

CITY OF OAKLAND

2006 JUN -1 PM 12:48

Agenda Report

TO: Office of the City Administrator
ATTN: Deborah Edgerly, City Administrator
FROM: Community and Economic Development Agency
DATE: June 13, 2006

RE: **An Ordinance Amending Ordinance 12698 C.M.S. To Authorize The City Administrator To 1) Negotiate And Execute A Real Estate Exchange Agreement With Project 5110 LLC To Exchange 4,636 Square Feet Of City-Owned Surplus Properties At 51st Street And Telegraph Avenue For 3,114 Square Feet Of Property On An Adjacent Lot Owned By Project 5110 LLC Plus Cash For The Market Value Of Approximately 1,522 Square Feet Of Property, And Take All Other Actions Necessary To Effectuate The Exchange; 2) Negotiate And Execute An Agreement Designating A Public Walkway/Greenbelt On The Tentative Parcel Map 9074 For A Public Walkway; And 3) Negotiate And Execute A Maintenance Agreement For On-Going Maintenance Of The Walkway By Project 5110 LLC Or The Condominium Homeowners Association Or Designee.**

SUMMARY

An Ordinance has been prepared amending Ordinance No. 12698 C.M.S. authorizing the City Administrator to 1) negotiate and execute a real estate exchange agreement with Project 5110 LLC (Developer) to exchange 4,636 square feet of City-owned surplus properties (as identified by site location in Exhibit "A" and an approximate portion of the parcels in Exhibit "B") at 51st Street and Telegraph Avenue for 3,114 square feet of property on an adjacent lot owned by Project 5110 LLC plus cash for the fair market value of approximately 1,522 square feet of property; 2) negotiate and execute an agreement designating a Public Walkway/Greenbelt, (as identified by site location in Exhibit "C") on the tentative proposed Parcel Map 9074 for a public walkway; and 3) negotiate and execute a maintenance agreement for on-going maintenance of the Public Walkway/Greenbelt by Project 5110 LLC or the Condominium Homeowners Association or designee.

The Real Estate Division has renewed its efforts to generate additional revenue, promote development and reduce the City's maintenance expenses through the proactive identification and disposal of surplus property. The City-owned property located at 51st and Telegraph has been declared surplus property and available for disposal.

Staff initiated discussions with the adjoining property owner, Project 5110 LLC for the purchase of City-owned surplus properties in the beginning of 2005. A survey was completed which determined that the rectangular shaped surplus properties contain approximately 4,636 square

Item #: _____

Finance and Management Committee

June 13, 2006

feet. The Developer has proposed to develop the site by creating a mixed-use project consisting of 67 units of residential condominiums and 2,900 square feet of retail space at the corner of 51st and Telegraph. The proposed project has received approval from the Planning Commission and City Council. The sale of the parcels was authorized in July 2005 by City Council Ordinance No. 12698 C.M.S. Subsequently, the Developer applied for a major conditional use permit and certain variances which were approved with conditions by the Planning Commission. As part of the agreement and conditions of the approval, Project 5110 LLC will pay the City \$80,660 plus an improved area of 3,114 square feet located within the project area to be used as public access, walkway, and greenbelt area to be maintained by the homeowners association of the upcoming project. The City and the Developer negotiated an agreement to exchange the City-owned surplus properties for developer-owned land to be improved as a greenbelt area plus the fair market value for 1,522 square feet, the difference in value of the exchanged properties and to enter into a maintenance agreement for the permanent upkeep of the Public Walkway/Greenbelt.

Staff recommends adoption of the Ordinance authorizing the City of Oakland to 1) negotiate and execute a real estate exchange agreement with Project 5110 LLC to exchange 4,636 square feet of City owned surplus properties at 51st Street and Telegraph Avenue for 3,114 square feet of property on an adjacent lot owned by Project 5110 LLC, plus cash for the fair market value of approximately 1,522 square feet of property; 2) negotiate and execute an agreement designating a Public Walkway/Greenbelt on the Tentative Parcel Map 9074 for a public walkway; and 3) negotiate and execute a maintenance agreement for on-going maintenance of the walkway by Project 5110 LLC or the Condominium Homeowners Association or designee.

Adoption of this Ordinance satisfies Mayor and City Council Priority goals to develop a sustainable City and improve Oakland neighborhoods.

FISCAL IMPACT

Cash proceeds of \$80,660 shall be deposited in General Purpose Fund (1010), Real Estate Services Organization (88639), Sale of Land Account (48111), Real Estate Surplus Property Disposition Project (P47010), Real Estate Program (PS32). Of this total, \$1,889 will be appropriated to the General Purpose Fund (1010), Real Estate Services Organization (88639), Miscellaneous Operating Expenditures Account (52921), Real Estate Surplus Property Disposition Project (P47010), Real Estate Program (PS32) for administrative costs associated with the sale of the properties. The balance of the sale proceeds, \$78,771, will be placed in the operating reserve of General Purpose Fund (1010), Real Estate Surplus Property Disposition Project (P47010).

In addition, the City will receive its share of the future property taxes once the property is returned to the property tax rolls and will save the ongoing maintenance costs associated with the up keep of the City property and the exchanged greenbelt as well. The purchaser will be responsible for all escrow and closing costs. The exchange agreement will allow the Developer to complete site acquisition needed for development of the project which in turn create a substantial future property tax revenue source for the City.

Item #: _____

Finance and Management Committee
June 13, 2006

BACKGROUND

The remainder of the vacant City-owned parcels forms a narrow rectangular shaped property containing approximately 4,636 square feet with frontage along the northerly section of 51st Street. The Properties at the subject location are the remaining parcels (portions of assessor parcel number (s): 014-1226-008-00, 014-1226-009-01, 014-1226-007-02, 014-1226-006-02, 014-1226-005-02, 014-1226-004-03, 014-1226-003-03) that were acquired for a City street widening project at 51st Street and Telegraph Avenue within the Temescal District. The surplus area was offered to other City Agencies and outside public agencies in accordance with State Surplus Disposition Code and guidelines prior to reaching an agreement to sell to the adjacent property owner. The Buyer, 5110 Telegraph LLC., represents a local development team which owns several other parcels at the subject location and is incorporating the subject properties to initiate a mixed use housing and retail project in the area. The City's Real Estate Division completed an appraisal and made a determination of fair market value of \$246,000 for the properties.

In the past ten years the Temescal Area has been undergoing a positive neighborhood revitalization process. New retailers such as Walgreens, new cafés and restaurants have moved into the area. The combined parcel development site is visually significant, anchoring a high volume intersection and a "Gateway" entrance to North Oakland. The corner lot is also a convergence point for traffic from Berkeley, Oakland and Piedmont. The proposed project has been approved by the Planning Commission and the City Council. The Developer expects that the corner lot will be developed into a high density mixed use building, with ground floor retail at the corner of 51st and Telegraph and residential units above. Additional residences of differing sizes, types and densities will be constructed on a parking podium to the east of this building, with residential density declining closer to Clarke St.

Previously, in July 2005, Ordinance No.12698 C.M.S. was approved by the Council to allow the sale of the surplus property to the Developer, however the disposition was not completed since the proposed project was changed. The scope and density of the development was challenged by several neighborhood groups and eventually the Developer, City and neighborhood groups reached an agreement to move ahead with the project subject to several conditions. To satisfy one of the conditions, the Developer has agreed to incorporate a public walkway along the northwest boundary of the site (i.e., the extension of Rockridge Temescal Greenbelt), to allow better access to Frog Park in the area. The Public Walkway/Greenbelt shall be deeded to the City as a part of the sale and exchange for the surplus properties the City has already agreed to sell to the Developer. Since the public walkway area is 3,114 square feet and City-owned properties are 4,636 square feet, there is difference of 1,522 square feet in the favor of the City. The fair market value at \$53.00 per square foot, for a total of \$80,600, will be covered by a cash payment from the Developer to the City. There are no City subsidies involved in the sale of the surplus remainder of the noted parcels.

Item #: _____

Finance and Management Committee
June 13, 2006

The project drawings submitted to the City for the building permits will include improvement details for the Public Walkway/Greenbelt. The Developer will enter into an agreement with the City subject to review and approval by the Director of Development regarding the permanent ongoing maintenance responsibilities and obligation of the Public Walkway/Greenbelt by the homeowners association of the subject project. The Maintenance Agreement must be executed before the City conveys the Properties to the Developer.

KEY ISSUES AND IMPACTS

The surplus properties presently place a burden on the City because of maintenance and liability concerns. Selling these properties will maximize the City's economic and non-economic returns by returning the property to the property tax rolls, eliminating the ongoing maintenance, reducing future litigation exposure, enhancing an important project, and generating additional property tax revenue to the City.

SUSTAINABLE OPPORTUNITIES

Economic: The sale of these properties will dispose of an underutilized and vacant site, enhance the site assembly of an important project and produce increased tax revenue for the City.

Environmental: Private ownership of the properties will relieve City of ongoing abatement issues for weed abatement and fire suppression. This location has proximity to major public transportation nodes and may encourage use of BART and AC Transit, which will ease general pressure on the regions congested transportation infrastructure. The Public Walkway/Greenbelt will add parkland to existing public park areas in the City.

Social Equity: The sale of the properties will provide additional housing and retail in the Temescal Area and create an opportunity for citizens to participate in owning or renting real estate in the City of Oakland and assist in promoting real estate activity in the area, which is consistent with the environmental and recreational goals of the City.

DISABILITIES AND SENIOR CITIZEN ACCESS

Adoption of this Ordinance will have no direct impact on disabled and senior citizen access. However, any public improvements that may be required will provide appropriate access for disabled citizens and senior citizens. Public Works Agency plans to install a bus stop in front of the completed project to allow better access to public transportation.

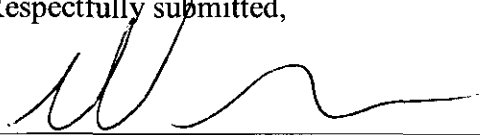
RECOMMENDATION AND RATIONALE

Staff recommends that the City Council approve the Ordinance authorizing the City Administrator to 1) negotiate and execute a real estate exchange agreement with Project 5110 LLC to exchange 4,636 square feet of City-owned surplus properties at 51st Street and Telegraph Avenue for 3,114 square feet of property on an adjacent lot owned by Project 5110 LLC plus cash for the fair market value of approximately 1,522 square feet of property; 2) negotiate and execute an agreement designating Public Walkway/Greenbelt on the Tentative Parcel Map 9074 for a public walkway; and 3) negotiate and execute a maintenance agreement for on-going maintenance of the walkway by Project 5110 LLC, or the Condominium Homeowners Association or designee.

ACTION REQUESTED OF THE CITY COUNCIL

Adoption of the Ordinance authorizing the City Administrator to 1) negotiate and execute a real estate exchange agreement with Project 5110 LLC to exchange 4,636 square feet of City-owned surplus properties at 51st Street and Telegraph Avenue for 3,114 square feet of property on an adjacent lot owned by Project 5110 LLC plus cash for the fair market value of approximately 1,522 square feet of property; 2) negotiate and execute an agreement designating Public Walkway/Greenbelt), on the Tentative Parcel Map 9074 for a public walkway; and 3) negotiate and execute a maintenance agreement for on-going maintenance of the walkway by Project 5110 LLC Or the Condominium Homeowners Association or designee.

Respectfully submitted,



DANIEL VANDERPRIEM, Director,
Redevelopment, Economic Development and Housing
Community and Economic Development Agency

Forwarded by:

Frank Fanelli, Manager
Real Estate Services

Prepared by:

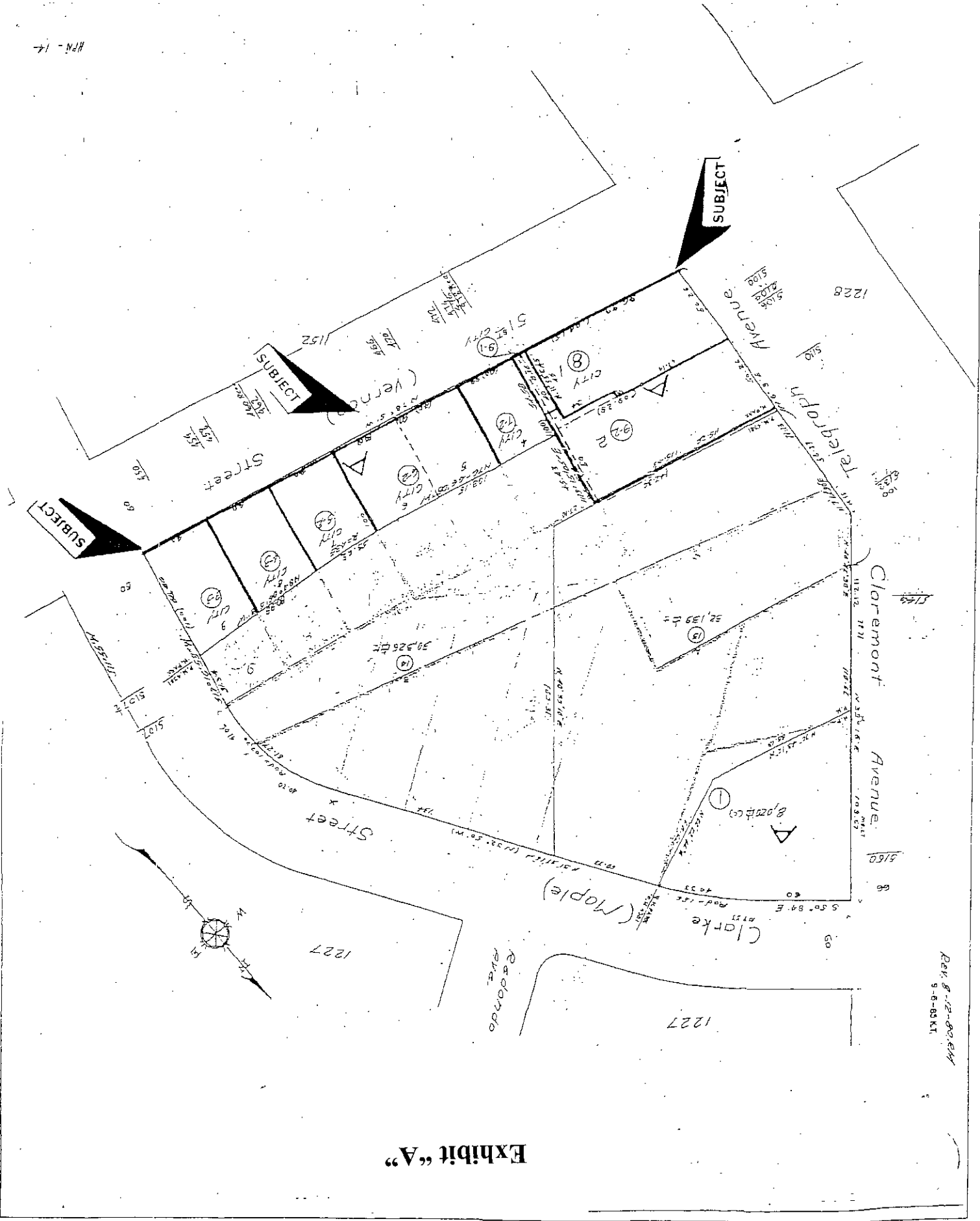
Hamid Ghaemmaghmi, Real Estate Agent

APPROVED FOR FORWARDING TO THE
FINANCE AND MANAGEMENT COMMITTEE


OFFICE OF THE CITY ADMINISTRATOR

Item #: _____
Finance and Management Committee
June 13, 2006

HPA-14



REV: 8-12-80, EHM
5-6-85 KT

Exhibit "A"

Exhibit "B"

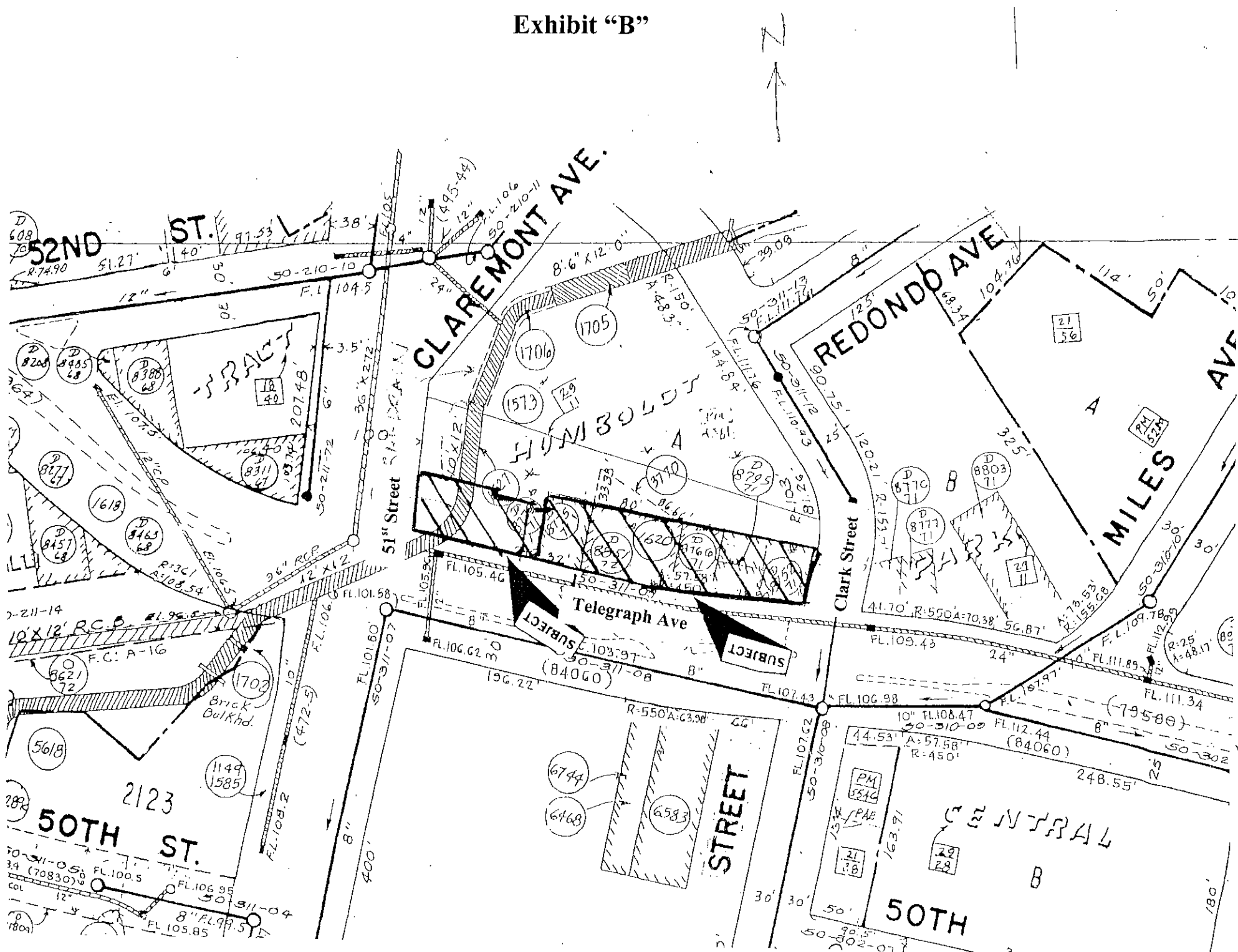


Exhibit "C"

**TENTATIVE
PARCEL MAP 9074**
OAKLAND ALAMEDA COUNTY CALIFORNIA
A TWO LOT SUBDIVISION FOR
ONE COMMERCIAL FEE AND
67 RESIDENTIAL CONDOMINIUM UNITS
PARCEL B OF PARCEL MAP NO. 4381 (154 M 3),
LOT 2, AND PORTIONS OF LOT 1 AND LOTS 4 - 9
BLOCK A, MAP OF HUMBOLDT PARK (16 M 20)
CITY OF OAKLAND, COUNTY OF ALAMEDA, CALIFORNIA
MAY, 2006 SCALE: 1" = 16'

MORAN ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

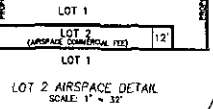
OWNER:
5110 TELEGRAPH, LLC
1514 FRANKLIN STREET, STE. 815
OAKLAND, CA 94612
(415) 515-6885

- LEGEND**
- ⊙ FOUND BRASS DISK MONUMENT PER (154 PM 3)
 - CONC. CONCRETE
 - D.I. DRAIN INLET
 - D/W DRIVEWAY
 - F.P. EDGE OF FAVEMENT
 - F.H. FIRE HYDRANT
 - F/L FLOW LINE
 - G.V. GAS VALVE
 - J.P. JOINT POLE
 - L.H. LAMP HOLE
 - M.H. MAN HOLE
 - OHW OVERHEAD WIRE
 - S.S. SANITARY SEWER
 - S/W SIDEWALK
 - S.D. STORM DRAIN
 - T.C. TOP OF CURB
 - T.S.B. TRAFFIC SIGNAL BOX
 - W.M. WATER METER
 - W.V. WATER VALVE

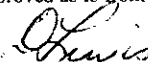
NOTES
GREENBELT SHALL BE OFFERED FOR DEDICATION IN FEE TO THE CITY OF OAKLAND CONDITIONED UPON OWNER OF GREENBELT AND CITY OF OAKLAND ENTERING INTO AN AGREEMENT UNDER WHICH OWNER SHALL CONVEY THE GREENBELT IN FEE TO THE CITY OF OAKLAND IN EXCHANGE FOR THE CITY CONVEYING IN FEE TO OWNER 4,800 SQUARE FEET OF CITY OWNED SURPLUS REAL PROPERTIES (PORTIONS OF ASSESSOR PARCEL NUMBER(S): 014-1226-008-00, 014-1226-009-01, 014-1226-007-02, 014-1226-006-02, 014-1226-005-02, 014-1226-004-03, 014-1226-003-03).

ABUTTER'S RIGHTS OF PEDESTRIAN OR VEHICULAR ACCESS TO 51ST STREET ACROSS CONTIGUOUS LAND OWNED BY THE CITY OF OAKLAND WERE REINDEMNIFIED IN THE DOCUMENT RECORDED MARCH 11, 1989 UNDER SERIES 80-043122.

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S77°00'00"W	1.0013	N10°00'00"E	2.9900	2.9900
L2	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L3	S78°00'00"W	3.0013	S10°00'00"E	3.0013	3.0013
L4	N10°00'00"E	3.0013	N70°00'00"W	3.0013	3.0013
L5	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L6	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L7	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L8	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L9	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L10	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L11	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L12	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L13	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L14	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L15	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L16	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L17	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L18	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L19	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L20	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L21	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L22	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L23	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L24	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L25	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L26	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L27	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L28	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L29	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L30	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L31	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L32	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L33	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L34	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L35	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L36	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L37	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L38	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L39	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L40	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L41	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L42	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L43	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L44	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L45	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L46	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L47	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L48	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L49	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L50	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L51	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L52	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L53	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L54	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L55	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L56	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L57	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L58	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L59	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L60	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L61	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L62	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L63	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L64	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L65	S77°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613
L66	N10°00'00"E	1.3213	N70°00'00"W	1.3213	1.3213
L67	S78°00'00"W	1.6613	N10°00'00"E	1.6613	1.6613



ELEVATIONS ARE BASED ON CITY OF OAKLAND DATUM.



Oakland City Attorney

2005 JUN -1 PM 12:48

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C. M. S.

AN ORDINANCE AMENDING ORDINANCE NO. 12698 C.M.S. TO AUTHORIZE THE CITY ADMINISTRATOR TO 1) NEGOTIATE AND EXECUTE A REAL ESTATE EXCHANGE AGREEMENT WITH PROJECT 5110 LLC TO EXCHANGE 4,636 SQUARE FEET OF CITY-OWNED SURPLUS PROPERTIES AT 51ST STREET AND TELEGRAPH AVENUE FOR 3,114 SQUARE FEET OF PROPERTY ON AN ADJACENT LOT OWNED BY PROJECT 5110 LLC, PLUS CASH FOR THE MARKET VALUE OF APPROXIMATELY 1,522 SQUARE FEET OF PROPERTY, AND TAKE ALL OTHER ACTIONS NECESSARY TO EFFECTUATE THE EXCHANGE; 2) NEGOTIATE AND EXECUTE AN AGREEMENT DESIGNATING A PUBLIC WALKWAY/GREENBELT AREA ON THE TENTATIVE PARCEL MAP 9074 FOR A PUBLIC WALKWAY; AND 3) NEGOTIATE AND EXECUTE A MAINTENANCE AGREEMENT FOR ON-GOING MAINTENANCE OF THE WALKWAY BY PROJECT 5110 LLC OR THE CONDOMINIUM HOMEOWNERS ASSOCIATION OR DESIGNEE

WHEREAS, the City of Oakland ("City") owns a 4,636 square foot, surplus parcel of land located at 51st Street and Telegraph Avenue, (Portions of Assessor Parcel Number(s): 014-1226-008-00, 014-1226-009-01, 014-1226-007-02, 014-1226-006-02, 014-1226-005-02, 014-1226-004-03, 014-1226-003-03) identified in Exhibits "A" and "B" attached hereto (the Properties); and

WHEREAS, the Properties are remnants of the City's 51st Street Widening Project which has been completed; and

WHEREAS, a survey and appraisal have been completed that indicated that the Properties contain approximately 4,636 square feet in area and have a fair market value of \$246,000; and

WHEREAS, the Properties, being less than 5,000 square feet, are exempt from the California Surplus Lands Act (California Government Code 54220-5432), but are subject to City Ordinance No. 11602 C.M.S., covering sales of surplus City-owned property, with which the City has complied; and

WHEREAS, in July 2005, by Ordinance No. 12698 C.M.S., the City Council authorized the sale of the Properties in an AS-IS condition to Project 5110 LLC (the "Developer") for inclusion in its proposed ground floor retail and 67-unit residential condominium, mixed-use project (the "Project"); and

WHEREAS, the Properties being more than 2,500 square feet were subject to Planning Commission zoning review, and to all other procedures required under City Ordinance No. 11602, C.M.S., for sale of City-owned properties; and

WHEREAS, both the City Planning Commission and the City Council have approved the proposed mixed-use Project subject to a number of conditions, including the construction of a public walkway through a section of the Project site currently owned by the Developer; and

WHEREAS, to comply with the condition requiring a public walkway, the Real Estate Division has reached a tentative agreement with the Developer to exchange 3,114 square feet of City property for an equal amount of Developer property where the walkway will be placed, and to sell an additional 1,522 square feet to the Developer for \$53 per square foot, the fair market value; and

WHEREAS, the Developer will enter into an agreement with the City regarding the construction and ongoing maintenance of the Public Walkway/Greenbelt by the Developer, homeowners association or designee acceptable to the City.

WHEREAS, on January 18, 2006, the Planning Commission independently reviewed, considered and determined that the Project is categorically exempt from the environmental review requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the CEQA Guidelines; now, therefore

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

SECTION 1. The City Council finds and determines that the herein-described Properties are not needed for any public purpose, are surplus to the needs of the City, the City is not required to put the properties out for competitive bidding, and the sale of the Properties to the adjoining or abutting owner is in the City's best interests.

SECTION 2. Ordinance No. 12698 C.M.S. is hereby amended to authorize an exchange and sale of the Properties to the Developer and to require that a public walkway be constructed by Developer on the property received by the City from Developer.

SECTION 3. The City Administrator, or her designee, is authorized to accept, negotiate, execute, modify and amend a Sale and Exchange Agreement, or other appropriate instrument, with Developer to dispose of the City-owned surplus properties and to accept Developer-owned, improved Public Walkway/Greenbelt property plus a sum of \$80,600, and to execute a Quitclaim Deed and any and all other documents necessary to effectuate the sale of the Property.

SECTION 4. After reimbursing Real Estate Services \$1,889 that will be placed into the City's General Purpose Fund 1010, Surplus Property Disposition Project (P47010) for administrative costs associated with the sale of the Properties for Surplus Property Program, the balance of the sale proceeds will be placed in the City's General Purpose Fund 1010, Surplus Property Disposition Project (P47010).

SECTION 5. Prior to conveyance of the City's Properties, the City and Developer will negotiate and execute a Maintenance Agreement that is reviewed and approved by the Director of Development and City Attorney's Office. The Agreement will require the Developer, the homeowners association or designee acceptable to the City to assume ongoing maintenance and associated cost responsibility for the Public Walkway/Greenbelt area.

SECTION 6: The City Administrator, or her designee, is hereby authorized to take any and all actions necessary, consistent with this Ordinance, to complete the sale and exchange of all of the Properties.

SECTION 7. The City Council independently finds and determines that the Project complies with CEQA, as the Project is categorically exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines, and the City Administrator is hereby directed to cause to be filed with the appropriate agencies, a Notice of Exemption.

SECTION 8. The Sale and Exchange Agreement, or other appropriate instrument, for the exchange and sale of the Properties 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 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, _____, 2006
PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
 LA TONDA SIMMONS
 City Clerk and Clerk of the Council
 of the City of Oakland, California

NOTICE AND DIGEST

AN ORDINANCE AMENDING ORDINANCE NO. 12698 C.M.S. TO AUTHORIZE THE CITY ADMINISTRATOR TO 1) NEGOTIATE AND EXECUTE A REAL ESTATE EXCHANGE AGREEMENT WITH PROJECT 5110 LLC TO EXCHANGE 4,636 SQUARE FEET OF CITY-OWNED SURPLUS PROPERTIES AT 51ST STREET AND TELEGRAPH AVENUE FOR 3,114 SQUARE FEET OF PROPERTY ON AN ADJACENT LOT OWNED BY PROJECT 5110 LLC PLUS CASH FOR THE MARKET VALUE OF APPROXIMATELY 1,522 SQUARE FEET OF PROPERTY, AND TAKE ALL OTHER ACTIONS NECESSARY TO EFFECTUATE THE EXCHANGE; 2) NEGOTIATE AND EXECUTE AN AGREEMENT DESIGNATING A PUBLIC WALKWAY/GREENBELT AREA ON THE TENTATIVE PARCEL MAP 9074 FOR A PUBLIC WALKWAY; AND 3) NEGOTIATE AND EXECUTE A MAINTENANCE AGREEMENT FOR ON-GOING MAINTENANCE OF THE WALKWAY BY PROJECT 5110 LLC OR THE CONDOMINIUM HOMEOWNERS ASSOCIATION OR DESIGNEE

An ordinance has been prepared amending Ordinance No. 12698 C.M.S. and authorizing the City Administrator to sell and exchange surplus City-owned properties at 51st St. and Telegraph Ave. to the adjoining property owner, Project 5110 LLC (the "Developer") for fair market value.. The City will exchange 4,636 square feet of property for 3,114 square feet of Developer's property plus \$80,660. As a condition of Project approval, the Developer, at its own cost, will construct a public walkway through the retail and residential, mixed-use development, and will maintain, or cause to be maintained, the walkway, pursuant to a Maintenance Agreement between the City and Developer.