

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

RESOLUTION NO. 01359

RESOLUTION SELECTING MASTER DEVELOPER FOR THE OAK-
TO-NINTH DISTRICT PROPERTIES AND AUTHORIZING PORT
AND DEVELOPER NEGOTIATIONS.

RESOLVED that the Board of Port Commissioners ("Board") hereby selects **OAKLAND HARBOR PARTNERS, LLC (SIGNATURE PROPERTIES-REYNOLDS & BROWN)** as the Master Developer for the Oak-to-Ninth District Properties and hereby authorize the Executive Director and Port Commercial Real Estate staff to begin negotiations with the Master Developer for an Exclusive Negotiating Agreement; and be it

FURTHER RESOLVED that the Board hereby finds and determines that the selection of a Master Developer and the grant of authority to Port staff to enter into negotiations with the Master Developer for an Exclusive Negotiating Agreement for the development of the Oak-to-Ninth District Properties are exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA and Port CEQA Guidelines Section 15061(b)(3).

At a regular meeting held **September 4, 2001**

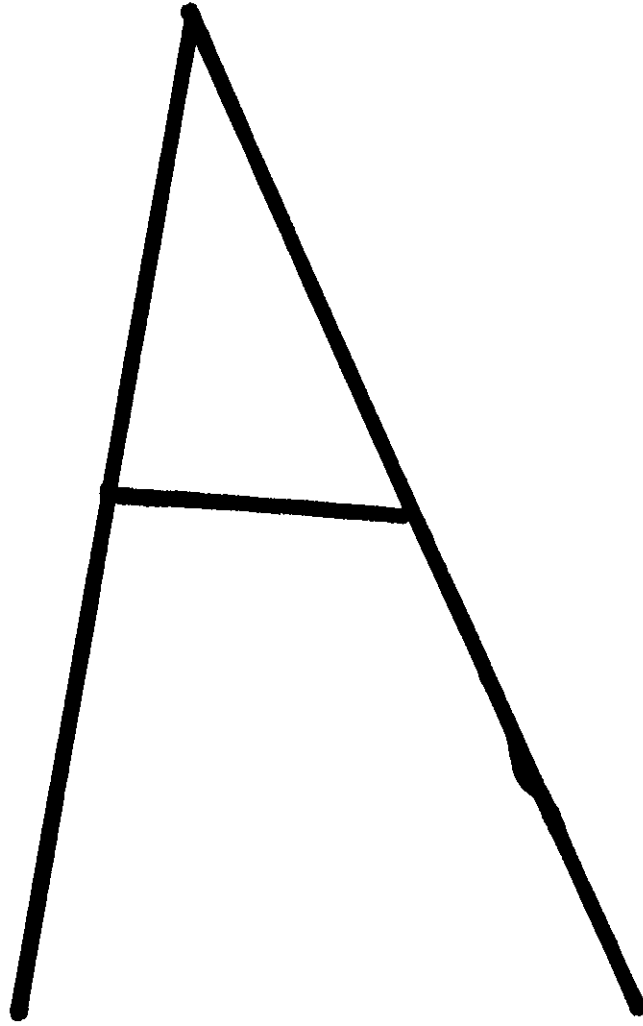
Passed by the following vote:

Ayes: **Commissioners Ayers-Johnson, Kramer, Protopappas, Scates, Uribe and President Tagami - 6**

Noes: **None**

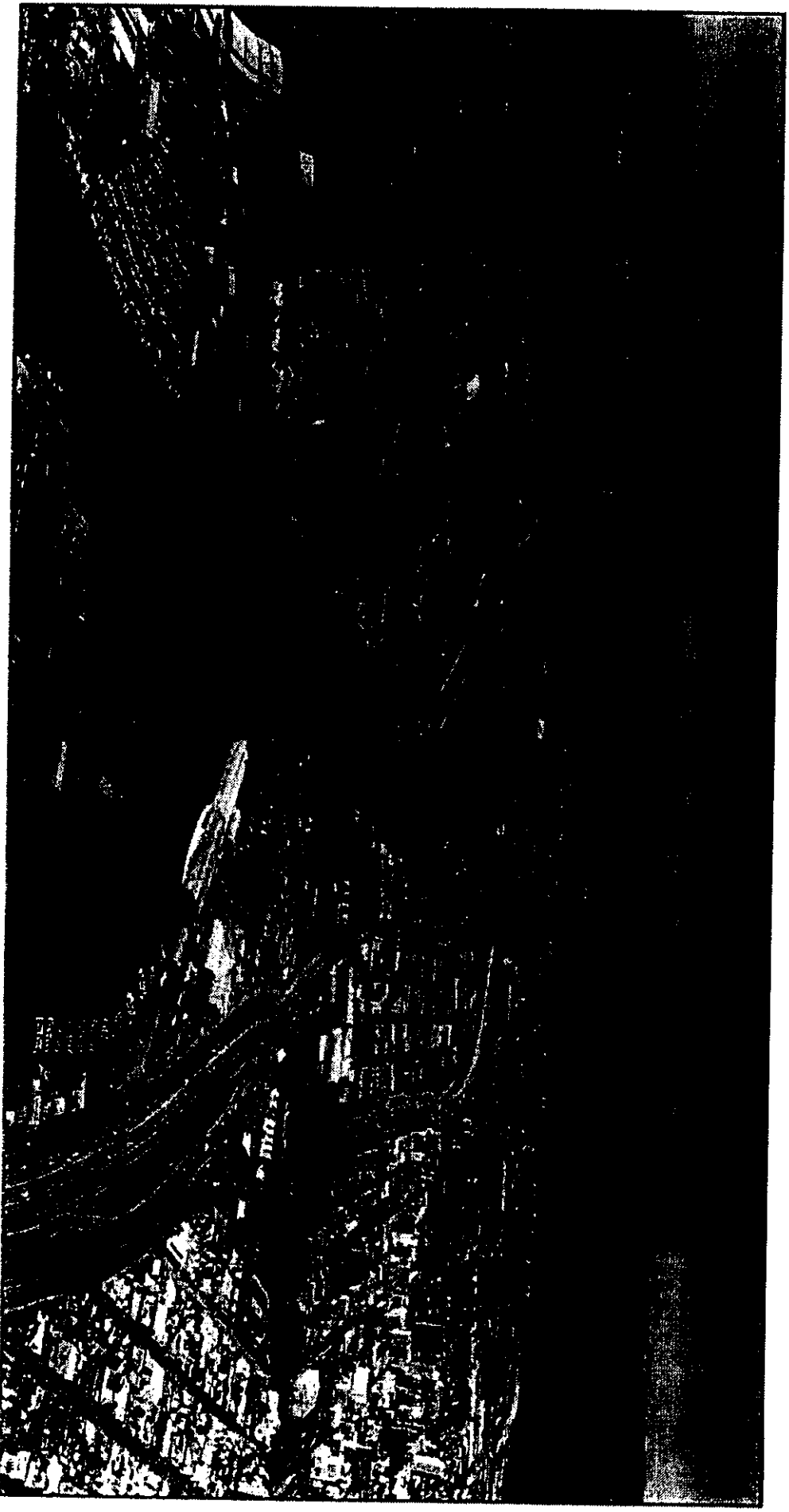
Abstained: **Commissioner Kiang - 1**

Absent: **None**



REQUEST FOR DEVELOPER QUALIFICATIONS

Oak-to-Ninth District Properties



CITY OF OAKLAND



PORT OF OAKLAND

The Port is also assessing the feasibility of an expansion of the existing JLS cinema and the addition of a new mixed-use cultural arts center.

Oak-to-Ninth District

The Oak-to-Ninth District encompasses about 120 acres of land, with approximately half of the area under Port ownership.

Located southeast of downtown Oakland and near the lively retail-entertainment destinations of Jack London Square, the District is presently characterized by warehousing, manufacturing, distribution, storage, transportation and artistic activities (see Figure 4). Existing uses on the western end of the District include Estuary Park and the new Jack London Aquatic Center. In the middle of the District are Clinton Basin and the Fifth Avenue Point community, an enclave of artisans. On the eastern end is the Port of Oakland's Ninth Avenue Marine Terminal, which presently hosts a range of warehousing, industrial and maritime support activities. Since August 1999, the Port has provided a temporary berth at Ninth Avenue Terminal for a former military ship belonging to the non-profit Artship Foundation, which is working to convert the ship to a multicultural center for the arts.

Other Adjoining Neighborhoods and Nearby Development Projects

The area between JLS and the Oak-to-Ninth District includes one of the few remaining urban wholesale produce markets in the U.S., and is also characterized by older industrial uses built in the late nineteenth century. This adjoining neighborhood is in a transitional phase, with rehabilitation of existing properties and in-fill development taking place throughout the area. Uses

have changed from predominantly food processing, warehouse, and light industrial to retail, entertainment, office, residential, and live/work uses. New residential development in the area includes the Tower Lofts, Brick House Lofts, the Pocket Building Lofts, and Portico Lofts. New residential development under construction includes the Allegro Project consisting of 312-units on the corner of 3rd and Jackson Street, a 220-unit condominium development on Oak Street, and Legacy Partners' 288-unit apartment complex at the southeast corner of Alice Street and Embarcadero.

Across the Estuary in the city of Alameda, several major development projects are proposed or underway, including the redevelopment of Naval Air Station Alameda, the North Waterfront project, and redevelopment of the former Navy Fleet Industrial Supply Center site.

Transportation

The Jack London Square and Oak-to-Ninth Districts have the advantage of being at the center of one of the West Coast's major shipping centers, with the Port of Oakland, freight rail, and freeways for truck transportation all within one mile. The Amtrak passenger railroad station is located between Embarcadero and Second Street at Alice Street, four blocks west of the Oak-to-Ninth District. The 12th Street Bay Area Rapid Transit (BART) Station at Broadway is approximately 20 blocks from Estuary Park, at the western edge of the Oak-to-Ninth District. The Lake Merritt BART Station is at 9th and Oak Streets, about nine blocks north of Estuary Park. Ferry service to San Francisco, at the foot of Clay Street, is approximately 10 blocks west of the District. The District is easily accessible from Interstate I-880 by taking the Fifth Avenue off-ramp going north.

and by taking the Jackson Street off-ramp going south. Oakland International Airport is about 15 minutes' drive from the District, and offers both scheduled passenger service and comprehensive facilities for corporate aviation.

Telecommunications Infrastructure

The Pacific Bell central office in downtown Oakland provides telephone and data line services to the Oak-to-Ninth District. Fiber optic cable has been installed to the vicinity of the KTVU television station located about two blocks west of Estuary Park. The nearest Pacific Gas and Electric service facility is Substation "C" at Embarcadero and Martin Luther King, Jr. Way, about 12 blocks west of Estuary Park.

B. Estuary Policy Plan Concept for the Oak-to-Ninth District

The *Estuary Policy Plan* represents the policy framework for the transformation of the area from Port-related industrial uses to a new urban waterfront. The Plan was prepared jointly by the City and Port with substantial public input, and was adopted into the Oakland General Plan in June 1999. The Oak-to-Ninth District is one of three waterfront areas addressed; the others are the Jack London District to the west and the San Antonio-Fruitvale District to the southeast.

Redevelopment of the Oak-to-Ninth District within the framework of the *Estuary Policy Plan* presents several challenges. First, the *Estuary Policy Plan* envisions the creation of extensive shoreline paths and public open spaces within the District, while recognizing that the cost of these cannot be fully offset by private development. Second, the average development density

allowed under the *Estuary Policy Plan* for the Port-owned properties is limited to a Floor Area Ratio (FAR) of 1.0, inclusive of both new and existing developments in this area. Third, subsurface contamination from various industrial activities is known to exist at a number of locations at Ninth Avenue Terminal, as well as sites west of Clinton Basin. At the time the *Estuary Policy Plan* was written the location and the extent of the contamination was not yet known. More information has since become available, and remediation activities on some sites are nearing completion. On several other sites, detailed risk assessment studies are currently underway.

Because of these challenges, the *Estuary Policy Plan* recommended that a Specific Plan be prepared for the District, pursuant to Government Code §65450 - 65457. The Plan states: "The Oak-to-Ninth District is large and diverse, with several unique, complicated issues that dominate its real development potential. It should be planned in sufficient detail to identify all potential issues and to understand the options available to address these issues in a timely manner. A Specific Plan should be prepared prior to development. Planning should be based on a strategy which analyzes the area comprehensively and which accounts for the constraints imposed by subsoil environmental conditions. Transformation of the district will require that several outstanding issues be resolved simultaneously. Development feasibility should be analyzed, phasing of improvements should be identified, and a funding strategy to finance and implement recommended open space should be addressed. These require that a realistic development program and site plan be developed."

For further discussion of issues identified in the *Estuary Policy Plan*, see Appendix F.

III. THE PROPERTY

A. Overview

The Port-owned properties available for development under a ground lease through this RFQ are part of the larger Oak-to-Ninth District, which includes privately-owned properties. The District is bounded by Oak Street on the west, Interstate 880 to the north, the eastern boundary of Ninth Avenue Terminal to the east and the Oakland Estuary to the south. **A Specific Plan will be prepared for the entire District.** The properties within the District are described in this section by the sub-areas identified in **Figures 5 and 6** as Sites A, B (parcels B1, B2, B3, and B4), C, D and E. In summary:

- The Port owns **Site A**, including the existing Estuary Park. The three parcels comprising Site A are leased. Site A is not offered for development, but may be included in the Floor Area Ratio (FAR) calculation for development on Sites B1, B4 and C (with a deduction for the existing warehouse building).
- The three major Port-owned properties being offered by the Port for master development — and the primary subject of this RFQ — include **Sites B1, B4 and C**. These sites are described in more detail below.
- Within area B, adjoining Port-owned Sites B1 and B4, are two privately owned properties: **Sites B2 and B3**. These are not included in the Master Development opportunity.

- **Site D** contains a mix of established uses on parcels that are principally in private ownership. Site D is not included in the master development opportunity, and contains no Port-owned parcels.

- **Site E**, which is owned by the Port and leased to the East Bay Municipal Utility District (EBMUD), is not available for development.

In addition to mixed-use development on the Port parcels, key land use objectives of the *Estuary Policy Plan* include the creation of a stronger open space and pedestrian linkage between Lake Merritt and the waterfront along the Channel, and the creation of major public gathering spaces for large events at the waterfront, with view corridors from the Embarcadero through to the Estuary. A continuous pedestrian pathway along the waterfront is also required by the *Estuary Policy Plan* and the Bay Conservation and Development Commission (BCDC).

The Oak-to-Ninth District properties currently produce significant rental income to the Port. This income is pledged to support the Port's outstanding bonded indebtedness, and therefore, must be maintained. Through redevelopment, the Port seeks to increase its income stream from these properties in the form of annual, guaranteed minimum rent payments. Additionally, the Port may elect to make a portion of the participation rents generated by the project available to service public debt for infrastructure and open space improvements for this District. The Port anticipates that additional resources, such as grants or

IV. DEVELOPMENT PROGRAM AND ENTITLEMENT PROCESS

A. Development Program and Approaches

Most of the Oak-to-Ninth District, and all of the Port-owned lands included in the Master Development opportunity, are classified in the *Oakland General Plan (Estuary Policy Plan)* as

PWD-1: Planned Waterfront Development. The maximum recommended development intensity according to the *General Plan* is an average Floor Area Ratio (FAR) over the entire area of 1.0, and an average of 30 units per gross acre for potential residential uses. A portion of the Specific Plan area (Site D) is designated Mixed-Use District (MUD); this area has a recommended development density of 5.0 per parcel and 125 residential units per gross acre.

The Port encourages a relatively broad and creative approach to interpreting the intent of the *Estuary Policy Plan's* recommendations for land use and development intensity in the PWD-1 classification, especially in the early stages of the Specific Plan process. Several factors contribute to the need for such an approach, including the following:

- The *Estuary Policy Plan* acknowledged that more planning is needed to make the proposed redevelopment "realistic"; the Specific Plan should therefore consider a range of land uses and intensities.
- The *Estuary Policy Plan* contains strong policies calling for extensive public pathways and open space. Creative approaches are needed in order to achieve these objectives.
- The *Estuary Policy Plan* illustrative diagrams and policies

were based on limited information and analysis of subsurface contamination conditions and historic preservation. More information is now available.

■ The final draft of the *Estuary Policy Plan* did not include residential uses, except joint living and working quarters, in the PWD-1 "intent" and "desired character." While some of the sites available for development are Tideland Trust grants, which prohibit residential uses, housing could nevertheless be evaluated as a potential component of future mixed-use development within the Specific Plan area. Any proposed housing development must be sited and designed in a manner that would not diminish public access to the waterfront and other public spaces.

- A range of development program elements, such as rehabilitation of Seabreeze Marina in Clinton Basin, were included in the *Estuary Policy Plan* as recommendations without substantive analysis of economic feasibility and alternative approaches.

B. Tideland Trust

The State Lands Commission has jurisdiction over the lands granted in trust to the Port of Oakland. Much of the property that is subject to development pursuant to this RFQ is comprised of landfill placed on former tidelands and submerged lands and property acquired by the Port with Tideland Trust revenues. Properties offered for development in this RFQ that are encumbered by the Trust are shown in Figure 4. For these properties,

the future development program must be in compliance with the State Lands Commission's guidelines for administration of the Trust. The Tideland Trust imposes three principal conditions: (1) land uses are limited to Trust purposes, (2) sale of fee title to Trust property to private entities or persons is prohibited (although ground leases of up to 66 years are allowed), and (3) revenues received by the trustee from the use of Trust property must be devoted to Trust purposes.

Permitted uses under the Tideland Trust generally include harbors and aviation, as well as uses that attract people to the waterfront, promote recreation, protect habitat, or preserve open space. Thus, hotel, entertainment, and recreation uses are generally permitted under the Tideland Trust. Visitor-serving retail uses are generally allowed; for example, Jack London Square was developed under Tideland Trust guidelines. On the other hand, residential, non-trust-related office, industrial, and research and development uses are generally not permitted uses of Tideland Trust properties.

One alternative for development of the Port property may be to exchange parcels encumbered by the Trust, but suitable for development of non-trust uses for other non-trust parcels that are of equal potential value to the Trust, such as improved open space. If an exchange is desired by the developer and approved by the Port Commission, the Port will assist in discussions with the State Lands Commission to arrange for transfer and substitution of properties. In light of past exchanges of similar nature and the normal concerns of lenders, such an exchange may likely require state legislation and involve the State Lands Commission and staff, and the Office of the Attorney General of California.

C. Regulatory Approvals and Entitlement Process

While not intended to be exhaustive, the section below highlights the major regulatory approvals and entitlements required for development of the subject property. The Port seeks a master development team that can demonstrate expertise in, and understanding of, the regulatory processes impacting waterfront development.

1. Bay Conservation and Development Commission

The San Francisco Bay Conservation and Development Commission (BCDC) was granted authority in 1965 by the California legislature through the McAteer-Petris Act to control development on and around the waters of San Francisco Bay, which includes the Oakland Estuary. BCDC regulates development and ensures that appropriate locations are reserved for priority shoreline uses (e.g., ports, airports, water-related industry and recreation and wildlife refuges), by requiring permits for development within its jurisdiction — generally property located within a 100-foot wide shoreline band of and within the Bay.

The San Francisco Bay Plan is BCDC's guiding plan document. The emphasis of the San Francisco Bay Plan is on providing substantial public benefit from the Bay and the shoreline, protecting the Bay as a natural resource, minimizing filling of the Bay, and — where the shoreline is not required for transportation or industrial uses — providing new recreational facilities and public access, from commercial marinas to trails, piers, beaches, and scenic drives. BCDC affects development of the subject site in two major areas, as described below.

Port Priority Use Status

Ninth Avenue Terminal is currently designated for Port Priority Use in the San Francisco Bay Area Seaport Plan, which was adopted by the BCD C and the Metropolitan Transportation Commission (MTC), and incorporated into the San Francisco Bay Plan. Although the Seaport Plan allocates an annual future throughput capacity of approximately 340,000 metric tons of break-bulk cargo to Ninth Avenue Terminal, the Seaport Plan also acknowledges that there is little bulk cargo now handled at the Port of Oakland. Redevelopment of Ninth Avenue Terminal to non-maritime uses will require amendment of the Seaport Plan and the Bay Plan to remove the Port Priority Use designation.

To remove a Port Priority Use designation, BCD C must evaluate the impact of the deletion on the region's capacity to handle the waterborne cargo projected to pass through Bay Area ports by 2020. If BCD C determines that eliminating the area from Port use will not negatively affect the region's cargo handling capacity, and will not increase the need to fill the Bay for future port development, then the designation may be removed. The Port will actively participate in seeking the required Seaport Plan amendment.

Consistency with Public Access Requirements

The San Francisco Bay Plan includes policies that establish requirements for waterfront public access. The Bay Plan states that "maximum feasible public access" to and along the San Francisco Bay should be provided in and through every new development within BCD C jurisdiction. The Bay Plan recog-

nizes visual access to the Bay as a critical aspect of public access.

The BCD C Design Review Board conducts a detailed design analysis of proposed projects, with special regard to public access and associated issues of water-oriented development. The Public Access Design Guidelines indicate that all public access provided through the BCD C permit process should "feel public; be usable by the greatest number and diversity of people, including the physically handicapped; provide, maintain, and enhance visual access; enhance and maintain the visual quality of the shoreline; connect to public areas or thoroughfares, or to other public access areas; take advantage of the Bay setting; and be compatible with the natural features of the shoreline, the project, and adjacent development."

Following successful completion of negotiations with the Master Developer, the Port will serve as the co-applicant for required BCD C approvals.

2. Environmental Oversight

The State of California's Department of Toxic Substance Control, the San Francisco Bay Regional Water Quality Control Board, and the Alameda County Health Care Services Agency, among other agencies, may exercise jurisdiction over the property to be developed.

3. California Environmental Quality Act (CEQA)

The *Estuary Policy Plan* was subject to environmental review when it was adopted into the *General Plan*. However, adoption

of a Specific Plan is a project subject to the California Environmental Quality Act (CEQA). A Program or Master Environmental Impact Report (EIR) is likely to be the selected approach for environmental review of the Specific Plan.

4. City of Oakland

The Oak-to-Ninth District is within the jurisdiction of the City of Oakland for land use regulation, planning review and development approvals. The City Council and Planning Commission will be responsible for considering the draft Specific Plan for adoption, and certifying the appropriate environmental documents under CEQA. Public hearings and public comment periods will be included in the City's review and approval process.

City staff will play an active role in the Specific Plan process. The work will be coordinated by the Planning and Zoning staff and Redevelopment Agency staff, but will also involve a broad spectrum of departments including Fire, Public Works, and the Life Enrichment Agency, Parks and Recreation Department.

5. Port of Oakland

Required project approvals will include reviews and approvals by the Real Estate Committee and the Board of Port Commissioners. The Board must approve all leases and development projects on Port property.

6. Sustainable Development Policies and Guidelines

The development team should be prepared to take into consider-

ation City and Port of Oakland sustainable development guidelines in planning and designing site, water systems, energy systems, interior environment, building materials, waste management systems and transportation systems. The guidelines are in the process of being refined, and include not only measures to protect the environment, but also to support the local economy and promote social equity. Draft summary guideline materials are included in Appendix F. Important considerations will likely include:

- Environmentally responsive site design strategies including, where appropriate and economically feasible, preservation and enhancement of wetland habitat values
- Management of water runoff, with special attention to runoff from vehicle parking and maintenance areas, and piping infrastructure to use reclaimed water anticipated to be available from EBMUD
- Use of natural light and ventilation integrated with electrical controls
- Use of low VOC-emitting materials
- Use of materials that are reusable, recyclable or biodegradable
- Provision for reduction and recycling of waste from demolition, construction, and subsequent building users
- Transportation systems management and transit alternatives

V. DEVELOPMENT RESPONSIBILITIES

A. Master Developer's Responsibilities

The Master Developer will plan for and undertake the development of the property consistent with the objectives of the *Estimary Policy Plan*. All development activities shall be undertaken solely at the cost of the Master Developer, with the exception of the jointly funded Specific Plan/CEQA process.

1. Development Planning

- Collaboratively fund a Specific Plan for the entire Oak-to-Ninth District, in partnership with the Port, and fund the associated environmental review process to be undertaken by the City of Oakland as lead agency under the California Environmental Quality Act (CEQA). The Port will match the developer's costs for the Specific Plan and EIR up to a maximum of \$200,000.
 - Secure entitlements for the development of the property consistent with the guidelines from the approved Specific Plan.
 - Develop a plan for funding infrastructure, including open space.
 - Secure financing for and construct backbone infrastructure improvements.
- #### 2. Deposit Requirements
- A \$100,000, non-refundable good faith deposit must ac-

company all responses to the RFQ. All of the deposit will be returned to respondents who are not selected for exclusive negotiations.

- At the time the developer submits its letter of intent to enter into a Master Lease with the Port, and prior to transfer of possession of the property, payment of a \$250,000 security deposit will be required. The developer's previous \$100,000 deposit will be credited against this deposit. The security deposit is not deductible against lease payments.

- Entitlement Process - Following selection, the Master Developer, in partnership with the Port, will proceed with the Specific Plan. The Port and the developer will jointly seek all required regulatory approvals. In the implementation process, the developer will have sole financial responsibility for the other parts of the entitlement process, including filing tentative maps, precise development plans, potential property exchanges, and subsequent environmental reviews. The Port will reasonably cooperate with the developer during these processes.

B. Port's Responsibilities

The Port will assume the following principal responsibilities:

- Work in partnership with the developer to prepare the Specific Plan and review environmental documents prepared by the City. The Port will match the developer's costs for the Specific Plan up to a maximum Port contribution of \$200,000.

■ Assist in obtaining key entitlements, including City of Oakland adoption of the Specific Plan and *General Plan* Amendment (if applicable), certification of environmental documents, BCDC approvals and permits, removal of Port Priority Use designation, and agreements as required with the State Lands Commission and other regulatory agencies.

■ Complete ongoing site characterization studies, risk assessments and corrective action plans, in coordination with the master planning activities. The Port has conducted site characterization studies for some of the property offered in this RFQ (see Appendix B). The Port will also continue to take the lead in negotiations with regulatory agencies to establish reasonable and cost effective solutions to soil and groundwater conditions affecting the site and the site development process. The Port's environmental team, which has extensive experience in obtaining approval from regulatory agencies and redevelopment of properties that have been impacted by these conditions, utilizes onsite management techniques wherever feasible.

■ The Port and developer will jointly explore options to make the property available for development, including site clearance and/or tenant relocation, subject to completion of the Specific Plan and negotiation of a master lease. The Port will work with the developer to relocate existing tenants in compliance with applicable laws.

of Exclusive Negotiations are described in the attached Form of Oak-to-Ninth District Exclusive Negotiating Agreement (see Appendix A).

The Specific Plan, and all of the interim reports and investigations prepared by the development team, will become the property of the Port.

B. Terms of the Lease

Under the Oakland City Charter, the property can be made available for a maximum lease term of 66 years. It is the Port's general policy to grant a lease term sufficient to amortize the investment made in the property by the lessee.

The subject property includes land that is anticipated to be improved and maintained as open space. The open space parcels may be retained by the Port, transferred through the master lease to the Developer, or transferred to another public entity, which will assume management responsibility for the property. During the period of Exclusive Negotiations, the Port and developer will jointly determine the appropriate ownership vehicle for open space parcels. However, all of the Port-owned property will be used in the calculation of total allowed development on the developer's parcels.

The ground lease will have two components of rental income to the Port. These are guaranteed annual ground rent, and participation rent based on gross project revenues. A typical Port ground lease is available on CD-ROM.

B

**OPTION TO PURCHASE AND
GROUND LEASE REAL PROPERTY**

November 7, 2003

**CITY OF OAKLAND,
a municipal corporation, acting by and through its Board of Port Commissioners
(Optionor)**

And

**OAKLAND HARBOR PARTNERS, LLC,
a California limited liability company**

(Optionee)

c

Appendix-E

Request for Developer Qualifications / Oak-to-Ninth District Properties

Specific Plan Considerations

A. Why Prepare a Specific Plan for Oak-to-Ninth District?

The Estuary Policy Plan (EPP) provides policy guidance for redevelopment of the Oak-to-Ninth District "into a large-scale network of open spaces and economic development that extend for over 60 acres from Estuary Park to Ninth Avenue," and recommends initiation of more specific planning of the entire (approximately 120 acre) area. The District -- generally defined as the area along the Oakland Estuary south of I-880, east of Oak Street, and west of Embarcadero Cove -- is presently dominated by warehousing, manufacturing, distribution, storage and transportation activities, including the Port of Oakland's Ninth Avenue Marine Terminal. According to Policy OAK-5,

"The Oak-to-Ninth district is large and diverse, with several unique, complicated issues that dominate its real development potential. It should be planned in sufficient detail to identify all potential issues and to understand the options available to address these issues in a timely manner....A Specific Plan should be prepared prior to development. Planning should be based on a strategy which analyzes the area comprehensively and which accounts for the constraints imposed by subsoll environmental conditions. Transformation of the district will require that several outstanding issues be resolved simultaneously. Development feasibilities should be analyzed, phasing of improvements should be identified, and a funding strategy to finance and implement recommended open space should be addressed. These require that a realistic development program and site plan be developed."

Some of the key issues affecting the Oak-to-Ninth District include Port Priority Use status of Ninth Avenue Terminal shed, Tideland Trust restrictions on much of the Port property, subsurface contamination in several locations, geotechnical conditions, historic preservation, and the need to phase out and/or integrate a diverse mix of existing uses.

B. Who Will Review and Adopt the Specific Plan?

The contents of the draft Specific Plan must be approved by the local governing body, which in this case is the Oakland City Council and its Planning Commission. The Oakland City Council is also the lead agency under the California Environmental Quality Act, responsible for certification of the EIR or other environmental documentation prior to the adoption of the Specific Plan. The administrative entity is the City of Oakland, and city staff members are expected to play an active role in the Specific Plan process.

The Board of Port Commissioners and its Commercial Real Estate Committee will also review the draft Specific Plan.

C. Public Outreach and Participation

Because of the city-wide importance of the Oak-to-Ninth District and expectations raised during the EPP process, the Port and its development partner will be held to high standards of disclosure and public accountability throughout the development planning and implementation process. To gain support for the development project, it is necessary to provide a substantive public outreach, communications, and participation program for the project. Oak-to-Ninth District stakeholders are likely to include very diverse interest groups such as:

- Current tenants, residents and neighbors of the Oak-to-Ninth District;
- Port Maritime Division;
- City of Oakland agencies;
- Local businesses and future site tenants;
- Citizens of Oakland and the region who will be attracted to new area amenities;
- Users of area roadways and parking resources;
- Historic preservationists
- BCDC and other regulatory agencies;
- Public access and open space advocates and agencies, including Bay Trail and East Bay Regional Park District.

D. How Should EPP Policies be Interpreted in the Specific Plan?

Because state law requires that Specific Plans be consistent with the general plan, the EPP policies for the Oak-to-Ninth District will need to be considered in the Specific Plan process. However, the EPP recognized the limitations of its own development concepts, arguing that a "realistic development program and site plan" should be prepared via a Specific Plan process. Therefore, while the EPP provided a vision for the transformation of the District, the diagrams, renderings and site plans should be considered conceptual. Alternative development concepts that do not literally conform to the EPP will be considered during the Specific Plan process. The ultimate review and adoption process for the Oak-to-Ninth District Specific Plan could, if appropriate, include application for one or more amendments to the general plan.

E. Land Use and Open Space Policy Considerations

Note: discussion of EPP land use classifications, desired character and densities is provided within the RFQ text.

An EPP land use policy likely to be of importance in the Specific Plan process is the recommendation to preserve and expand the existing Fifth Avenue Point community as a neighborhood of artists and artisan studios, small businesses, and water-dependent activities (OAK-4.1). This area is not on Port-owned property and not included in the master development opportunity.

For the non-Port property north of Embarcadero, the EPP policy encourages a mixed-use district while maintaining viable industrial uses (OAK-4.5). Analysis of this area in the Specific Plan will not likely need to be as detailed as that of the areas south of I-880.

EPP policies for Shoreline Access and Public Spaces are extensive. The EPP characterized the Oak-to-Ninth District as presenting "opportunities for positive changes that could benefit the entire community" including "...the distinct opportunity to realize long-held community objectives for the creation of a major open space of citywide scale and significance." EPP policies for shoreline access and public spaces "are intended to establish this area of the Estuary as the major recreational destination for the city" by providing for a series of interconnected open spaces linked to the larger citywide system of trails and parks. The EPP also calls for provision of continuous pedestrian and bicycle movement along the water's edge (OAK-1.2), as well as connections inland along Merritt Channel (OAK-3).

The location, acreage and configuration of public spaces presented in the EPP should be considered conceptual and subject to reinterpretation in the Specific Plan, for reasons identified in the RFQ text, and the following:

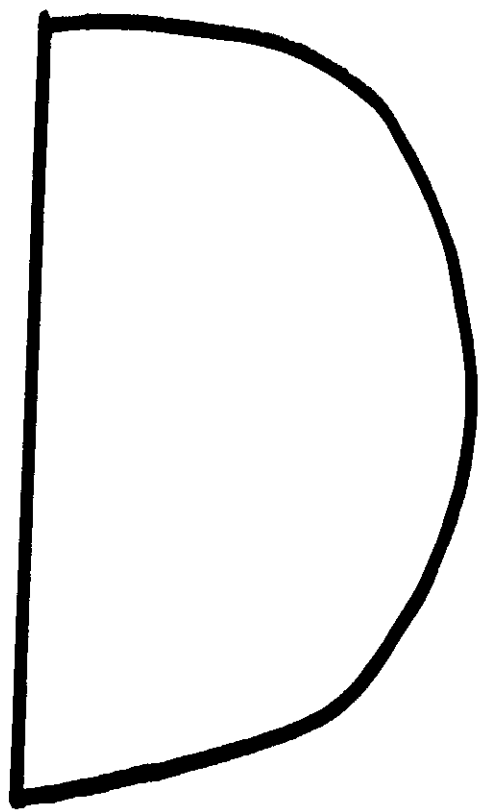
- During the EPP process, the involved consultants, agency staff and other stakeholders assumed that creation and maintenance of the large percentage of public space envisioned in the conceptual diagrams could not be financially supported by the recommended commercial development.
- The EPP illustrative diagrams and policies assumed that the Ninth Avenue Terminal transit shed and the wharf on which it sits would be demolished. This is not certain, and the shed has since been nominated for local landmark status. According to the EPP,

"Recognize that the Ninth Avenue Terminal shed, or portions thereof, may be suitable for rehabilitation and adaptive reuse. However, the Ninth Avenue terminal building impedes public access to and views of a key area of the Estuary. The Port and City should investigate the feasibility of keeping and reusing the terminal shed or portions thereof. A specific Plan should be initiated for the entire District prior to development."

- The EPP illustrative diagrams included major elements that were challenged during the EPP environmental review process, would be costly to implement, and may have little real support among Oak-to-Ninth District stakeholders.

F. Regional Circulation and Local Access Policy Considerations

Local access to the Oak-to-Ninth District will likely be a major issue to be addressed during the Specific Plan process. Although the area is adjacent to I-880 and is near the Jack London Square Amtrak station, the principle access for motor vehicles is via the two-lane Embarcadero. Among the EPP regional circulation and local access policy recommendations that should be considered in the Specific Plan process are: consideration of potential for a new BART station and major parking facility on BART property at Fifth Avenue and East Eighth Street; coordination with CALTRANS on the seismic upgrade of the I-880 freeway in the Fifth Avenue area; enhancement of Fifth Avenue; and improvement of Embarcadero as a landscaped parkway. Parking supply and management for the area will also be important Specific Plan issues.



Board of Port Commissioners - PORT OF OAKLAND

Agenda Sheet

DATE: September 4, 2001

ITEM NO: 16

SUBJECT: Recommendation to Enter Into Negotiations with a Developer Team for Specific Planning and Master Development of the Oak-to-Ninth District Properties

PROGRAM AREA:

- ☐ Airport Operations
- ☒ Commercial Real Estate
- ☐ Maritime Operations
- ☐ Overall Operations

SUBMITTED BY: Omar Benjamin

EXECUTIVE OFFICE RECOMMENDATION:

BACKGROUND:

On March 15, 2001, the Port Commercial Real Estate (CRE) Division released a "Request for Developer Qualifications, Oak-to-Ninth District Properties" (RFQ). Two written submittals (Statements of Qualifications) were received as of the May 28 deadline: one from Oakland Harbor Partners, LLC (Signature Properties-Reynolds & Brown), and the other from Oakland Harborwalk Partners, LLC (Interland-Shorenstein). The two teams of developers presented their qualifications and were interviewed by a special Port-City Advisory Panel in a public meeting on Tuesday, July 31st in the Port Board Room.

The Advisory Panel included Commissioners Protopappas and Tagami, Councilmember Danny Wan, William Claggett from the City of Oakland and Omar Benjamin, and John Glover from the Port of Oakland. Chuck Foster also participated in portions of the interview sessions and Advisory Panel discussions. Members of the Panel had also reviewed and evaluated the written Statements of Qualifications submitted by the respective developer teams. The Advisory Panel reconvened in closed session on August 8 in conjunction with the CRE Committee meeting to continue their discussion from July 31.

ANALYSIS:

The CRE Division, with support from the Port Attorney's office and the Port Finance Division, has facilitated the developer evaluation process in close consultation with the Commercial Real Estate Committee, and has undertaken preliminary due diligence on developer financial capabilities, references and other strategic issues. The goal of the evaluation process is to provide the CRE Committee and Board with sufficient information and analysis to select a preferred developer team with whom staff will enter into negotiations for Specific Planning and Master Development of the Oak-to-Ninth District Properties.

The March 15 RFQ identified 11 development objectives for the Oak-to-Ninth District, and criteria the Port would apply in evaluating and selecting a development partner. The development objectives are as follows:

- 1) Working with the City of Oakland, the community, and the development team, create a vision for the Oak-to-Ninth District through a Specific Plan that incorporates the objectives of the Estuary Policy Plan, with the goal of generating economic benefits and creating new waterfront amenities for the citizens of Oakland.
- 2) Create a financing strategy for the redevelopment of the Port-owned parcels that incorporates a broad mix of uses, is financially feasible, and generates jobs for the community and revenue for both the Port and the City.
- 3) Develop a financing strategy to create a significant amount of quality public open space and public access to the waterfront.

- ☐ MOTION
- ☒ RESOLUTION
- ☐ ORDINANCE
- ☐ INFORMATION ONLY

Approved by Resolution

No. 01359

BOARD ACTION TAKEN

Assistant

SECRETARY OF THE BOARD

SEP - 4 2001

DATE

- Create a financing structure for the basic infrastructure needed to support development, including sewer lines, storm drainage, utility lines, roadways, etc.
- 5) Create a planning process that provides for substantive participation by neighbors, interested community groups and other stakeholders.
- 6) Integrate site clean up cost-effectively and to standards appropriate for proposed new uses.
- 7) Incorporate preservation and adaptive reuse of historic structures where feasible and desirable.
- 8) Create a phased implementation strategy that accommodates interim continuation of maritime, warehousing and related uses where feasible, in order to preserve revenue streams and support maintenance activities during the development process.
- 9) Expedite and consolidate the Specific Plan process, master development plan(s), environmental documents, regulatory permits and other development entitlements.
- 10) Provide a plan for the long-term operation and maintenance of public spaces and facilities created throughout the master development process.
- 11) Create and implement a development plan that takes into consideration City and Port of Oakland sustainable development guidelines.

Developer selection criteria identified in the March 15 RFQ include:

- **Experience in developing high quality waterfront projects of comparable size, land use and importance.**
- A demonstrated track record in securing entitlements for and successfully master planning large mixed-use properties.
- Completion of projects of similar size, land use, and investment.
- Experience working with the public sector in a public/private development relationship.
- Economic success of past projects.
- Architectural and urban design quality of past projects.
- Timeliness of performance.
- Qualifications of members of the development team.
- Meeting the Port's Non-Discrimination/Local Business guidelines.
- Experience in formulating and implementing a community based planning effort with broad participation resulting in community agreement on realistic development goals.
- Expertise in utilizing public financing mechanisms for the development of infrastructure and open space.
- Experience in meeting the requirements of the environmental process.
- Experience applying sustainable development policies or/and "green building" principles and practices.
- Experience in preparing a Specific Plan or Planned Unit Development Plan.

OPTIONS:

1. Direct staff to enter into negotiations with one of the two prospective Master Developers.
2. Request additional staff analysis or/and information from the developers before selecting a preferred development team.

RECOMMENDATION:

It is recommended that, at the September 4, 2001 Board meeting, Port staff be authorized to enter into negotiations with the developer selected by the Board based upon staff evaluation and due diligence and the recommendation of the Commercial Real Estate Committee.

E

**REGULAR MEETING OF THE PORT COMMISSIONERS
OF THE
CITY OF OAKLAND**

The regular meeting was held on Tuesday, September 4, 2001, at the hour of 3:05 p.m., in the office of the Board, second floor, 530 Water Street, Oakland, California, President Tagami presiding, appropriate notice having been given and posted.

Commissioners present: Ayers-Johnson, Kiang, Kramer, Protopappas,
Scates, Uribe and President Tagami - 7

Commissioners absent: None

Also present were the Executive Director; Deputy Executive Director; Port Attorney; Director of Maritime; Director of Commercial Real Estate; Director of Engineering; Director of Strategic & Policy Planning; Chief Financial Officer; Port Auditor; Director of Communications; Director of Equal Opportunity; Director of Administration; Airport Manager; and Secretary of the Board.

The minutes of the adjourned regular meeting of May 8, 2001; and adjourned regular meeting of May 22, 2001 were approved as submitted and ordered filed.

Recommendation to Enter into Negotiations with a Developer Team for Specific Planning and Master Development of the Oak-to-Ninth District Properties was the subject of a memo to the Board from the Director of Commercial Real Estate notifying the Board that on March 15, 2001, the Port Commercial Real Estate (CRE) Division released a "Request for Developer Qualifications, Oak-to-Ninth District Properties" (RFQ). Two written submittals (Statements of Qualifications) were received as of the May 28 deadline: one from Oakland Harbor Partners, LLC (Signature Properties – Reynolds & Brown); and the other from Oakland Harborwalk Partners, LLC (Interland-Shorenstein). The two teams of developers presented their qualifications and were

September 4, 2001

interviewed by a special Port-City Advisory Panel in a public meeting on Tuesday, July 31, 2001. The CRE Division, has facilitated the developer evaluation process in close consultation with the Commercial Real Estate Committee, and has undertaken preliminary due diligence on developer financial capabilities, references and other strategic issues. The March 15 RFQ identified 11 development objectives for the Oak-to-Ninth District, and criteria the Port would apply in evaluating and selecting a development partner. The development objectives are as follows: working with the City of Oakland, the community, and the development team, create a vision for the Oak-to-Ninth District through a Specific Plan that incorporates the objectives of the Estuary Policy Plan, with the goal of generating economic benefits and creating new waterfront amenities for the citizens of Oakland; create a financing strategy for the redevelopment of the Port-owned parcels that incorporates a broad mix of uses, is financially feasible, and generates jobs for the community and revenue for both the Port and the City; develop a financing strategy to create a significant amount of quality public open space and public access to the waterfront; create a financing structure for the basic infrastructure needed to support development, including sewer lines, storm drainage, utility lines, roadways, etc.; create a planning process that provides for substantive participation by neighbors, interested community groups and other stakeholders; integrate site clean up cost-effectively and to standards appropriate for proposed new uses; incorporate preservation and adaptive reuse of historic structures where feasible and desirable; create a phased implementation strategy that accommodates interim continuation of maritime, warehousing and related uses where feasible, in order to preserve revenue streams and support maintenance activities during the development process; expedite and consolidate the Specific Plan process, master development plan(s), environmental documents, regulatory permits and other

development entitlements; provide a plan for the long-term operation and maintenance of public spaces and facilities created throughout the master development process; and create and implement a development plan that takes into consideration City and Port sustainable development guidelines.

It was recommended that the Port staff be authorized to enter into negotiations with a developer selected by the Board based upon staff evaluation and due diligence and the recommendation of the Commercial Real Estate Committee. Mr. Barry Lubovisky, representing The Building Trades Council, and Mr. Sanji Handa, representing East Bay News, appeared before the Board to note the importance of the projection and personal views.

Commissioner Protopappas moved that the proposal of Oakland Harbor Partners, LLC (Signature Properties-Reynolds & Brown) be selected for the project. The motion was seconded and Resolution No. 01359 was introduced and passed authorizing negotiations.

F

The following resolutions were introduced and passed separately by the following vote:

Ayes: Commissioners Ayers-Johnson, Kramer, Protopappas,
Scates, Uribe and President Tagami - 6

Noes: None

Abstained: Commissioner Kiang - 1

Absent: None

“RESOLUTION NO. 01359

**SELECTING MASTER DEVELOPER FOR THE OAK-TO-NINTH DISTRICT
PROPERTIES AND AUTHORIZING PORT AND DEVELOPER
NEGOTIATIONS.”**

The following resolutions were introduced and passed separately by the following vote:

Ayes: Commissioners Ayers-Johnson, Kiang, Kramer, Protopappas,
Scates and President Tagami - 6

Noes: None

Abstained: Commissioner Uribe - 1

Absent: None

G



PORT OF OAKLAND

EUGENE PARK

Deputy Port Attorney

Sender's Tel. No.: (510) 627-1191

Sender's Fax No.: (510) 444-2093

Sender's E-Mail: epark@portoakland.com

VIA ELECTRONIC MAIL ONLY

genehazzard@gmail.com

March 9, 2015

Gene Hazzard
genehazzard@gmail.com

Re: Your March 2, 2015 Request for Records

Dear Mr. Hazzard:

The Port of Oakland ("Port") received your March 2, 2015 request submitted pursuant to the California Public Records Act ("PRA"). You requested "a list of All those individuals and their proposals submitted to the Port as it relates to the 60 acres Oak to Ninth Request for Qualifications in 2001" as well as "the criteria used to determine the successful project chosen."

The Port has performed a diligent search of its records and identified the following documents in response to your request: an Agenda Sheet (Item No. 16), Minutes, and Resolution No. 01359 from the September 4, 2001 Board of Port Commissioners Meeting. Electronic versions of these documents are attached as a courtesy. Please note that all past Board documents are publicly available on the Port's website at www.portofoakland.com/about/meetings_archive.aspx. These documents reflect that the Port received two proposals for the March 15, 2001 Oak-to-Ninth Request for Developer Qualifications ("RFQ") – one from Oakland Harbor Partners, LLC (Signature Properties / Reynolds & Brown) and one from Oakland Harborwalk Partners, LLC (Interland / Shorenstein) – and that the selection criteria were identified in the RFQ. Also attached as a courtesy is the RFQ, a copy of which I understand was recently transmitted to you – please refer to the "Selection Criteria" section on pages 31-32.

With respect to your request for the proposals themselves, the Port has identified the two proposals, which are not in electronic format, and can mail them to you upon receipt of direct duplication costs, as allowed under Government Code section 6253(b). The Oakland Harbor Partners, LLC proposal is 51 pages and the Oakland Harborwalk Partners, LLC proposal is 88 pages. The Port charges \$0.19 per page under Port Ordinance 3346, so the total duplication cost is **\$26.41**. Please make your check payable to the "Port of Oakland" and send it to 530 Water Street, Oakland, CA 94604 to the attention of Mary Jew. The Port will send you the records upon receipt of your payment. Alternatively, you may inspect the proposals at the Port of Oakland at a mutually convenient time during regular business hours.

The PRA requires that a request for a copy of records reasonably describe an identifiable public record or records. It requires a public agency to provide any reasonably segregable portion of a record, but not to search files for any specific information or to compile lists of information or to create new documents. To the extent that any record or any segregable portion of a record is exempt from disclosure or is prohibited from disclosure, we must inform you of the reason for withholding such record or records.

We hope that this response to your request for records is satisfactory to you. If you are dissatisfied with this response to your records request and believe that the Port has failed to comply with the PRA, you may submit a written Request for Cure and Correction to the Secretary of the Board at 530 Water Street, Oakland CA, 94607 or jbetterton@portoakland.com clearly describing the nature of the alleged noncompliance, including the facts and circumstances of the alleged noncompliance, any legal theories supporting the allegation, and the nature of the corrective action requested. Generalized concerns or conclusory arguments, unsupported by specific facts or legal arguments will not be considered sufficient. The Request for Cure and Correction must be filed within ninety (90) days of the alleged noncompliance. Upon receipt of the Request for Cure and Correction, the Port Attorney will investigate the alleged noncompliance and will respond to you within thirty (30) days of receipt by the Secretary of the Board.

Please be advised that Rule VII of the Port's Rules for Public Participation (adopted by Port Ordinance No. 4127) sets forth the Port's established procedures for receiving allegations of noncompliance with the PRA and for investigating and responding to such allegations. Should you wish to file allegations of noncompliance, you are advised to consult the above-referenced rules and to follow their procedures so that you may obtain the appropriate administrative remedies to cure and correct the alleged noncompliance.

Thank you for your request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Eugene Park", with a horizontal line extending to the right.

Eugene J. Park
Deputy Port Attorney

H

Exhibit 1

**PROMISSORY NOTE
[SECURED BY DEED OF TRUST]**

\$13,500,000.00

Oakland, California
_____, 20__

FOR VALUE RECEIVED, the undersigned borrower ("Borrower") promises to pay, without offset or deduction, to the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Holder"), or order, at 530 Water Street, Oakland, CA 94607, or such other place as Holder may designate by written notice to Borrower, in lawful money of the United States, the principal sum of Thirteen Million Five Hundred Thousand and No/100s Dollars (\$13,500,000.00), with interest on the principal balance from time to time remaining unpaid from the date of this Promissory Note ("Note") until paid, in the amount and in the manner hereinafter described.

1. **Interest Rate.** Subject to the terms hereof, interest only on the unpaid principal balance of this Note shall be payable in arrears on the first day of the first full month following each anniversary of the date of this Note in an amount equal to the "Annual Interest Payment" (as defined below), until October 1, 2015, at which time all remaining principal and accrued, but unpaid, interest shall be due and payable in full. Upon payment in full, this Note shall be of no further force or effect.

As used herein, the following terms shall have the following meanings:

"Annual Interest Payment" shall mean an amount established by the following equation:

$$[\text{Annual Gross Revenue (as defined in this Section 1) minus} \\ \text{Annual Property Taxes (as defined in this Section 1)}] \times 0.75$$

Notwithstanding anything to the contrary in this Note, in no event shall the Annual Interest Payment be less than Seven Hundred Fifty Thousand Dollars (\$750,000) or greater than Eight Hundred Fifty Thousand Dollars (\$850,000); provided, however, in the event that Holder actually receives payments of principal pursuant to Section 4 of the Deed of Trust referenced in Section 5 below, the parties shall equitably adjust the minimum Annual Interest Payment to reflect the reduction in outstanding principal.

"Annual Gross Revenue" shall include all gross revenue for each twelve (12) month period occurring during the term of this Note commencing on the first day of the first full calendar month following the date hereof until paid in full from any and all business carried on in whole or in part upon the Property, whether the same be for cash, barter, credit, check, charge account, gift, or other disposition of value regardless of collection, by the Borrower or any other person, including successors, assigns, subtenants, licensees or the like of the Property, or its successors or assigns, and any other person conducting any business upon or from the Property.

6. **Default.** Each of the following shall constitute a "Default" under this Note:

- (a) The filing by Borrower of any petition or action for relief under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors; and/or
- (b) Borrower's failure to perform its monetary obligations hereunder when due; and/or
- (c) Borrower's failure to observe and perform any other provisions of this Note or the Deed of Trust to be observed and performed by Trustor thereunder, where such failure is curable and continues uncured for ten (10) days after notice by Beneficiary to Trustor, as such terms are defined in the Deed of Trust.

7. **Acceleration.** Upon any Default under this Note, the entire unpaid principal sum of this Note, together with all accrued interest and other sums due hereunder and under the Deed of Trust will become immediately due and payable, without demand or notice, at the election of the Holder of this Note. Payment under this Note also may be accelerated by the Holder of this Note pursuant to Section 17 hereto.

8. **Collection Costs.** Borrower agrees to pay all reasonable costs of collection and enforcement when incurred, whether or not any suit, action or proceeding is commenced, including, without limitation, attorneys' fees and costs (including Port Attorney's Office costs and fees).

9. **Continuance of Obligations.** If all or any portion of the obligations hereunder are paid or performed, the obligations of Borrower hereunder will continue and remain in full force and effect in the event that all or any portion of such payment or performance is avoided or recovered directly or indirectly from Holder as a preference, fraudulent transfer or otherwise, irrespective of payment or performance in full of the obligations hereunder prior to such avoidance or recovery.

10. **Notices.** Any notice to Borrower provided for in this Note shall be given by personal delivery or by mailing such notice by certified mail, return receipt requested, addressed to Borrower at the address stated below, or to such other address as Borrower may designate by written notice to the Holder. Any notice to the Holder shall be given by personal delivery or by mailing such notice by certified mail, return receipt requested, to the Holder at the address set forth below, or at such other address as may have been designated by written notice to Borrower. Notices may also effectively be given by transmittal over electronic transmitting devices if the party sending the notice retains a copy of the transmittal confirmation, and provided a complete copy of the notice shall also be served either personally or in the same manner as required for a mailed notice. Mailed notices shall be deemed delivered and received three (3) days after deposit in accordance with this provision in the United States mails. Notices shall be directed to the following address:

TO HOLDER:

Port of Oakland