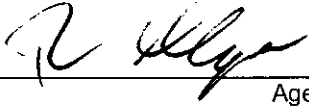


FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 MAY 26 AM 10:11

APPROVED AS TO FORM AND LEGALITY:



Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION ~~80~~ 04-36, - = C.M.S.

A RESOLUTION AUTHORIZING THE SALE OF THREE PARCELS OF REAL PROPERTY FOR \$99 EACH AND LEASING A FOURTH PARCEL FOR \$1.00 ALL LOCATED AT 16TH STREET, 17TH STREET AND SAN PABLO AVENUE TO ROTUNDA GARAGE, LP, FOR THE 17TH STREET PROJECT AND UPON SUCH OTHER TERMS AS SET OUT IN A DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE GARAGE PROJECT, AND AUTHORIZING THE REDEVELOPMENT AGENCY TO TRANSFER ONE THIRD OF THE \$12 MILLION NOTE FROM THE ROTUNDA BUILDING AND REBATE THE NET TAX INCREMENT FROM THE GARAGE FOR 10 YEARS

WHEREAS, the California Community Redevelopment Law, Health and Safety Code Section 33430, authorizes a redevelopment agency within a survey (project) area or for purposes of redevelopment to convey real property, Section 33432 requires that any conveyance of real property by a redevelopment agency in a project area must be conditioned on redevelopment and use of the property in conformity with the redevelopment plan, and Section 33439 provides that a redevelopment agency must retain controls and establish restrictions or covenants running with the land for property conveyed for private use as provided in the redevelopment plan; and

WHEREAS, the Central District Urban Renewal Plan adopted on June 12, 1969, as subsequently amended, as well as the Five-Year Implementation Plan for the Central District (1999-2004) (together, the "Central District Redevelopment Plan" or "Redevelopment Plan"), authorizes the Redevelopment Agency to convey land in the Central District Redevelopment Project Area (the "Central District"); and

WHEREAS, the Agency owns portions of the block bounded by 16th Street, 17th Street and San Pablo Avenue (that will be divided into four parcels), more fully described in Exhibit A attached to this Resolution (the parcels together are referred to as the "Property"); and

WHEREAS, the Property is located within the Central District; and

WHEREAS, Rotunda Parking, LP ("Rotunda Parking") desires to purchase three parcels and lease the fourth parcel comprising the Property from the Agency in order to develop a 320 plus space public parking garage with possible retail or commercial development over portions of the Property in a later phase (the "Project"); and

WHEREAS, the market value of the Property at its highest and best use has been appraised at \$2.1 million for Parcel 1, \$0.33 million for Parcel 2, \$0.25 million for Parcel 3 and \$0.60 million for Parcel 4; and

WHEREAS, staff has negotiated and proposes entering into a Disposition and Development Agreement ("DDA") with Rotunda Parking which sets forth the terms and conditions of conveyance of the Property to Rotunda Parking and governs development of the Project and use of the Property by Rotunda Parking and any successors to the Property subsequent to conveyance through recorded covenants running with the land; and

WHEREAS, the DDA requires that the Agency transfer one third of the \$12 million Rotunda Building Note to Rotunda Parking and pay to Rotunda Parking the net tax increment generated by the garage for the first ten years of operation; and

WHEREAS, the DDA requires that Rotunda Parking construct and operate the Project consistent with the Redevelopment Plan and restricts the use of the Property to commercial and other uses consistent with the Redevelopment Plan; and

WHEREAS, the DDA, and the grant deeds and the lease that will convey the Property to Rotunda Parking adequately condition the conveyance of the Property on the redevelopment and use of the Property in conformity with the Central District Redevelopment Plan, and such documents prohibit discrimination in any aspect of the Project as required under the Central District Redevelopment Plan and the California Community Redevelopment Law; and

WHEREAS, the Project uses are in conformity with the Central District Redevelopment Plan, the Project will assist in the elimination of blight in the Central District Redevelopment Area, and the Project will help meet the objectives of the Central District Redevelopment Plan; and

WHEREAS, the California Community Redevelopment Law (Health and Safety Code Section 33433) requires that before any property of a redevelopment agency

that is acquired in whole or in part with tax increment moneys is conveyed for development pursuant to a redevelopment plan, the conveyance must first be approved by the legislative body, i.e., the City Council, by resolution after public hearing; and

WHEREAS, as required by the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the public hearing, a report that contains a copy of the draft DDA and a summary of the cost of the agreement to the Agency, the estimated fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, the fair reuse value of the Property at the use and with the covenants and conditions and development costs authorized by the sale under the Central District Redevelopment Plan and the DDA, and an explanation of why the conveyance of the Property and development of the Project will assist in the elimination of blight, with supporting facts and material; and

WHEREAS, a joint public hearing between the Agency and the City Council of the City of Oakland was held to hear public comments on the conveyance of the Property for the Project; and

WHEREAS, notice of the proposed conveyance of the Property and the public hearing was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

WHEREAS, the City Council has approved conveyance of the Property by resolution after the public hearing; and

WHEREAS, the Redevelopment Agency is a Responsible Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, an Environmental Impact Report ("EIR") (certified by the Oakland Planning Commission on September 18, 2002) has been prepared for the 17th Street Parking Garage project as proposed by Redevelopment Agency, and has been independently reviewed and considered by the Agency in evaluating the City Center project in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State EIR Guidelines"), and the City's Environmental Review Regulations; and

WHEREAS, the Planning Commission and the Agency determined that the EIR examined a reasonable range of alternatives, and that each alternative was rejected as infeasible for various reasons; and

WHEREAS, the Planning Commission and the Agency found and determined that all adverse environmental effects of the Project, with the exception of with the exception of cumulative contribution to regional air pollutant problems, and temporary noise impacts during construction, would be less than significant or reduced to less-than-

significant levels after implementation of the mitigation measures identified in the EIR and the mitigation monitoring program; and

WHEREAS, the Planning Commission and the Agency found and determined that the benefits of the Project outweigh any unavoidable adverse impact of the Project; and

WHEREAS, none of the circumstances necessitating preparation of a subsequent or supplemental EIR are present. Specifically, there are no substantial changes to the project or the circumstances surrounding the project and no new information of substantial importance that will involve new significant impacts or an increase in the severity of previously identified impacts. All potentially significant impacts (with the exception of cumulative contributions to air quality, and noise during construction that were fully analyzed in the certified EIR) will be reduced to less than significant level by mitigation measures incorporated into the Project or imposed upon the Project as conditions of approval and implemented by the adopted Mitigation Monitoring Program; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby finds and determines (1) that it has been presented with and has independently reviewed and considered the information contained in the previously certified EIR, and the EIR comply with CEQA and the CEQA Guidelines' requirements for analysis of the Project's environmental effects and mitigation measures; (2) that the mitigation measures adopted by the Planning Commission and the Agency in considering the EIR and approving the DDA, together with a mitigation monitoring program for the Project, are hereby adopted and amended as specified in the attached Exhibit B; (3) that the alternatives identified in the EIR other than the Project are not feasible and will not attain the Project objectives for the reasons set forth in the Planning Commission's April 26, 2000 staff report on the Project (incorporated herein by reference), and are therefore rejected as infeasible; (4) that all adverse environmental effects of the Project, with the exception of cumulative contribution to regional air pollutant problems and temporary noise impacts during construction, would be less than significant or reduced to less-than-significant levels after implementation of the mitigation measures identified in the EIR and the Mitigation Monitoring Program; and (5) that it has reviewed and hereby adopts and incorporates by reference as though set forth fully herein that Statement of Overriding Considerations set forth in the Planning Commission's September 18, 2002, staff report on the Project, and finds and determines that the Project benefits identified in that Statement of Overriding Considerations continue to apply to the Project and each separately and independently outweighs any adverse unavoidable environmental effects of the Project; and be it further

RESOLVED: That the Redevelopment Agency finds and determines that the consideration for conveyance of the Property is not less than the fair reuse value of the Property, taking into account the conditions and covenants required as part of the conveyance, as set forth in the Central District Redevelopment Plan and the DDA, the development costs of the Project, including the prevailing market conditions in the

Central District area for the types of commercial and residential uses contemplated by the Project; and be it further

RESOLVED: That the Agency hereby finds and determines that the conveyance of the Property by the Agency to Rotunda Parking for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that (1) the Project will increase the stock of public parking in the Central District, and reestablish residential areas for all economic levels within the Central District; (2) the Project will provide necessary neighborhood-serving commercial facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will redevelop a key underutilized site in the Central District; (5) the Project will improve environmental design within the Central District; and (6) the Project, once developed, will enhance commercial property values in the surrounding City Center and Uptown areas, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, excessive vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties; and be it further

RESOLVED: That the Agency hereby authorizes conveyance of the Property by the Agency to Rotunda Parking as follows: Parcel 1, including garage access easements over Parcel 4, for the sum of \$99, Parcel 2 for the sum of \$99, Parcel 3 for the sum of \$99, and Parcel 4 for a lease amount of \$1.00 per year for five (5) years with options to extend for up to fifteen (15) additional years, subject to the terms and conditions of the DDA; and be it further

RESOLVED: That the Agency finds and determines that the conveyance amounts are less than the fair market value of the Property at its highest and best use permitted under the Redevelopment Plan, that there are Agency subsidies to the Rotunda Parking, and that therefore the Agency's employment and contracting programs, including Living Wage apply to this conveyance and the DDA; and be it further

RESOLVED: That the transaction shall include the following terms and conditions:

- The Property is to be conveyed to Rotunda Parking as follows: Parcel 1, including garage access easements over Parcel 4, for of \$99, Parcel 2 for the sum of \$99, Parcel 3 for the sum of \$99, and Parcel 4 for a lease amount of \$1.00 per year for five (5) years with options to extend for up to fifteen (15) additional years, subject to the terms and conditions of the DDA;

- Rotunda Parking will construct a parking garage of at least 320 spaces on the Property;
- Rotunda Parking to be responsible for the cost of required off-site improvements in connection with the Project;
- Agency will assign to Rotunda Parking one-third (\$4 million) of the \$12 million promissory note financing the Rotunda Building on which Agency is the beneficiary;
- Agency will pay to Rotunda Parking the net tax increment (after deducting housing and other pass-throughs, ERAF) for 10 years starting the first full fiscal year after certificate of occupancy is issued;
- Rotunda Parking to comply with provisions of the Central District Redevelopment Plan and nondiscrimination provisions of redevelopment law;
- The plans and specifications for the Project to be reviewed and approved by the Agency;
- Transfer of the Property to be restricted prior to Project completion;
- Agency has first right of refusal to purchase garage;
- Agency can repurchase parcels not developed;
- Rotunda Parking can purchase leased parcel if not developed;
- Project commencement and completion dates to be set in the DDA as negotiated by the Agency Administrator;
- Application of the Agency's employment and contracting programs (prevailing wage, local employment, local/small local business enterprise contracting, apprenticeship, living wage, or first-source hiring) to the Project is required;
- In lieu of construction and completion bonds, Rotunda Parking will pledge other security;
- The Project will be restricted to residential, parking, retail, and *commercial uses, unless otherwise first approved by Agency*;
- Any other appropriate terms and conditions as the Agency Administrator or his or her designee may establish in his or her discretion or as the California Community Redevelopment Law or the Redevelopment Plan may require;

and be it further

RESOLVED: That the Agency Administrator or his or her designee is hereby authorized to negotiate and execute the Disposition and Development Agreement with Rotunda Parking, or an affiliated entity or entities approved by the Agency Administrator, for the Project, as well as negotiate and execute other documents necessary to facilitate conveyance and development of the Property for the Project; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the Agency Administrator or his or her designee is directed to file a Notice of Determination within five (5) working days of this Resolution in accordance with CEQA Guidelines Section 15094; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it further

RESOLVED: That the Agency hereby appoints the Agency Administrator or his or her designee as agent of the Redevelopment Agency to conduct negotiations and execute documents with respect to the sale of the Property as necessary to effectuate this transaction, and to take any other action with respect to the Property and Project consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, JUL 6 2004, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- ~~BROOKS~~ BRUNNER, CHANG, NADEL, QUAN, **REID,** , WAN, AND CHAIRPERSON DE LA FUENTE, **- 7**

NOES- **0**

ABSENT- .

ABSTENTION- **BROOKS - 1**


ATTEST 
CEDA FLOYD
Secretary of the Redevelopment Agency
of the City of Oakland

EXHIBIT A
PROPERTY DESCRIPTION, 17TH STREET GARAGE SITE

PARCEL 1

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, BEING LOTS 17,19,21,29 AND A PORTION OF LOTS 18,20,22,23,26,27,28,30,31 AND 32 BLOCK "B", AS SAID LOTS AND BLOCK ARE SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE SURVEY MADE FOR G. C. POTTER, MARCH 28, 1877 BY T. ARNOLD C.E.", FILE APRIL. 23, 1877 IN BOOK 2 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID REAL PROPERTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 17 OF SAID MAP, SAID CORNER ALSO BEING A POINT ON THE SOUTH RIGHT OF WAY LINE OF 17TH STREET (60 FEET WIDE) AS SHOWN ON SAID MAP; THENCE SOUTH 12°23'39"EAST, ALONG THE EAST LINES OF LOTS 17 AND 18 OF SAID MAP, A DISTANCE OF 123.11 FEET; THENCE LEAVING SAID LINE, NORTH 77°36'21 "WEST PARALLEL WITH SAID SOUTH RIGHT OF WAY LINE OF 17TH STREET, FOR A DISTANCE OF 65.04 FEET; THENCE, NORTH 12°23 '39"EAST, 18.11 FEET; THENCE, NORTH 77°36'21"WEST, 47.02 FEET; THENCE, SOUTH 12°23'39"WEST, 18.11 FEET; THENCE, NORTH 77°36'21"WEST, 34.01 FEET; THENCE, SOUTH 77°36'21 "WEST, 30.97 FEET, TO A LINE PERPENDICULAR TO THE EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE (100 FEET WIDE) AS SHOWN ON SAID MAP ENTITLED "MAP OF THE SURVEY MADE FOR G. C. POTTER" AND SOUTH 13°13'26" EAST, 147.53 FEET FROM SAID INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 17TH STREET AND SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE; THENCE ALONG SAID LINE SOUTH 76°46'34"WEST , 16.20 FEET TO SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE; THENCE ALONG SAID EAST RIGHT OF WAY LINE NORTH 13°13'26"WEST, 35.30 FEET; THENCE LEAVING SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE NORTH 76°46'34"EAST, 14.33 FEET; THENCE, NORTH 12°23'39"EAST, 31.02 FEET; THENCE, NORTH 77°36'21"WEST, 16.95 FEET; THENCE, NORTH 12°23'39"EAST, 95.01 FEET; TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 17TH STREET; THENCE, SOUTH 77°36'21 "EAST, ALONG SAID SOUTH RIGHT OF WAY LINE OF 17TH STREET 193.98 FEET, TO THE POINT OF BEGINNING.

CONTAINING 23,445 SQUARE FEET/0.54 ACRES MORE OR LESS

PARCEL 2

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, BEING A PORTION OF LOT 32 BLOCK "B", AS SAID LOTS AND BLOCK ARE SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE SURVEY MADE FOR G. C. POTTER, MARCH 28, 1877 BY T. ARNOLD C.E.", FILE APRIL 23, 1877 IN BOOK 2 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID REAL PROPERTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 17TH STREET (60 FEET WIDE) AND THE EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE (100 FEET WIDE) AS SHOWN ON SAID MAP; THENCE, SOUTH 77°36'21 "EAST, ALONG SAID SOUTH RIGHT OF WAY LINE OF 17TH STREET 61.44 FEET; THENCE LEAVING SAID LINE, PERPENDICULAR TO SAID SOUTH RIGHT OF WAY LINE, SOUTH 12°23'39"WEST, 95.01 FEET, TO A LINE DRAWN PERPENDICULAR TO SAID EAST LINE OF SAN PABLO AVENUE, DISTANT THEREON, SOUTH 12°23 '39" EAST, 112.23 FEET ALONG THE SAID EAST LINE OF SAN PABLO AVENUE FROM THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE, SOUTH 76°46'34"WEST, 14.33 FEET, TO SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE; THENCE, NORTH 12°23'39" WEST, 112.23 FEET ALONG SAID EAST RIGHT OF WAY LINE, TO THE POINT OF BEGINNING

CONTAINING 3,723 SQUARE FEET/0.09 ACRES MORE OR LESS

PARCEL 3

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, BEING A PORTION OF LOT 32 BLOCK "B", AS SAID LOTS AND BLOCK ARE SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE SURVEY MADE FOR G. C. POTTER, MARCH 28, 1877 BY T. ARNOLD C.E.", FILE APRIL 23, 1877 IN BOOK 2 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID REAL PROPERTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 17TH STREET (60 FEET WIDE) AND THE EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE (100 FEET WIDE) AS SHOWN ON SAID MAP; THENCE, SOUTH 13°13'26"EAST, ALONG SAID SOUTH RIGHT OF WAY LINE OF 17TH STREET 147.53 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE, PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE, NORTH 76°46'34" EAST, 16.20 FEET; THENCE, SOUTH 77°36'21" EAST, 30.97 FEET; THENCE, NORTH 12°23'39" EAST, 2.92 FEET; THENCE, SOUTH 77°36'21 " EAST, 34.01 FEET; THENCE, NORTH 12°23 '39" EAST, 18.11 FEET; THENCE, SOUTH 77°36'21" EAST, 37.06 FEET; THENCE, SOUTH 12°23 '39" WEST, 12.55 FEET, TO THE MOST WESTERLY CORNER OF LOT 25 OF SAID MAP; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT 25, SOUTH 76°46'34" WEST, 111.89 FEET TO SAID EAST RIGHT OF WAY LINE OF SAN PABLO AVENUE; THENCE ALONG SAID EAST RIGHT OF WAYLINE, NORTH 31°13 '26" WEST, 36.42 FEET, TO THE POINT OF BEGINNING

CONTAINING 2,775 SQUARE FEET/0.06 ACRES MORE OR LESS

PARCEL 4

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA BEING A PORTION OF LOTS 18, 20 AND 22 BLOCK "B", AS SAID LOTS AND BLOCK ARE SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE SURVEY MADE FOR G. C. POTTER, MARCH 28, 1877 BY T. ARNOLD C.E.", FILE APRIL 23, 1877 IN BOOK 2 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID REAL PROPERTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 17 OF SAID MAP, SAID CORNER ALSO BEING A POINT ON THE SOUTH RIGHT OF WAY LINE OF 17th STREET (60 FEET WIDE) AS SHOWN ON SAID MAP; THENCE SOUTH $12^{\circ}23'39''$ EAST. 123.11 FEET, ALONG THE EAST LINES OF LOTS 17 AND 18 OF SAID MAP, TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE, LEAVING SAID LINE, NORTH $77^{\circ}36'21''$ WEST PARALLEL WITH SAID SOUTH RIGHT OF WAY LINE OF 17TH STREET. FOR A DISTANCE OF 65.04 FEET; THENCE, NORTH $12^{\circ}23'39''$ WEST. 18.11 FEET; THENCE, NORTH $77^{\circ}36'21''$ WEST, 9.96 FEET. TO A POINT ON THE WEST LINE OF SAID LOT 22; THENCE, SOUTH $12^{\circ}23'39''$ WEST, 105.03 FEET, ALONG SAID WEST LINE. TO THE SOUTHWEST CORNER OF SAID LOT 22. SAID CORNER ALSO BEING A POINT ON THE NORTH RIGHT OF WAY LINE OF 16TH STREET (56 FEET WIDE) AS SHOWN ON SAID MAP; THENCE, SOUTH $77^{\circ}36'21''$ EAST, ALONG SAID NORTH RIGHT OF WAY LINE OF 16TH STREET 75.00 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 18; THENCE, NORTH $12^{\circ}23'39''$ WEST, 86.93 FEET. ALONG THE EAST LINE OF SAID LOT 18. TO THE POINT OF BEGINNING.

CONTAINING 6,700 SQUARE FEET/0.15 ACRES MORE OR LESS

EXHIBIT B

MITIGATION MONITORING PROGRAM

Based on the 17th Street Parking Garage Environmental Impact Report (“EIR”) (certified by the Oakland Planning Commission on September 18, 2002), the following mitigation measures were identified and incorporated into the “Mitigation Monitoring Plan”.

**1. Install signage to inform drivers of bike lanes.
(Mitigation Measure 2.9)**

The project sponsor shall install signage at the vehicular exits on 16th and 17th Streets to inform and warn drivers using the garage of bicyclists in the bike lanes on both of these streets.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division.

Monitoring Timeframe: These signs shall be installed within one month of installation of the bike lanes on these streets.

**2. Undertake asbestos and lead paint survey
(Mitigation Measure 3.1)**

The project sponsor shall complete a building survey for asbestos or lead-based paint, and if necessary, obtain clearance for asbestos removal from the Bay Area Air Quality Management District (BAAQMD) prior to issuance of a demolition permit.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Survey shall be submitted concurrent with the application for the demolition permit. Clearance for asbestos removal must be secured prior to issuance of the demolition permit.

**3. Implement dust control measures during demolition and construction.
(Mitigation Measures 3.2)**

The project sponsor will implement the following measures to control dust emissions during construction:

- a. Water all active construction areas at least twice daily, or more as required to control dust.

- b. Cover all trucks hauling soil, sand, demolition debris including rock, gravel and asphalt and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- c. Pave, apply water daily to, or apply (nontoxic) soil stabilizers on, all unpaved access roads, parking areas, and staging areas at construction sites.
- d. Sweep (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites, as needed.
- e. Sweep streets (with water sweepers) if soil is visible on adjacent public streets, as needed.
- f. Hydroseed or apply (nontoxic) soil stabilizers to inactive construction areas (previously graded areas that will be inactive for 10 days or more).
- g. Enclose, cover, water twice daily to, or apply (nontoxic) soil binders to exposed stockpiles (dirt and sand).
- h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways, as needed.
- i. Idling of internal combustion engines shall, to the greatest extent feasible, be held to an absolute minimum.
- j. Construction equipment shall be properly maintained and tuned to minimize exhaust emissions.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Ongoing throughout demolition, grading and all phases of construction.

**4. Implement the recommendations of the Downtown Parking Management Strategy once it is adopted.
(Mitigation Measure 3.6 and 3.7)**

The project sponsor shall implement the recommendations of the Downtown Parking Management Strategy, currently under development by the City of Oakland, as applicable to this project, upon adoption of the Parking Management Strategy.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division.

Monitoring Timeframe: Ongoing throughout operation of the garage.

**5. Employ noise-reducing construction practices.
(Mitigation Measures 4.1)**

To reduce construction noise impacts, construction contractors shall implement the following measures:

- a. Posted signs at the construction site will include permitted construction days and hours, a day and evening contact number for the job site and a day and evening contact number for the City in the event of problems.
- b. On as-needed basis, a rotating stand-by system for building inspection staff to respond to complaints during off-hours and weekends will be established. The staff will be available by pager.
- c. An on-site complaint and enforcement manager will be designated to respond to and track complaints. A pre-construction meeting with the job inspectors and the general contractor/on-site project manager will be held, to confirm that noise mitigation measures and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc).
- d. Construction hours will be limited to be between 7:00 a.m. to 7:00 p.m., Monday through Friday. Construction activities are not allowed on Saturdays without prior authorization of the Building Services and Planning Divisions. Saturday construction activity shall be evaluated on a case by case basis, with criteria including the proximity of residential and business uses and a survey of residents and business preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or federal holidays.
- e. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g. improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields, or shrouds) wherever feasible.
- f. *Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used. External jackets on the tools themselves shall be used, where feasible. Quieter procedures, such as drills instead of impact equipment, shall be used where feasible.*
- g. Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or

insulation barriers or other measures shall be incorporated to the extent feasible.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.
Monitoring Timeframe: Ongoing throughout construction.

6. Employ noise-reducing construction practices for pile driving or other extreme noise-generating activity (90 dBA or above)

To reduce noise impacts associated with pile-driving or other extreme noise generating construction activities (defined as 90dBA and above), if pile driving or other extreme noise generating activities are used during the construction, the following measures shall be implemented:

- a. Pile driving or other extreme noise generating activity (90 dBA or above) shall be limited to between 8:00 a.m. to 4:00 p.m., Monday through Friday, with no pile driving or other extreme noise generating activity permitted between 12:30 and 1:30 p.m., or other mid-day hour as established and noticed. Pile driving or other extreme noise generating activity is prohibited on Sundays and holidays. Pile driving on Saturdays will be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of residents and businesses preferences for whether Saturday activity is acceptable if the overall duration of the pile driving is shortened. At least 30 days written notice to surrounding residents and businesses (minimum of 300 foot radius) shall be provided of proposed pile driving activity and its estimated duration.
- b. To further mitigate potential pile-driving and/or other extreme noise generating construction impacts, site-specific noise attenuation measures shall be further developed into a noise reduction plan to ensure that the maximum feasible noise attenuation is achieved (feasibility shall be as defined by CEQA). This plan shall be submitted to the City for review and approval and then implemented under the supervision of a qualified acoustical consultant. This plan shall be based on the final design of the project. A third-party peer review, paid for by the applicant, shall be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the applicant. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of the following measures.

1. "Quiet" pile-driving technology considering geotechnical, structural requirements, and other conditions.
2. Temporary plywood noise barriers around the entire construction site.
3. Noise control blankets on the proposed building structure as it is erected to reduce noise emission from the site.
4. The feasibility of temporarily improving the noise reduction capability of adjacent or nearby buildings, by the use of sound blankets for example, if acceptable to adjacent or nearby users.
5. The effectiveness of noise attenuation shall be evaluated by taking noise measurements during construction

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division and Building Services Division.

Monitoring Timeframe: Submittal of Noise Reduction Plan is required prior to issuance of any building permit, including grading and demolition permits, if pile driving or other extreme noise generating activity (90 dBA or above) is planned. Implementation of the Plan is ongoing throughout construction when extreme noise generating activities (90dBa and above) are underway.

7. Implement Noise Reduction measures for retail and commercial uses located within 150 feet of the compressors of the Oakland Ice Center. (Mitigation Measures 4.4)

All retail and commercial uses within 150 feet of the compressors of the Oakland Ice Center shall be designed to meet the noise reduction standards of the City's adopted building code.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning & Zoning and Building Services Divisions.

Monitoring Timeframe: Prior to issuance of the building permit for the Core and Shell of the building.

8. Implement procedures for accidental archaeological discoveries. (Mitigation Measure 5.3)

Should previously unidentified cultural resources be discovered during construction, the project sponsor is required to cease work in the immediate area until such time as a qualified archaeologist, and the City of Oakland, can assess the significance of the find and make mitigation recommendations, if warranted.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division and Building Services Division.

Monitoring Timeframe: Ongoing, throughout demolition and grading operations.