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OFFICE OF THE CITY CLERK
OAKLAND

2014 NOV 20 PM 2:51

AGENDA REPORT

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Sale of Parcel A on Tunnel Road next
to 2245 Tunnel Road

DATE: November 10, 2014

City Administrator
Approval

Date

11-20-14

COUNCIL DISTRICT: 1

RECOMMENDATION

Staff recommends that the City Council adopt:

An Ordinance Authorizing The City Administrator To Negotiate And Execute A Purchase And Sale Agreement For The Sale Of A City- Owned Surplus Vacant Lot APN: 048H-7520-066 Located On The West Side Of Tunnel Road Next To 2245 Tunnel Road To Zafer Yasa For Two Hundred Thousand Dollars (\$200,000) And Authorizing The City Administrator To Enter Into A Purchase And Sales Agreement For This Sale.

EXECUTIVE SUMMARY

Staff is requesting the approval of the City Council for the sale of a City-owned surplus vacant lot (APN: 048H-7520-066) located on the west side of Tunnel Road next to 2245 Tunnel Road, within the City of Oakland. The subject property is shown as Parcel A on the attached Parcel Map No. 8045 ("Property"), filed on August 6, 2010, in Book 315, of Parcel Maps, Official Records of Alameda County Records, a copy of which is attached to the Ordinance. The proposed sale would be to Zafer Yasa ("Purchaser") for the purchase price of two hundred thousand dollars (\$200,000).

The Property consists of about 13,975 square feet of vacant land on the down slope side of Tunnel Road next to the residence at 2245 Tunnel Road. The Property's general plan classification is Hillside Residential and the Property is zoned RH-3, S-10, and S-11, consistent with the area's current residential uses.

The Real Estate Division contacted all affected public agencies to determine whether the Property is needed for public purposes and no agency expressed any interest in retaining the Property.

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Staff's market analysis established the Property's value at \$200,000. The Real Estate Division actively marketed the sale of the Property for \$200,000 on the City's website and LoopNet (internet listing site). In response, Purchaser delivered a signed Purchase and Sales Agreement ("Purchase Agreement") dated October 23, 2014 to the City for the purchase price of the Property for \$200,000.

The terms and conditions of the Purchase Agreement include:

1. Purchase Price: Purchaser will pay \$200,000 (all cash).
2. Down payment: \$20,000 will be deposited into escrow when the signed Purchase Agreement from Purchaser is delivered to the City.
3. Balance of the Purchase Price: \$180,000 from Purchaser will be deposited into escrow within 14 days after the City signs the Purchase Agreement.
4. Close of Escrow: The escrow for the sale of the Property will close and the transaction will be completed within 45 days after the City signs the Purchase Agreement.
5. Closing Cost: Purchaser will be required to pay all closing costs, including the escrow fees, recording fees, and other related expenses.

Staff recommends adoption of the Ordinance authorizing the City Administrator to enter into the Purchase Agreement with the Purchaser and to complete the sale of the Property for the purchase price of \$200,000.

OUTCOME

Council is requested to adopt the Ordinance authorizing the City Administrator to execute a Purchase Agreement with the Purchaser and to complete the sale of the Property for the purchase price of \$200,000.

BACKGROUND/LEGISLATIVE HISTORY

The Oakland City Resolution No. 80597 C.M.S. ("Resolution"), dated June 5, 2007, authorized and directed the City Attorney to settle the case of Silveira v. City of Oakland in the amount of \$2,000,000 ("Settlement Proceeds"). In this case, the Silveiras claimed that the City sometime in or about the Spring of 1998 constructed a drainpipe across the Silveira's property ("Settlement Property") on Tunnel Road without the Silveira's consent. The Settlement Property includes the Property.

In accordance with the Resolution, the Silveiras and the City entered into a Settlement Agreement and Mutual General Release ("Settlement Agreement"), as of April 3, 2007, requiring the City to pay the Settlement Proceeds (\$2,000,000) to the Silveiras. Part of the

Settlement Proceeds was applied to the purchase of the Settlement Property. The Settlement Property (originally designated as APN: 048H-7520-007-04) was then subdivided into four separate parcels, including the Property (Parcel A) and Parcels B, C, and D.

The Geotechnical Feasibility Study, City Owned Property, between 2245 and 2333 Tunnel Road, Oakland, California, dated May 27, 2010, Project No. 401627001 ("Report") from Ninyo and Moore, Geotechnical and Environmental Sciences Consultant concludes "Based on the results of our feasibility study, it is our preliminary opinion that residential development of the site is feasible from geotechnical perspective." The Report recommends that "Prior to detailed planning, design, or construction, a detailed geotechnical evaluation should be performed at the site, including subsurface exploration and laboratory testing. The purpose of the detailed geotechnical evaluation will be to develop site-specific data regarding the subsurface soil and geologic condition on site and to prepare earthwork and foundation recommendations for the project."

ANALYSIS

The analysis is to determine whether the City should sell the Property. The City should sell the Property for the following reasons:

1. The sale of the Property will generate \$200,000 in revenue to the City.
2. The sale of the Property will return the Property to tax rolls and generate additional property taxes to the City.
3. The Sale of the Property will eliminate the City's services for maintenance and fire protection.

COORDINATION

There has been extensive internal and external coordination with the Oakland Public Works Department, the Office of the City Attorney, and the Budget Office, which have reviewed this report and the proposed Ordinance.

COST SUMMARY/IMPLICATIONS

The City will not incur any cost from the sale of the Property and no City subsidies will be involved in the sale of the Property.

If the Property is sold and the Property is placed on the property tax roll, the City will receive its share of the future property taxes and will save on the ongoing maintenance costs associated with

the maintenance and upkeep of the Property.

The cash proceeds of \$200,000 from the sale of the Property will be deposited in General Purpose Fund (1010), Real Estate Services Organization (88639), Sale of Land (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32).

SUSTAINABLE OPPORTUNITIES

Economic: The sale of this Property will take an underutilized site and produce increased tax revenue for the City and eliminate any responsibility for the City to maintain the Property.

Environmental: Private ownership of the Property will relieve the City of ongoing issues of weed abatement and fire suppression.

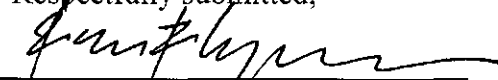
Social Equity: This proposed action does not provide any social equity benefits. No social equity issues have been identified.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Patrick Lane, Interim Manager, Project Implementation at 510-238-7362.

Respectfully submitted,



Rachel Flynn, Acting Director
Economic and Workforce Development
Department

Reviewed by:
Patrick Lane, Interim Manager, Project Implementation
James Golde, Manager, Real Estate Services

Prepared by:
Edwin Kawamoto, Real Estate Agent
Real Estate Services Division

Item: _____
CED Committee
December 2, 2014

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Approved as to Form and Legality

Kiran Jain
CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C. M. S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT FOR THE SALE OF A CITY- OWNED SURPLUS VACANT LOT APN: 048H-7520-066 LOCATED ON THE WEST SIDE OF TUNNEL ROAD NEXT TO 2245 TUNNEL ROAD TO ZAFER YASA FOR TWO HUNDRED THOUSAND DOLLARS (\$200,000) AND AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PURCHASE AND SALES AGREEMENT FOR THIS SALE.

WHEREAS, the City of Oakland (“City”) owns a vacant down sloping lot consisting of about 13,975 square feet (APN: 048H-7520-020) located on the west side of Tunnel Road next to 2245 Tunnel Road shown as Parcel A on the attached Parcel Map No. 8045 (“Property”); and

WHEREAS, pursuant to Ordinance No. 11602 C.M.S., which established procedures for the sale of City owned surplus real property and pursuant to Ordinance No. 13185 which establishes the procedures for disposition of City-owned property for development, staff recommends adopting this Ordinance authorizing the City Administrator to enter into a Purchase and Sale agreement with Zafer Yasa or an affiliated entity approved by the City Administrator for the sale of the Property,

WHEREAS, the Property is to be sold in “AS-IS” condition and the City makes no representations regarding land use or other permitting issues that may affect the property; and

WHEREAS, market analysis establishes the Property’s estimated value at \$200,000; and

WHEREAS, the Real Estate Division communicated with all potentially affected public agencies to determine whether the Property is needed for public purposes, and no agency expressed any interest in retaining the Property; and

WHEREAS, the Property’s general plan classification is Hillside Residential and the Property is zoned RH-3, S-10, and S-11 consistent with the area’s current residential uses; and

WHEREAS, The Geotechnical Feasibility Study, City Owned Property, between 2245 and 2333 Tunnel Road, Oakland, California, dated May 27, 2010, Project No. 401627001 from Ninyo and Moore, Geotechnical and Environmental Sciences Consultant, concludes “Based on the results of our feasibility study, it is our preliminary opinion that residential development of the site is feasible from a geotechnical perspective.”

WHEREAS, after the Property is sold to Zafer Yasa, the City will receive property taxes and will save the cost of Property maintenance; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore

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

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. In compliance with Ordinance No. 11602 C.M.S., and Ordinance No. 13185 C.M.S the City Administrator and / or his designee is authorized negotiate and execute all documents and take other actions with necessary to sale of the Property to Zafer Yasa.

Section 3. The City Council finds and determines that the Property is not needed for any public purpose, is surplus to the needs of the City, and the City has met the requirements of the Government Code regarding the sale of surplus land. The sale of the Property to the Zafer Yasa is in the City's best interest resulting in returning the Property to the tax rolls, generating revenue for the General Fund and removing the Property from City's maintenance responsibility.

Section 4. The City Administrator, or his designee, is authorized to enter into the Purchase and Sale Agreement for the sales price of \$200,000 with Zafer Yasa, and to execute a Quitclaim Deed conveying the Property.

Section 5. The sales proceeds will be deposited into the General Purpose Fund (1010), Real Estate Services Organization (88639), Sale of Land (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32).

Section 6. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information in the staff report accompanying this Ordinance, that it can be seen with certainty that there is no possibility that the conveyance of the Property by the City to the Purchaser may have a significant effect on the environment, and therefore this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15312 (Surplus Government Property Sales) of the CEQA guidelines;

Section 7. The City Administrator, or his designee, shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration (California Fish and Game Code Section 711.4) for this action.

Section 8. The City Administrator and his or her designee are hereby authorized to negotiate and execute, amend, modify or extend all agreements, and to take any and all actions necessary, consistent with this Ordinance, to complete the sale of the Property.

Section 9. The Purchase and Sale Agreement and any other documents necessary for the sale of this property shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

Section 10. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 9. This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE

BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT
KERNIGHAN

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST. _____

LaTonda Simmons
City Clerk and Clerk of Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

BASIS OF BEARING

THE LINE BETWEEN THE TWO CITY OF OAKLAND MONUMENTS IN TUNNEL ROAD, 4NW118 & 4NW120 TAKEN AS N75°37'16"E, AS SHOWN ON "AMENDED MAP TRACT 4080", BOOK 123, PAGE 80

LEGEND

- ⊙ STANDARD CITY OF OAKLAND MONUMENT IN MONUMENT WELL
- (C) CALCULATION
- (D) DEED
- (4) MAP REFERENCE NUMBER
- R/W RIGHT OF WAY
- NEW BOUNDARY CREATED BY THIS MAP
- - - EXISTING BOUNDARY
- MONUMENT LINE / CENTER LINE PER REFERENCE #2 (SEE NOTE 2)
- 4 NW 118 CITY MONUMENT IDENTIFICATION (TYP)

REFERENCES

- 1) AMENDED MAP TRACT 4080 FILED FEBRUARY 3 1981 BOOK 123, PAGES 87-89 ALAMEDA COUNTY RECORDS
- 2) TRACT 5214 FILED MAY 11 1980 BOOK 180, PAGES 79,80, ALAMEDA COUNTY RECORDS
- 3) TRACT 5900 FILED DECEMBER 18 1990 BOOK 195 PAGES 20,21 ALAMEDA COUNTY RECORDS
- 4) TRACT MAP 6606 FILED AUGUST 18, 1994 BOOK 214 PAGES 15 23 ALAMEDA COUNTY RECORDS
- 5) GRAND DEED TO THE CITY OF OAKLAND RECORDED JULY 17 2007 OFFICIAL RECORDS SERIAL NO 20071261181

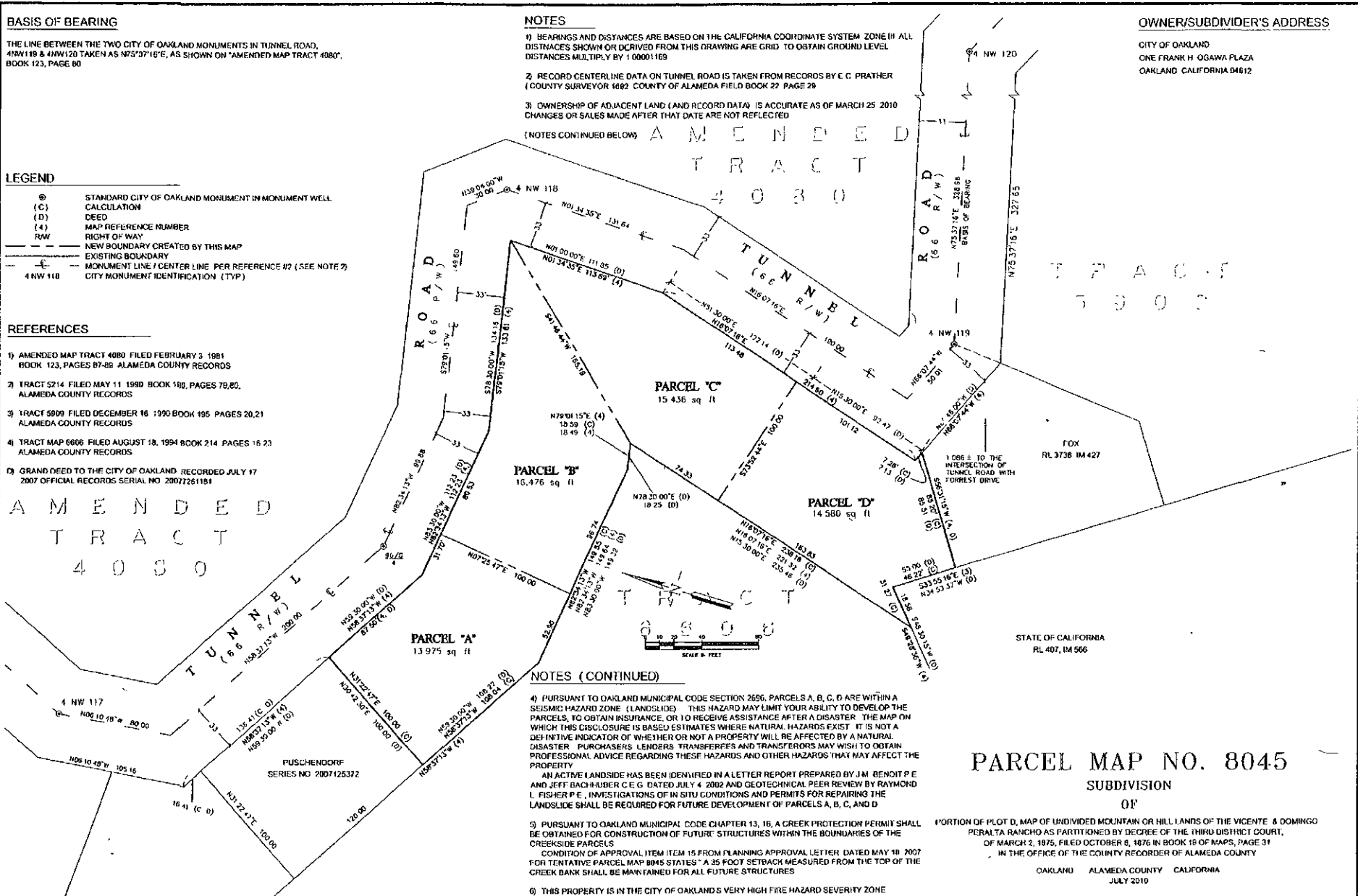
NOTES

- 1) BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE 11. ALL DISTANCES SHOWN OR DERIVED FROM THIS DRAWING ARE GRID TO OBTAIN GROUND LEVEL DISTANCES MULTIPLY BY 1.00001169
- 2) RECORD CENTERLINE DATA ON TUNNEL ROAD IS TAKEN FROM RECORDS BY E. C. PRATHER (COUNTY SURVEYOR 1682 COUNTY OF ALAMEDA FIELD BOOK 27 PAGE 29)
- 3) OWNERSHIP OF ADJACENT LAND (AND RECORD DATA) IS ACCURATE AS OF MARCH 25 2010 CHANGES OR SALES MADE AFTER THAT DATE ARE NOT REFLECTED

(NOTES CONTINUED BELOW)

OWNER/SUBDIVIDER'S ADDRESS

CITY OF OAKLAND
ONE FRANK H OGAWA PLAZA
OAKLAND CALIFORNIA 94612



AMENDED
TRACT
4030

AMENDED
TRACT
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TRACT
4030

NOTES (CONTINUED)

- 4) PURSUANT TO OAKLAND MUNICIPAL CODE SECTION 2696, PARCELS A, B, C, D ARE WITHIN A SEISMIC HAZARD ZONE (LANDSLIDE). THIS HAZARD MAY LIMIT YOUR ABILITY TO DEVELOP THE PARCELS, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER. THE MAP ON WHICH THIS DISCLOSURE IS BASED ESTIMATES WHERE NATURAL HAZARDS EXIST. IT IS NOT A DEFINITIVE INDICATOR OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. PURCHASERS, LENDERS, TRANSFEREES AND TRANSFERORS MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THESE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY. AN ACTIVE LANDSLIDE HAS BEEN IDENTIFIED IN A LETTER REPORT PREPARED BY J.M. BENOIT P.E. AND JEFF BACHMUBER C.E.G. DATED JULY 4 2002 AND GEOTECHNICAL PEER REVIEW BY RAYMOND L. FISHER P.E., INVESTIGATIONS OF IN SITU CONDITIONS AND PERMITS FOR REPAIRING THE LANDSLIDE SHALL BE REQUIRED FOR FUTURE DEVELOPMENT OF PARCELS A, B, C, AND D.
- 5) PURSUANT TO OAKLAND MUNICIPAL CODE CHAPTER 13, 16, A CREEK PROTECTION PERMIT SHALL BE OBTAINED FOR CONSTRUCTION OF FUTURE STRUCTURES WITHIN THE BOUNDARIES OF THE CREEKSIDE PARCELS. CONDITION OF APPROVAL ITEM 15 FROM PLANNING APPROVAL LETTER DATED MAY 18 2007 FOR TENTATIVE PARCEL MAP 8045 STATES "A 35 FOOT SETBACK MEASURED FROM THE TOP OF THE CREEK BANK SHALL BE MAINTAINED FOR ALL FUTURE STRUCTURES."
- 6) THIS PROPERTY IS IN THE CITY OF OAKLAND'S VERY HIGH FIRE HAZARD SEVERITY ZONE.

**PARCEL MAP NO. 8045
SUBDIVISION
OF**

PORTION OF PLOT D, MAP OF UNDIVIDED MOUNTAIN OR HILL LANDS OF THE VICENTE & DOMINGO PERALTA RANCHO AS PARTITIONED BY DECREE OF THE THIRD DISTRICT COURT, OF MARCH 2, 1876, FILED OCTOBER 6, 1876 IN BOOK 16 OF MAPS, PAGE 31 IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY

OAKLAND ALAMEDA COUNTY CALIFORNIA
JULY 2010

NOTICE AND DIGEST

An Ordinance Authorizing The City Administrator To Negotiate And Execute A Purchase And Sale Agreement For The Sale Of A City- Owned Surplus Vacant Lot APN: 048H-7520-066 Located On The West Side Of Tunnel Road Next To 2245 Tunnel Road To Zafer Yasa For Two Hundred Thousand Dollars (\$200,000) And Authorizing The City Administrator To Enter Into A Purchase And Sales Agreement For This Sale.

This Ordinance authorizes the City Administrator to negotiate and execute a Purchase and Sale Agreement for the sale of a City-owned surplus vacant lot APN: 048H-7520-066 located on the west side of Tunnel Road next to 2245 Tunnel Road to Zafer Yasa for two hundred thousand dollars (\$200,000).

The Property consists of about 13,975 square feet of vacant land on the down slope side of Tunnel Road next to the residence at 2245 Tunnel Road. The Property's general plan classification is Hillside Residential and the Property is zoned RH-3, S-10, and S-11, consistent with the area's current residential uses.