

2008 MAR 27 AM 9:44

CITY OF OAKLAND
Agenda Report

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: April 8, 2008

RE: **A Report And**

- **A Resolution Relinquishing City Ownership Of An Unimproved Portion of Peralta Street, And**
- **An Ordinance Authorizing The City Administrator To Acquire Ownership Without Returning To Council Of An Improved Portion Of Mandela Parkway Through An Equivalent Exchange Of Land Located Near The Intersections Of West Grand Avenue And 20th Street Between The City Of Oakland and Brian Collins and Hemmat and Dokhanchy Associates Without Compensation**

SUMMARY

Brian Collins and Hemmat and Dokhanchy Associates own a triangular shaped parcel that is located between the northerly and southerly intersections of West Grand Avenue and 20th Street. They purchased the eastern adjoining portion of Mandela Parkway from the City in an auction of surplus property in 2006. The owners have proposed relinquishing their ownership of this land (approximately 14,000 square feet) without cost to the City in exchange for obtaining ownership without cost to them of the western adjoining portion of Peralta Street (approximately 11,000 square feet) in order to legalize the long-standing private use of this fenced portion of the public right-of-way. The vacation of the Peralta Street right-of-way (by resolution) will add a quarter (0.25) of an acre of land to the Alameda County tax roll (general levy), and the re-acquisition of Mandela Parkway right-of-way (by ordinance) will not increase the cost to the City of maintaining the existing roadway.

FISCAL IMPACT

Staff costs for processing the proposed vacation and dedication are covered by fees set by the Master Fee Schedule. The fees will be paid by the applicant and deposited in the special revenue Development Service Fund (2415), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Plan Approval (PS30). The dedication of Mandela Parkway will not increase the cost of street maintenance. The vacation of Peralta Street right-of-way will increase the property tax base of the City and potentially increase the collection of business license fees as the commercial use of the land area is expanded. The re-acquisition of Mandela Parkway right-of-way will not increase the cost of maintaining the roadway.

KEY ISSUES AND IMPACTS

The triangular shaped parcel (28,000 square feet - APN 005-0421-003-00) is located between Peralta Street and Mandela Parkway near the intersections of West Grand Avenue, and 20th Street. In 2006, the property owners purchased 14,000 square feet of City surplus property along Mandela Parkway that adjoins the eastern side of their parcel. Caltrans previously relinquished ownership of portions of Mandela Parkway and Peralta Street without cost to the City.

When the surplus property was auctioned, the Caltrans survey documentation available to the City incorrectly located the relinquished land outside of the Mandela Parkway right-of-way. A subsequent boundary survey by the owners identified that they had actually purchased a paved section of the street, which makes the auctioned land unusable. The boundary survey further identified that an 11,000 square feet portion of the western side of their parcel, which has been fenced for many decades and used by prior owners, was actually within the Peralta Street right-of-way relinquished by Caltrans. The boundary survey reduced the anticipated usable area of the parcel from 53,000 square feet (parcel plus Mandela Parkway plus Peralta Street) to 28,000 square feet (parcel only). To assure that their use of Peralta Street could be continued, the owners have proposed an "even swap" (no compensation to them or the City) of the Mandela Parkway right-of-way (14,000 square feet) for the Peralta Street right-of-way (11,000 square feet).

California Government Code section 7050 allows the City to acquire ownership of the Mandela Parkway right-of-way from the abutting property owner. California Streets and Highways Code section 8330 et seq. similarly allows the City to relinquish the Peralta Street right-of-way to the abutting property owner. The fenced land along Peralta Street has been impassible to the public and unmaintained by the City for more than five (5) years. Oakland Municipal Code Chapter 12.16 requires that sidewalk, curb, and gutter be installed and street pavement be repaired when a future permit for on-site improvements exceeds \$45,000 valuation.

SUSTAINABLE OPPORTUNITIES

Economic

The proposed vacation of the Peralta Street right-of-way will increase the tax base for the City and will enhance the opportunity for the City to increase its collection of business license fees.

Environmental

Construction permits for future public right-of-way improvements require that the permittee comply with City ordinances and regional Best Management Practices for reducing nuisance noise, fugitive dust, construction debris disposal, and storm drainage pollutant runoff.

Social Equity

The proposed vacation of the Peralta Street right-of-way will not have an adverse impact on the economic revitalization of the surrounding district.

DISABILITY AND SENIOR CITIZEN ACCESS

Construction permits for future public right-of-way improvements will conform with State and City requirements for handicapped accessibility.

RECOMMENDATIONS

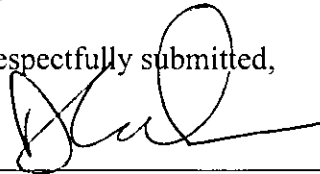
Staff recommends that the Committee accept this report and forward it to the City Council for adoption of the proposed resolutions approving an acquisition and a vacation of rights-of-way.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed

- resolution relinquishing, without compensation to the City, the underlying fee simple interest to Brian Collins and Hemmat and Dokhanchy Associates of an 11,000 square feet portion of the Peralta Street right-of-way which adjoins the western boundary of parcel no. 005-0421-003-00, and the proposed
- ordinance authorizing the City Administrator to acquire, without returning to Council and without compensation to Brian Collins and Hemmat and Dokhanchy Associates, the underlying fee simple interest of a 14,000 square feet portion of the Mandela Parkway right-of-way which adjoins the eastern boundary of parcel no. 005-0421-003-00.

Respectfully submitted,



DAN LINDHEIM

Interim Director

Community and Economic Development Agency

Prepared by:

Raymond M. Derania

Interim City Engineer

Building Services Division

Approved For Forwarding To
The Public Works Committee


Office Of The City Administrator

Introduced By

2008 MAR 27 AM 9:44

Approved For Form And Legality

Councilmember

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR WITHOUT RETURNING TO COUNCIL TO ACQUIRE THE UNDERLYING FEE SIMPLE INTEREST OF A PORTION OF THE MANDELA PARKWAY RIGHT-OF-WAY BY AN EQUIVALENT EXCHANGE WITHOUT COMPENSATION OF A PORTION OF THE PERALTA STREET RIGHT-OF-WAY NEAR THE INTERSECTIONS OF WEST GRAND AVENUE AND 20th STREET BETWEEN THE CITY AND HEMMAT AND DOKHANCHY ASSOCIATES AND BRIAN COLLINS .

WHEREAS, Brian Collins and Hemmat and Dokhanchy Associates are the owners of the fee simple interest of a triangular shaped lot which is bounded by the intersections of Mandela Parkway, Peralta Street, 20th Street, and West Grand Avenue, and which is described in a Grant Deed, recorded March 14, 2006, series no. 2006-094365, by the Alameda County Clerk-Recorder, and which is more particularly described in *Exhibit A* attached hereto, and which is further identified by the Alameda County Assessor as parcel number 005-0421-003-00; and

WHEREAS, said owners have filed an application (PPE 08054) with the City Engineer of the City of Oakland, as required by the California Streets and Highways Code, and paid all fees for administrative processing, as required by the City of Oakland Master Fee Schedule, requesting that the Council of the City of Oakland vacate an unimproved portion of the Peralta Street right-of-way adjoining said parcel, without valuable consideration to the City; and

WHEREAS, said owners have filed a companion application with the City Engineer requesting that the City accept a quit claim, without valuable consideration to said owners, of the underlying fee simple interest in a portion of the Mandela Parkway right-of-way adjoining said parcel; and

WHEREAS, said vacation and quit claim have been proposed by said owners as an exchange of lands between said owners and the City which are equivalent in fair market value and in current and future rights to the record title; and

WHEREAS, the City Engineer has determined that said proposed quit claim of said portion of the Mandela Parkway right-of-way will not expand nor diminish the useful and usable surface area of said parcel for said owners and their representatives, heirs, successors, and assigns; and

WHEREAS, the City Engineer has further determined that said proposed vacation of the Peralta Street right-of-way will continue the exclusive occupancy of said land area by said owners, which has been the practice for many years of prior owners; and

WHEREAS, the City Engineer has determined that said proposed vacation and acquisition will not expand or diminish the surface areas of the roadways of Peralta Street and Mandela Parkway; and

WHEREAS, pursuant to Ordinance No. 11602 C.M.S, said owners acquired the underlying fee simple interest to said portion of the Mandela Parkway right-of-way from an auction for valuable consideration of surplus City property, as identified in a Grant Deed, recorded March 14, 2006, series no. 2006-094364, by the Alameda County Clerk-Recorder and more particularly described in *Exhibit B* attached hereto; and

WHEREAS, the City of Oakland previously acquired said property rights to said portions of the Mandela Parkway and Peralta Street rights-of-way from a relinquishment by the California Department of Transportation (Caltrans) of remnant portions of real properties, the air rights of which were previously occupied by the demolished section of Interstate Highway 880 (Nimitz Freeway) damage by the Loma Prieta earthquake in 1989, which are described in a deed, recorded November 2, 1961, reel 444, image 880, by the Alameda County Recorder; and

WHEREAS, said proposed vacation of Peralta Street would continue the exclusive use by the owners of said parcel of the unimproved portion of public right-of-way, which has been enclosed by metal fencing for more than twenty (20) years; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the proposed remaining fifty-two (52) feet width of Peralta Street adjacent to said proposed vacated public right-of-way will exceed the minimum required width of forty (40) feet; and

WHEREAS, a recent and thorough research of record title documentation and a subsequent land survey by a qualified and licensed land surveyor re-establish the metes and bounds of said parcel, with permanent markers of said property corners and public right-of-way monuments installed in the field, and the metes and bounds of said Mandela Parkway and Peralta Street properties previously relinquished by Caltrans and said fenced and unimproved portions of Peralta Street; and

WHEREAS, said land survey further established that said proposed vacation of Peralta Street consists of approximately 10,985 square feet (orthogonal planer projection) of land area and said proposed quit claim of Mandela Parkway right-of-way consists of approximately 13,781 square feet of land area (orthogonal planer projection); and

WHEREAS, said boundary survey is delineated on Parcel Map No. 9698, attached hereto as *Exhibit C*, and the limits of said proposed vacation and proposed quit claim are delineated on *Exhibit D* attached hereto; and

WHEREAS, the City Engineer has determined that no subsurface, surface, or above surface publicly maintained utilities are located within the portion of Peralta Street proposed for vacation or the portion of Mandela Parkway proposed for acquisition; and

WHEREAS, the City Engineer has further determined that said portion of Peralta Street proposed for vacation has been unimproved for pedestrian and public traffic and has been enclosed by an erected metal fence and has been wholly unmaintained by the City of Oakland for not less than five (5) years preceding the receipt of said application for said vacation; and

WHEREAS, pursuant to California Streets and Highways Code section 8330 et seq., the City Engineer has further determined that the said portion of Peralta Street may be summarily vacated by Resolution of the Council of the City of Oakland, at the option of its elected members; and

WHEREAS, said vacation of Peralta Street will add said real property to the equalized roll of the general levy of property taxes and forever relieve the City of Oakland of the responsibility and potential liability for its maintenance; and be it

WHEREAS, acquisition of the underlying fee simple interests in said portion of the Mandela Parkway right-of-way will be without valuable consideration to said owners and will not increase the City of Oakland's costs of or liability for maintaining the existing street improvements; and

WHEREAS, pursuant to section 15061(b)(3) of the Guidelines prescribed by the California Secretary of Resources for the requirements of the California Environmental Quality Act of 1970 (CEQA) and to the provisions of the Environmental Review Regulations of the City of Oakland, said vacation and said acquisition are categorically exempted; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

ORDAINED: That the Council of the City of Oakland hereby finds that said portion of the public right-of-way of Peralta Street proposed for vacation is surplus to the needs of the City of Oakland and not required for any current or future public purpose and may be vacated to said owners as set forth in the California Streets and Highways Code; and be it

FURTHER ORDAINED: That the Council of the City of Oakland hereby finds that said vacation to said owners of said portion of the Peralta Street right-of-way, without valuable consideration to the City of Oakland, and the acquisition by the City of Oakland of the underlying fee simple interest of said portion of the Mandela Parkway right-of-way, without valuable consideration to said owners, is in the best interest of the City of Oakland and is an equivalent exchange of real property in all purposes and fair market values and record title rights and interests; and be it

FURTHER ORDAINED: That the City Administrator, or his or her designee, is hereby authorized, without returning to Council, to acquire, without valuable consideration to the owners of parcel no. 005-0421-003-00, said portion of the Mandela Parkway right-of-way, through an instrument acceptable to the City Attorney of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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

EXHIBIT A

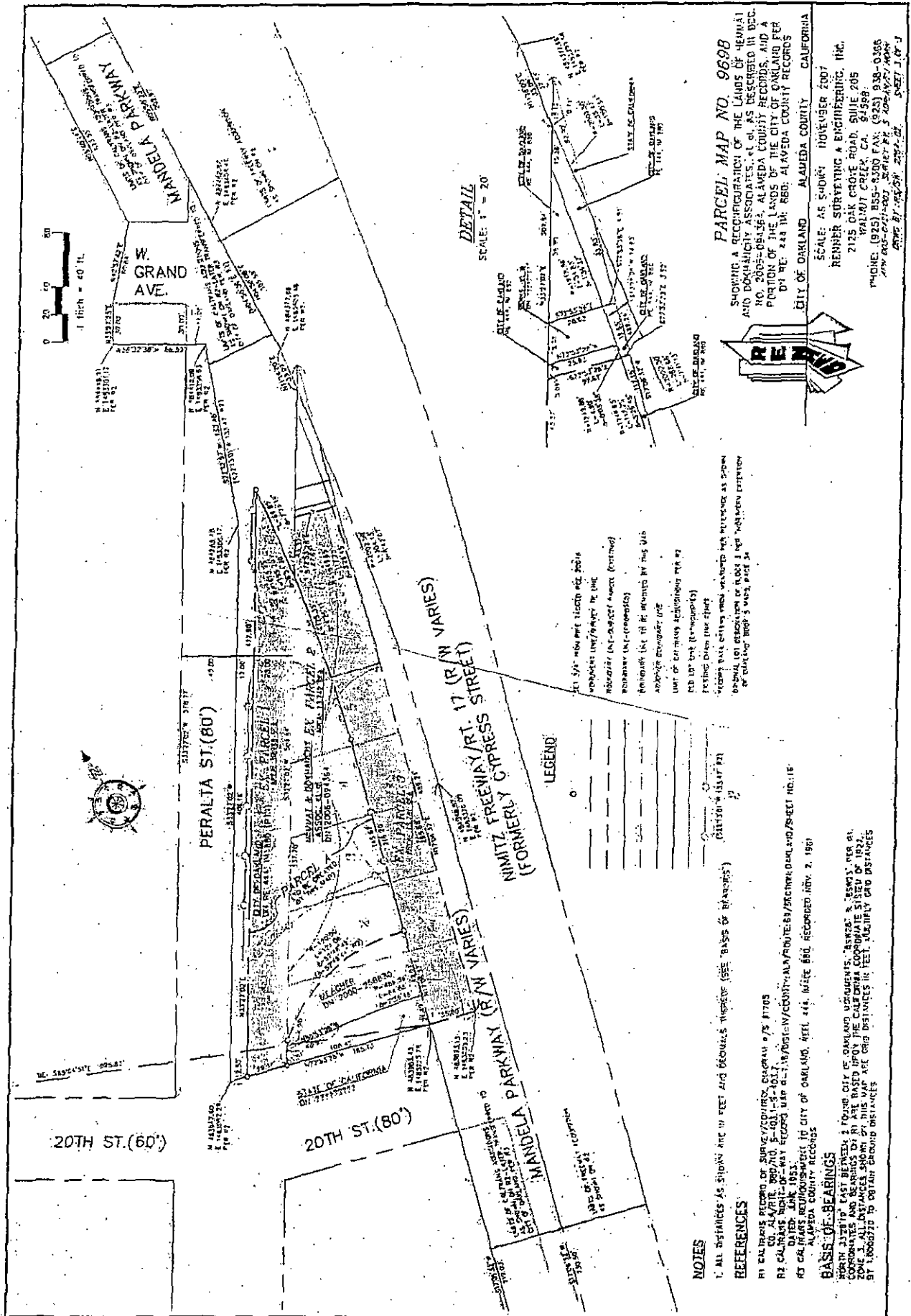
property boundary of parcel no. 005-0421-003-00, as described in a Grant Deed, recorded March 14, 2006, series no. 2006094365, by the Alameda County Clerk-Recorder

All those portions of lots 1, 2, 3, 4, 5, and 6 in Block 3, as said Lots and Block are shown on that certain Map entitled "Map Of Survey Of Northern Extension Of Oakland", filed November 6, 1867 in Book 5 of Maps, page 34, Alameda County records, described in the Grant Deed from Learner Investment Company to the State of California, recorded June 25, 1952, in Book 6762 of Official Records, page 503.

Excepting there from: all that portion thereof described in the Director's Deed from the State of California to Joseph D. Ballinger, a single man, recorded May 3, 1957, in Book 8355 of Official Records, page 597.

Also excepting there from: all that portion thereof as describe in the Director's Easement Deed from the State of California to Pacific Pipe Company, a California corporation, recorded June 30, 1958, in Book 8710 of Official Records, page 43.

EXHIBIT B



PARCEL MAP NO 9698
 SHOWING A RECONSTRUCTION OF THE LANDS OF HEMMAL
 AND DOKUMACHI ASSOCIATES, ET AL, AS DESCRIBED IN DEC.
 NO. 2005-08462, ALAMEDA COUNTY RECORDS, AND A
 PORTION OF THE LANDS OF THE CITY OF OAKLAND PER
 DT NO. 244 IN 880, ALAMEDA COUNTY RECORDS
 CITY OF OAKLAND ALAMEDA COUNTY CALIFORNIA

SCALE: AS SHOWN NOVEMBER 2007
 RENNERT SURVEYING & ENGINEERING, INC.
 2125 OAK GROVE ROAD, SUITE 205
 WALNUT CREEK, CA 94598
 PHONE: (925) 935-5100 FAX: (925) 935-5101
 WWW.RSE-CA.COM



DETAIL
 SCALE: 1" = 20'

0 20 40 80
 1 inch = 40 ft.



LEGEND

- 1. 1/4" - 1/8" line with tick marks and dots
- 2. Dashed line/arrow in the
- 3. Dotted line/arrow in the
- 4. Solid line/arrow in the
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NOTES

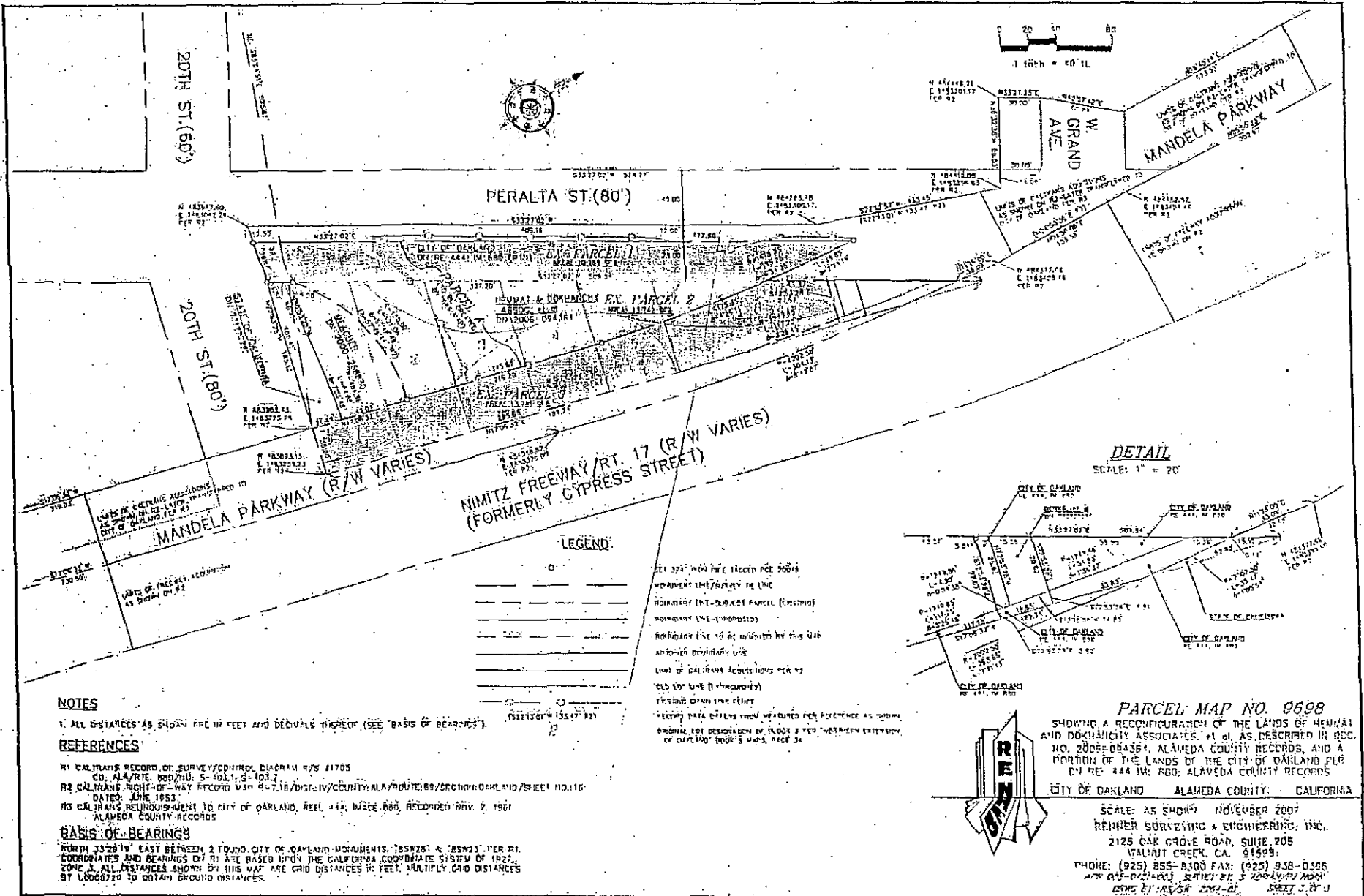
1. ALL DISTANCES AS SHOWN ARE IN FEET AND DECIMALS THEREOF (SEE BASIS OF BEARINGS)
2. 1961

REFERENCES

- R1 BUREAU RECORD OF SURVEY/CONTRACT NUMBER # 75 1703
- R2 CALIFORNIA RECORD NO. 5-601-55-011
- R3 CALIFORNIA RECORD NO. 2005-08462
- R4 CALIFORNIA RECORD NO. 2005-08462
- R5 CALIFORNIA RECORD NO. 2005-08462

BASIS OF BEARINGS

THE BEARINGS IN THIS MAP WERE OBTAINED FROM THE CALIFORNIA COORDINATE SYSTEM OF 1922. ALL DISTANCES SHOWN ARE GROUND DISTANCES IN FEET. TO OBTAIN GROUND DISTANCES BY INSTRUMENT TO OBTAIN GROUND DISTANCES

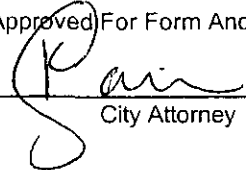


2008 MAR 27 AM 9:44

Introduced By

Approved For Form And Legality

Councilmember



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION SUMMARILY VACATING A PORTION OF THE PERALTA STREET RIGHT-OF-WAY BETWEEN THE INTERSECTIONS OF WEST GRAND AVENUE AND 20th STREET TO BRIAN COLLINS AND HEMMAT AND DOKHANCHY ASSOCIATES

WHEREAS, Brian Collins and Hemmat and Dokhanchy Associates are the owners of the fee simple interest of a triangular shaped lot which is bounded by the intersections of Mandela Parkway, Peralta Street, 20th Street, and West Grand Avenue, and which is described in a Grant Deed, recorded March 14, 2006, series no. 2006-094365, by the Alameda County Clerk-Recorder, and which is more particularly described in *Exhibit A* attached hereto, and which is further identified by the Alameda County Assessor as parcel number 005-0421-003-00; and

WHEREAS, said owners have filed an application (PPE 08054) with the City of Oakland, as required by the California Streets and Highways Code, and paid all fees for administrative processing, as required by the City of Oakland Master Fee Schedule, requesting that the Council of the City of Oakland vacate an unimproved portion of the Peralta Street right-of-way adjoining said parcel, without valuable consideration to the City; and

WHEREAS, said owners have filed a companion application with the City Engineer requesting that the City accept a quit claim, without valuable consideration to said owners, of the underlying fee simple interest in a portion of the Mandela Parkway right-of-way adjoining said parcel; and

WHEREAS, said vacation and quit claim have been proposed by said owners as an exchange of lands between said owners and the City which are equivalent in fair market value and in current and future rights to the record title; and

WHEREAS, the City Engineer has determined that said proposed quit claim of said portion of the Mandela Parkway right-of-way will not expand nor diminish the useful and usable surface area of said parcel for said owners and their representatives, heirs, successors, and assigns; and

WHEREAS, the City Engineer has further determined that said proposed vacation of the Peralta Street right-of-way will continue the exclusive occupancy of said land area by said owners, which has been the practice for many years of prior owners; and

WHEREAS, the City of Oakland previously acquired said property rights to said portion of the Peralta Street rights-of-way from a relinquishment by the California Department of Transportation of remnant portions of real properties, the air rights of which were previously occupied by the demolished section of Interstate Highway 880 (Nimitz Freeway) damage by the Loma Prieta

earthquake in 1989, which are described in a deed, recorded November 2, 1961, reel 444, image 880, by the Alameda County Recorder; and

WHEREAS, said proposed vacation of Peralta Street would continue the exclusive use by the owners of said parcel of the unimproved portion of public right-of-way, which has been enclosed by metal fencing for more than twenty (20) years; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the proposed remaining fifty-two (52) feet width of Peralta Street adjacent to said proposed vacated public right-of-way will exceed the minimum required width of forty (40) feet; and

WHEREAS, a recent and thorough research of record title documentation and a subsequent land survey by a qualified licensed surveyor re-establish the metes and bounds of said parcel, with permanent markers of said property corners and public right-of-way monuments installed in the field, and the metes and bounds of said Peralta Street right-of-way previously relinquished by Caltrans and said fenced and unimproved portion of Peralta Street; and

WHEREAS, said land survey further established that said proposed vacation of Peralta Street consists of approximately 10,985 square feet (orthogonal planer projection) of land area; and

WHEREAS, said land survey is delineated on Parcel Map No. 9698, attached hereto as *Exhibit B*, and the limits of said proposed vacation and proposed quit claim are delineated on *Exhibit C* attached hereto; and

WHEREAS, the City Engineer has further determined that said portion of Peralta Street proposed for vacation has been unimproved for pedestrian and public traffic and has been fully enclosed by an erected metal fence and has been wholly unmaintained by the City of Oakland for not less than five (5) years preceding the receipt of said petition for said vacation; and

WHEREAS, pursuant to California Streets and Highways Code section 8330 et seq., the City Engineer has further determined that the said portion of Peralta Street may be summarily vacated by Resolution of the Council of the City of Oakland, at the option of its elected members; and

WHEREAS, said vacation of Peralta Street will add said real property to the equalized roll of the general levy of property taxes and forever relieve the City of Oakland of the responsibility and potential liability for its maintenance; and be it

WHEREAS, pursuant to the California Streets and Highways Code, sections 8333, the legislative body of a local agency may summarily vacate public right-of-way when the right-of-way has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation and there are no public utility facilities within the right-of-way proposed for vacation; and

WHEREAS, pursuant to California Streets and Highways Code Section 892, a vacation of public right-of-way may not limit public use of or impede public access for non-motorized transportation; and

WHEREAS, the City Engineer has determined that no subsurface, surface, or above surface publicly maintained utilities are located within the portion of Peralta Street proposed for vacation or the portion of Mandela Parkway proposed for acquisition; and

WHEREAS, pursuant to said sections of the California Streets and Highways Code, the City Engineer has further determined the following:

- the proposed vacation will not limit public use or impede public access for non-motorized transportation; and
- the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
- the proposed vacation does not require a dedication of a public service easement for existing and future publicly maintained utilities; and that
- the proposed vacation does not require a dedication of a public service easement for access by emergency vehicles and personnel; and
- the unimproved right-of-way proposed for vacation has been impassable for vehicular and pedestrian traffic for more than five (5) of the preceding years, and no public money has been expended for maintenance during this period of time; and, therefore,
- said portion of the Peralta Street right-of-way may be vacated summarily by Resolution of the Council of the City of Oakland; and

WHEREAS, pursuant to California Government Code Section 65402, the Secretary of the Planning Commission of the City of Oakland has determined the proposed vacation conforms with the adopted General Plan of the City of Oakland; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities) this project is categorically exempted; now, therefore, be it

RESOLVED: That the Council of the City of Oakland hereby finds that said portion of the Peralta Street right-of-way proposed for vacation is surplus to the needs of the City of Oakland and not required for any current or future public purpose; and be it

FURTHER RESOLVED: That the summary vacation, without valuable consideration to the City of Oakland, of said portion of the Peralta Street right-of-way, as described and delineated in the attached *Exhibits B and C*, is hereby ordered; and be it

FURTHER RESOLVED: That said vacation is hereby conditioned on the acquisition by the City of Oakland, without valuable consideration, from the owners of parcel no. 005-0421-003-00 of said portion of the Mandela Parkway right-of-way, through an instrument acceptable to the City Attorney of the City of Oakland; and be it

FURTHER RESOLVED: That said vacation is hereby further conditioned by the following special requirements:

1. the Permittee, by the acceptance of this vacation, agrees and promises to defend, hold harmless, and indemnify the City of Oakland and its officials, officers, employees, agents, representatives, and volunteers from any and all claim, demand, lawsuit and judgment for damages of any kind and nature whatsoever arising out said vacation and regardless of responsibility for negligence; and
2. the Permittee acknowledges that the City of Oakland makes no representations or warranties as to the conditions beneath the public right-of-way area; and that by accepting this vacation, the Permittee agrees that it will use the area in the future at its own risk; and
3. the Permittee acknowledges that the City of Oakland is unaware of the existence of any hazardous substances beneath the public right-of-way area and hereby waives and fully releases and forever discharges the City of Oakland and its officers, directors, employees, agents, and volunteers from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition, or required remediation of the public right-of-way area or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401-1450), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substance Control Act (15 U.S.C. Sections 2601-2629), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.); and
4. the Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR; and
5. the Permittee recognizes that by waiving the provisions of Civil Code Section 1542, it will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to accept this vacation, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland; and be it

FURTHER RESOLVED: That the conditions of this Resolution shall equally bind the representatives of the owner and its heirs, successors, assigns, beneficiaries, and successors in interest.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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

EXHIBIT A

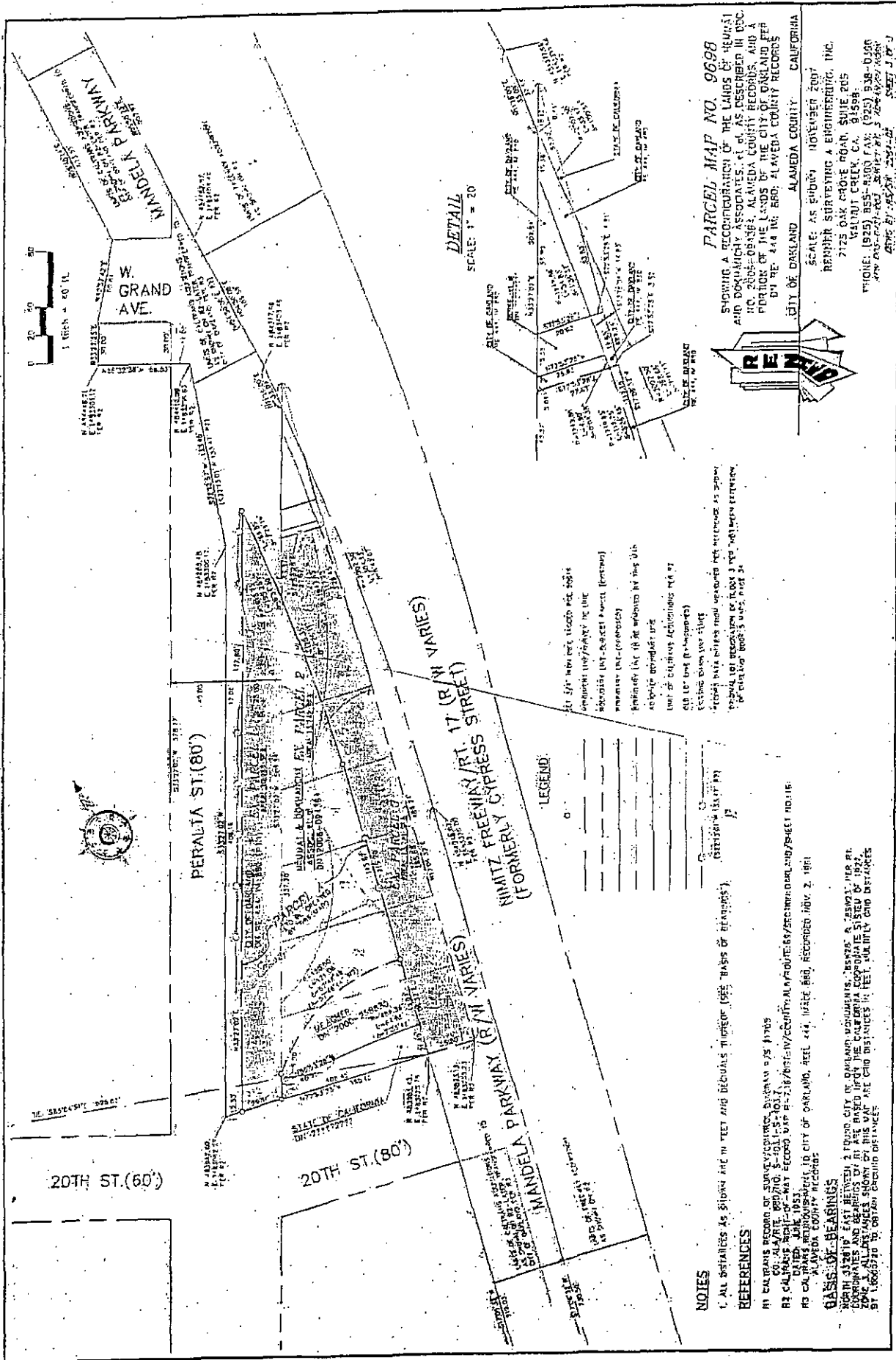
property boundary of parcel no. 005-0421-003-00, as described in a Grant Deed, recorded March 14, 2006, series no. 2006094365, by the Alameda County Clerk-Recorder

All those portions of lots 1, 2, 3, 4, 5, and 6 in Block 3, as said Lots and Block are shown on that certain Map entitled "Map Of Survey Of Northern Extension Of Oakland", filed November 6, 1867 in Book 5 of Maps, page 34, Alameda County records, described in the Grant Deed from Learner Investment Company to the State of California, recorded June 25, 1952, in Book 6762 of Official Records, page 503.

Excepting there from: all that portion thereof described in the Director's Deed from the State of California to Joseph D. Ballinger, a single man, recorded May 3, 1957, in Book 8355 of Official Records, page 597.

Also excepting there from: all that portion thereof as describe in the Director's Easement Deed from the State of California to Pacific Pipe Company, a California corporation, recorded June 30, 1958, in Book 8710 of Official Records, page 43.

EXHIBIT B



PARCEL MAP NO. 9698

SHOWING A RECONFIGURATION OF THE LANDS OF HERMAN AND DOMINIQUE ASSOCIATES, ET AL, AS DESCRIBED IN DEC. NO. 2805-08-082, ALAMEDA COUNTY RECORDS, AND A PORTION OF THE LANDS OF THE CITY OF OAKLAND PER PD# 448 16; 860; ALAMEDA COUNTY RECORDS

CITY OF OAKLAND ALAMEDA COUNTY CALIFORNIA

SCALE: AS SHOWN NOVEMBER 2007

REMPER SHIPSTEYING & ENGINEERING, INC.

7125 OAK MOORE ROAD, SUITE 205

BALDWIN CITY, CA. 94598

PHONE: (925) 955-5300 FAX: (925) 938-0320

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DATE: 11/20/07 SHEET 1 OF 3

NOTES

1. ALL DISTANCES ARE SHOWN IN FEET AND DECIMALS THEREOF (0.05' BASIS OF MEASUREMENT).

REFERENCES

R1 CALIFORNIA RECORD OF SURVEYS/COUNTY RECORDS/BOOK 075 1785

R2 CALIFORNIA RECORD OF SURVEYS/COUNTY RECORDS/BOOK 075 1785

R3 CALIFORNIA RECORD OF SURVEYS/COUNTY RECORDS/BOOK 075 1785

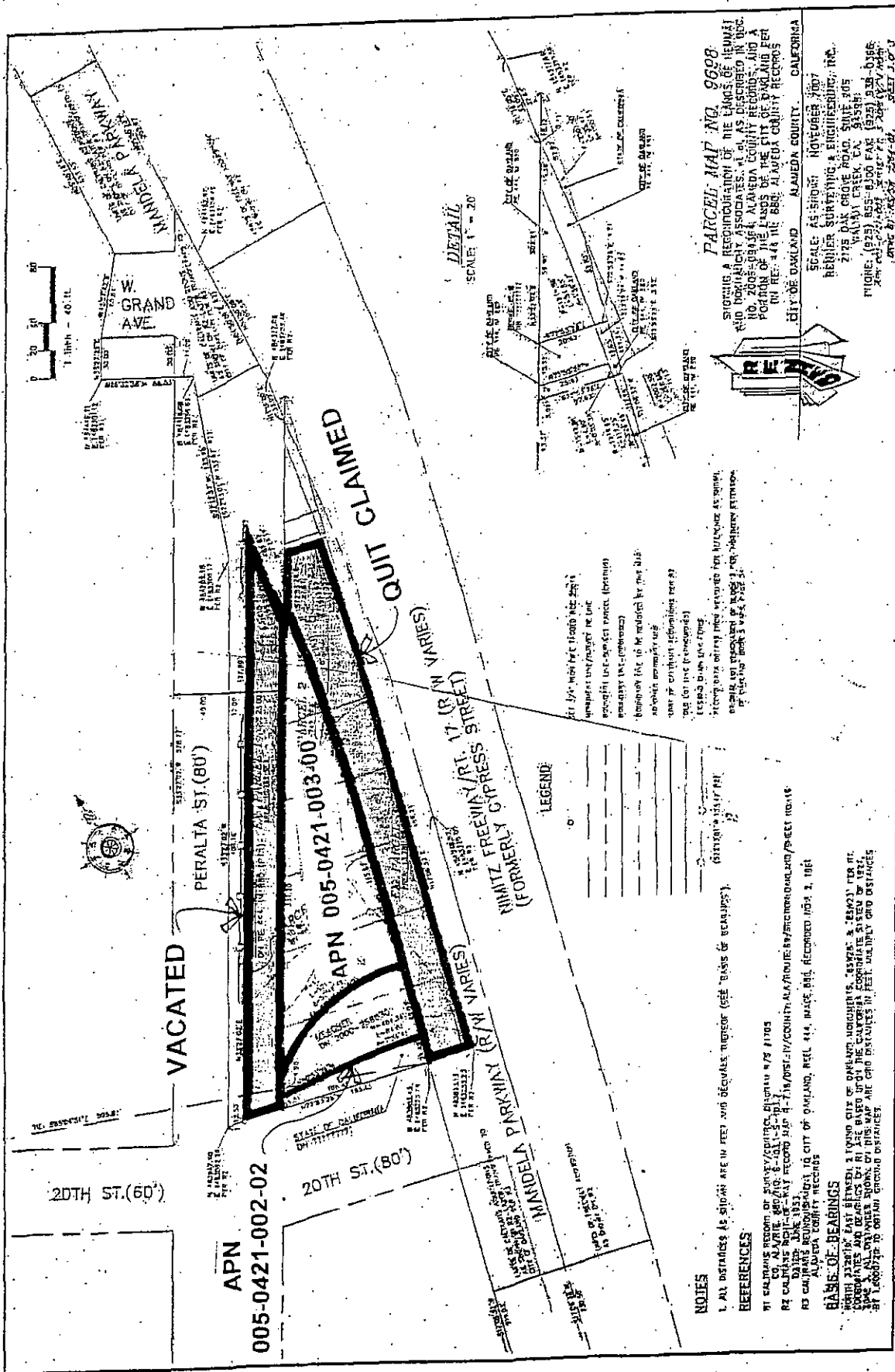
R4 CALIFORNIA RECORD OF SURVEYS/COUNTY RECORDS/BOOK 075 1785

R5 CALIFORNIA RECORD OF SURVEYS/COUNTY RECORDS/BOOK 075 1785

BASES OF BEARINGS

NORTH 31°28'10" EAST BETWEEN 2 FOUND. CITY OF OAKLAND MONUMENTS, BEARS A BEARING OF 285°02' PER RT. COORDINATES AND BEARINGS BY RT. ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM OF 1922. ALL DISTANCES AND BEARINGS ARE THE TRUE DISTANCES IN FEET, POLYLINE AND BEARINGS BY 1983/2011 IN OAKLAND COUNTY RECORDS.

EXHIBIT C



PARCEL MAP NO. 9698
 SHOWING A RECONCILIATION OF THE LANDS OF HEWITT AND HORNBACH ASSOCIATES, L.P., AS DESCRIBED IN DOC. NO. 2005-09354, ALAMEDA COUNTY RECORDS, AND A PORTION OF THE LANDS OF THE CITY OF OAKLAND PER THE REC. # 48 THE 880, ALAMEDA COUNTY RECORDS
 CITY OF OAKLAND ALAMEDA COUNTY, CALIFORNIA



SCALE: AS SHOWN NOVEMBER 2007
 REPPER SURVEYING & ENGINEERING, INC.
 2716 OAK GROVE ROAD, SUITE 305
 FOLSOM, CALIFORNIA 95630
 PHONE: (925) 885-8100 FAX: (925) 885-8101
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LEGEND:
 --- (Symbol) ---
 --- (Symbol) ---
 --- (Symbol) ---
 --- (Symbol) ---

NOTES
 1. ALL DISTANCES AS SHOWN ARE IN FEET AND DECIMALS THEREOF (SEE BASIS OF BEARINGS).
REFERENCES
 1) CALIFORNIA RECORD OF SURVEYS/COASTS, SHOWN IN 7/3 1705
 CO. ALABAMA, 6/21/10, 8-11-15-11-11
 RE CALIFORNIA RECORD OF SURVEYS/COASTS, SHOWN IN 4-7/3/05-11/3/05-11/3/05
 RE CALIFORNIA RECORD OF SURVEYS/COASTS, SHOWN IN 10-11/3/05-11/3/05
 ALAMEDA COUNTY RECORDS

BASIS OF BEARINGS
 NORTH POINTS: EAST BETWEEN 2 LINDEN HOLLOWERS IS. 282787.8 & 282801.7 PER RE. 2005-09354 AND WEST HORN BACH ASSOCIATES L.P. AS DESCRIBED IN DOC. NO. 2005-09354. ALL OTHER BEARINGS ARE OBTAINED BY DISTANCES AND BEARINGS TO OBTAIN GROUND DISTANCES.

NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR WITHOUT RETURNING TO COUNCIL TO ACQUIRE THE UNDERLYING FEE SIMPLE INTEREST OF A PORTION OF THE MANDELA PARKWAY RIGHT-OF-WAY BY AN EQUIVALENT EXCHANGE WITHOUT COMPENSATION OF A PORTION OF THE PERALTA STREET RIGHT-OF-WAY NEAR THE INTERSECTIONS OF WEST GRAND AVENUE AND 20th STREET BETWEEN THE CITY AND HEMMAT AND DOKHANCHY ASSOCIATES AND BRIAN COLLINS

This ordinance would relinquish the City's ownership of approximately 11,000 square feet of the Peralta Street right-of-way without compensation to the owners of the adjoining parcel in exchange for the City acquiring ownership without compensation of approximately 14,000 square feet of the adjoining Mandela Parkway right-of-way. The Peralta Street vacation will add a quarter (0.25) of an acre of land to the Alameda County tax roll (general levy), and the Mandela Parkway acquisition will not increase the cost to the City of maintaining the existing roadway.