and the Developer has development rights to this site; and

WHEREAS, the City Center development includes the City Center Garage which is located between Broadway, Clay, 11th and 14th Streets; and

WHEREAS, there exists on 11th Street an entry and exit ramp to the City Center Garage and the loading dock under the building at 1111 Broadway (the "Existing Ramp"); and

WHEREAS, a Third Amended and Restated Easement Agreement (the "Agreement") dated November 16, 1988, among specified adjacent property owners including the Developer, the City and the Agency, created easements in the Existing Ramp in favor of the parties to the Agreement; and

WHEREAS, the Agreement acknowledges that, pursuant to the DDA, the Developer of Parcel T5/6 must replace the Existing Ramp with a new ramp with an entry and exit on Clay Street (the "Future Ramp"); and

WHEREAS, the Agreement provides that, upon completion of the Future Ramp, the parties to the Agreement will exchange their easement rights from the Existing Ramp to the Future Ramp; and

WHEREAS, on August 23, 2002, the Agency and the City approved a Tenth Amendment to the City Center DDA; and

WHEREAS, under the terms of the Tenth Amendment, the Developer must purchase and start construction on the T-5/6 parcel by December 31, 2009 or lose its rights to develop Parcel T-5/6; and

WHEREAS, Developer currently is planning to develop a 300,000 square foot office building on Parcel T-5/6; and

WHEREAS, it is anticipated that the Developer will begin construction on Parcel T-5/6 on or about 2009; and

WHEREAS, during the course of planning the proposed office building, the Developer has determined that it would be preferable to maintain the entry and exit of the Existing Ramp on 11th Street in order to focus retail and open space on Clay Street to attract more pedestrian activity to the area; and

WHEREAS, the Developer has asked the City to agree to amend the Agreement to allow the Developer to (1) either modify the Existing Ramp or construct a new ramp which continues to have an entry and exit on 11th Street, and (2) remove a limitation on damages to adjacent property owners if the developer interferes with access to the ramp and underground loading area; and

WHEREAS, the City has determined that retaining an entry and exit on 11th Street is preferable to relocating the entry and exit on Clay Street because: (1) Parcel T-5/6 could be designed to have more street level retail; (2) Clay street could be strengthened to create a more integrated pedestrian link between City Center and the Old Oakland area; and (3) the amendment would facilitate successful development of Parcel T-5/6; and

WHEREAS, the requirements of the California Environmental Quality Act were satisfied by the certification of the Environmental Impact Report ("EIR") by the City's Planning Commission on April 26, 2000 for the Ninth Amendment to the DDA; and

WHEREAS, on May 16, 2000, in Resolution No. 75711 C.M.S., the City Council confirmed and adopted the EIR; now, therefore, be it

RESOLVED, That, in approving the proposed amendment to the Agreement, the City Council is relying on the previously certified EIR; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Manager or her designee to execute a First Amendment to the Agreement that would: (1) allow the Developer to modify the Existing Ramp or construct a new ramp which retains an entry and exit on 11th Street, as set forth above; and (2) remove a limitation on damages to adjacent property owners if the developer interferes with access to the ramp and underground loading area; and, be it

FURTHER RESOLVED, That the amendment shall provide that the City's execution thereof shall become effective only if all parties to the Agreement execute the amendment by no later than 90 days from the passage of this resolution; and be it

FURTHER RESOLVED: That the City Council authorizes the City Manager or her designee to negotiate and execute any agreements necessary to carry out the intent of this resolution; and be it

FURTHER RESOLVED: That any and all documents necessary to effectuate the intent of this resolution shall be reviewed and approved as to form by the City Attorney's office prior to execution by the City Manager or her designee.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 16 2003, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE, NADEL, REID, SPEES, WAN, AND CHAIRPERSON DE LA FUENTE, -8

NOES- \emptyset

ABSENT- \emptyset

ABSTENTION- \emptyset

Attest: Ceda Floyd

Ceda Floyd
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND

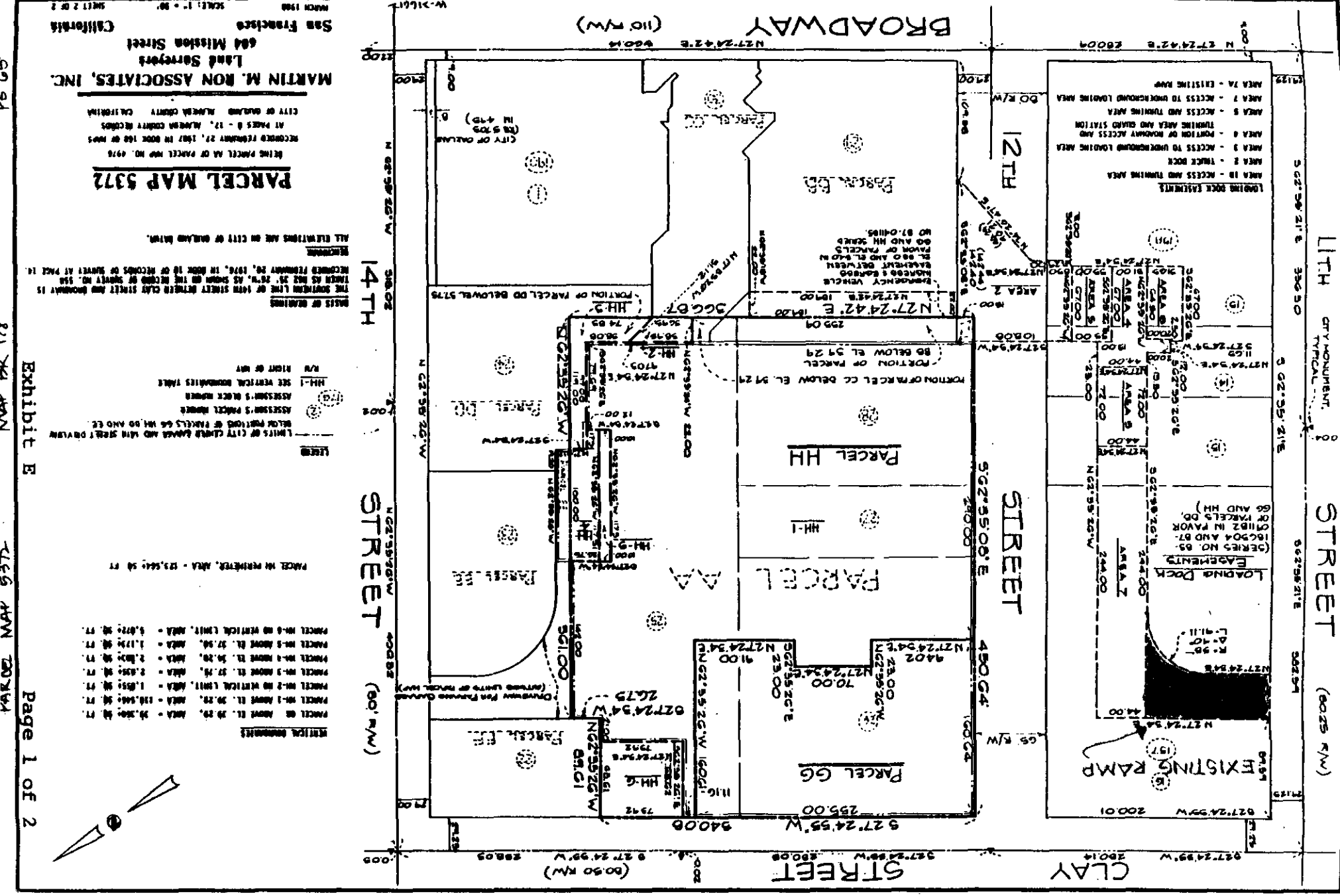


Exhibit B