

~~2010 JUN 15 PM 3:47~~
Councilmember

K Jain
City Attorney

OAKLAND CITY COUNCIL

Resolution No. 83001 C.M.S.

RESOLUTION ADOPTING FINDINGS AND SETTING A HEARING TO RECEIVE SUPPORTING EVIDENCE AND PUBLIC COMMENTS ON A CONDITIONAL VACATION OF A PORTION OF A PUBLIC UTILITY EASEMENT AND A CONDITIONAL ABANDONMENT OF A PORTION OF A SANITARY SEWER MAIN ADJOINING EAST 11th STREET AND 3rd AVENUE TO FACILITATE RECONSTRUCTION OF THE DOWNTOWN EDUCATION COMPLEX BY THE OAKLAND UNIFIED SCHOOL DISTRICT

WHEREAS, pursuant to California Streets and Highways Code Section 8300 et seq., a public meeting was held in the Chamber of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on June 15, 2010, beginning at 5:30 o'clock, post meridian local time, to adopt findings for a proposed ordinance conditionally vacating a portion of public service easement and conditionally abandoning a apportion of a sanitary sewer main adjoining East 11th Street and 3rd Avenue which are located across three contiguous parcels owned by the Oakland Unified School District; and

WHEREAS, said parcels are identified by the Alameda County Assessor with the numbers 019-029-014-07, 019-0023-001-01, and 019-0024-001-01, and by the City of Oakland with the addresses 1020 2nd Avenue, 1100 3rd Avenue, and 1029 4th Avenue, and by the Oakland Unified School District as the Downtown Education Complex; and

WHEREAS, said meeting also set a public hearing beginning at 5:30 o'clock, post meridian local time, in the Chamber of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on September 7, 2010, to receive supporting evidence and public comments on the adoption of an ordinance conditionally vacating said portion of a public service easement and conditionally abandoning said portion of a sanitary sewer main across contiguous parcels owned by the Oakland Unified School District; and

WHEREAS, pursuant to California Streets and Highways Code Sections 8312 and 8355, the Oakland Unified School District previously filed an application (PPE 09063) with the City Engineer of the City of Oakland requesting that the City of Oakland vacate said portion of a public service easement and abandon said portion of a sanitary sewer system, as shown on *Exhibit C* attached hereto; and

WHEREAS, pursuant to Resolution No. 44665 C.M.S. and Ordinance No. 7045 C.M.S, the Council of the City of Oakland abandoned the public rights-of-way in 1964 of East 11th Street between its intersections with 2nd Avenue and 4th Avenue and 3rd Avenue between its intersections with East 10th Street and East 11th Street; and

WHEREAS, pursuant to Resolution No. 44665 C.M.S. and Ordinance No. 7045 C.M.S, the City of Oakland permanently reserved a public service easement for existing and future publicly maintained utilities across the full length and width of said portions of vacated rights-of-way; and

WHEREAS; the City of Oakland has continuously maintained a sanitary sewer system and a storm water drainage system within said public service easement since its reservation in 1964; and

WHEREAS, the Oakland Unified School District will reconstruct and remodel the following improvements

- o La Escuelita Elementary School
- o Yuk Yau Child Development Center
- o Centro Infantil Child Development Center
- o Metwest High School
- o Willie D. Harper Building
- o Educational Television Station KDOL

located on said parcels; and

WHEREAS, pursuant to provisions of the California Building Code, said reconstruction will be permitted and inspected by the Office of the State Architect; and

WHEREAS, the metes and bounds establishing the perimeter dimensions and compass bearings, and circumscribed land area (planer projection), and the distances and bearings from established horizontal control monumentation of said portions of a public service easement proposed for vacation is fully delineated on a boundary survey prepared by KPC & Associates and entitled "Oakland Unified School District Site and Buildings", as shown on *Exhibit A* attached hereto; and

WHEREAS, said parcels were originally platted in Blocks 23, 24, and a portion of 29, as shown on the "Map of Clinton - H.A. Higley's Survey", recorded _____, in book B of maps, on page 537, by the Alameda County Recorder, as shown on *Exhibit B* attached hereto; and

WHEREAS, the Oakland Unified School District acquired fee simple interest to said parcels through a grant deed, recorded _____, series no. _____, by the Alameda County Recorder, a; and

WHEREAS, said land area comprising the said portion of the public service easement proposed for vacation is necessary to accomplish the reconstruction of the Downtown Educational Complex for the benefit of the residents and children of the City of Oakland; and

WHEREAS, said portion of the sanitary sewer main proposed for abandonment will be removed from the inventory of public infrastructure maintained by the City of Oakland; and

WHEREAS, the Superintendent of Streets of the City of Oakland, in his official capacity, has determined that abandonment of said portion of the sanitary sewer main will not adversely impact the efficient transport of effluent within the sewer sub-basin; and

WHEREAS, the City Engineer, in his official capacity, has further determined that the proposed vacation of said portion of the public service easement will not adversely impact current or future traffic or pedestrian access to the adjoining and surrounding real properties; and

WHEREAS, said portion of the public service easement proposed for vacation is wholly located within the corporate limits of the City 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) and Section 15332 (Class 32: Infill Projects) of the California Environmental Quality Act Guidelines, the proposed vacation is categorically exempted; and

WHEREAS, pursuant to California Streets and Highways Code Sections 8317, 8322, and 8323, facsimiles of the newspaper publication and public posting, attached hereto as *Exhibit C*, and an affidavit, attached as *Exhibit D*, confirming that the City Engineer completed the statutory requirements for notifying the public of the City's intention to vacate a portion of Peralta Street and of the locate, date, and time of public hearing to receive supporting evidence and public comments for the proposed vacation; and

WHEREAS, pursuant to California Streets and Highways Code Section 8313 and Government Code Section 65402, the Secretary of the Planning Commission of the City of Oakland has determined that there is no map or diagram nor any expressed policies or provisions preventing the vacation of these portions of public rights-of-way and that the location, purpose, and extent of the vacation therefore conforms with the City's adopted General Plan; and

WHEREAS, pursuant to California Streets and Highways Code section 8340, the Pacific Gas and Electric Company has requested that a public service easement for utilities be reserved across the whole area of the portion of Peralta Street proposed for vacation; and

WHEREAS, pursuant to California Streets and Highways Code Section 8348, the City Engineer has notified the serving public utilities his intention to recommend to the City Council that said portion of Peralta Street be vacated and that no public service easement be reserved in the vacated public service easement to install, maintain, operate, replace, remove or renew existing or future works is required for public convenience and necessity; and

WHEREAS, pursuant to California Streets and Highways Code Section 8348, the City Engineer has determined and the Oakland Unified School District has agreed that it shall assume the responsibility, at its sole expense and with permits issued by the City of Oakland, for abandoning existing publicly maintained utilities (permit PX 1000058) within said portion of the public service easement proposed for vacation and for reconstructing infrastructure and appurtenances as may be determined by the City Engineer to be necessary for the maintenance or re-

establishment of the efficient operation of public infrastructure and of safe access for maintenance personnel; and

WHEREAS, pursuant to California Streets and Highways Code Section 892, the City Engineer has further determined that the proposed vacation of said portion of the public service easement will not limit public use of or impede public access for non-motorized transportation; and

WHEREAS, pursuant to California Streets and Highways Code Section 8320, a plat delineating the metes and bounds may be used to establish the extent and location of the public service easement to be vacated, as shown in *Exhibit A* attached hereto; and

WHEREAS, pursuant to California Streets and Highways Code Section 8324, the Council of the City of Oakland may apply conditions for the vacation of public service easements and may instruct the City Clerk not to record a vacation until the conditions have been satisfied; now, therefore, be it

RESOLVED; That pursuant to the California Streets and Highways Code, the California Government Code, and the California Public Resources Code, the Council of the City of Oakland hereby makes the following determinations:

- that the proposed vacation is categorically exempted from the California Environmental Quality Act (CEQA); and
- that the proposed vacation conforms with the City of Oakland’s adopted General Plan; and
- that the statutory requirements for properly noticing the public through conspicuous site posting and newspaper publication of the location and extent of the proposed vacation and the public hearing to receive supporting evidence and public comments were completed; and
- that the Oakland Unified School District owns the fee interest of the real property encumbered by the portion of the public service easement proposed to be vacated; and
- the proposed vacation does not require reservation of a public service easement for existing or future subsurface or above-ground utilities owned and maintained either by companies regulated by the California Public Utilities Commission or by the City of Oakland or by the East Bay Municipal Utility; and
- the proposed vacation does not limit public use or impede public access for non-motorized transportation; and
- the proposed vacation will not increase traffic or pedestrian inconvenience nor decrease traffic or pedestrian safety; and be it
- the proposed vacation will benefit the general public and the residents and children of the City of Oakland by providing an enlarged and modern educational and health care facility; and be it

- the Oakland Unified School District shall be responsible, at its sole cost, for the abandonment of existing publicly maintained utilities, with permits issued by the City of Oakland, to the satisfaction of the City Engineer and for reconstructing existing public infrastructure and appurtenances as may be determined by the City Engineer to be necessary for the re-establishment of efficient infrastructure operation and safe access for maintenance personnel; and

FURTHER RESOLVED; That the plat attached hereto as *Exhibit A* does fully delineate the metes and bounds and the extent and location of the portion of the public service easement proposed for vacation; and be it

FURTHER RESOLVED; That Council of the City of Oakland will condition the vacation of said portion of the public service easement and abandonment of said portion of the sanitary sewer main by terms set forth in an ordinance of vacation; and be it

FURTHER RESOLVED; That a hearing to receive supporting evidence and public comments for a proposed ordinance that will conditionally vacate a portion of public service easement and conditionally abandon a apportion of a sanitary sewer main adjoining East 11th Street and 3rd Avenue to facilitate reconstruction the Downtown Education Complex by the Oakland Unified School District will occur in the Chamber of the City Council, Third Floor of City Hall, at One Frank Ogawa Plaza, in Oakland, California, on September 7, 2010, beginning at 5:30 o'clock, post meridian local time.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 5 2010 , 2010

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

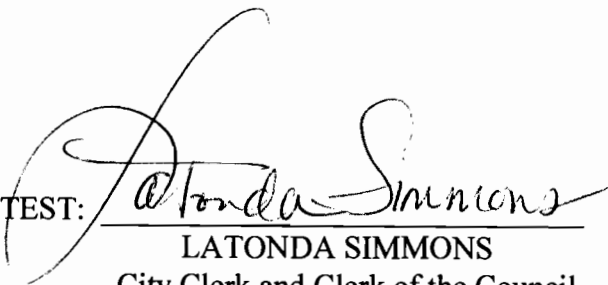
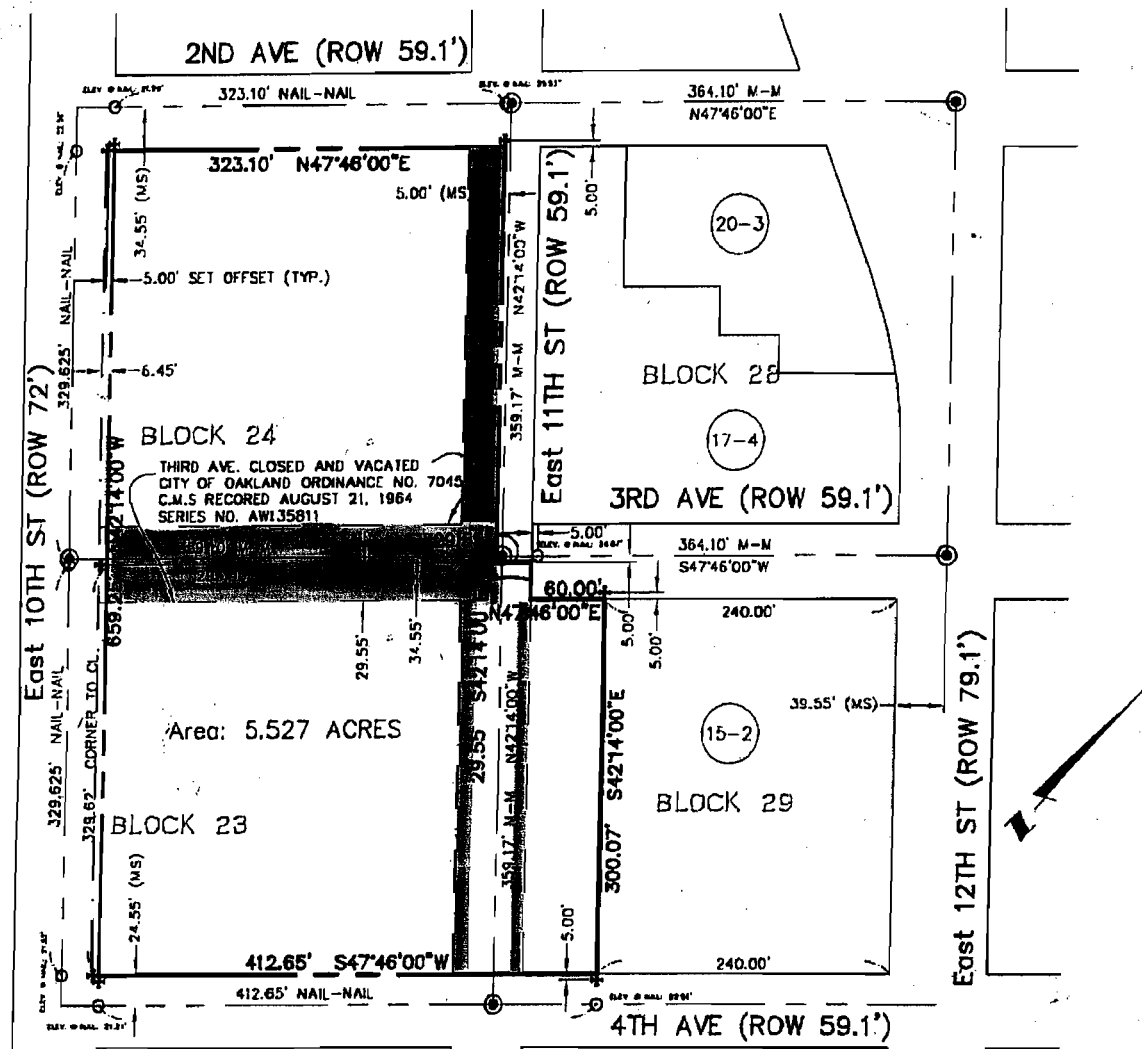
ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

Metes And Bounds Delineating A Proposed Abandonment Of A Portion Of A Public Utility Easement And A Sanitary Sewer Main Adjoining East 11th Street And 3rd Avenue To Facilitate Reconstruction Of The Downtown Education Complex By The Oakland Unified School District



LEGEND

- ⊙ MONUMENT NOT FOUND(SHOWN ON MONUMENT MAP)
- ⊙ FOUND CITY MONUMENT
- ⊗ SET CROSS
- SET NAIL
- PROPERTY BOUNDARY
- - - RIGHT OF WAY (R.O.W.)
- MONUMENT LINE
- CENTER LINE

OAKLAND UNIFIED SCHOOL DISTRICT
ADMINISTRATION SITE AND BUILDINGS

BOUNDARY SURVEY
BLOCKS 23, 24, AND A PORTION OF BLOCK 28,
AS SHOWN ON "MAP OF CLINTON" MADE ON
H.L. HALEY'S SURVEY, RECORDED IN BOOK "11" AT
PAGE 637, ALAMEDA COUNTY RECORDS

| DATE | BY | REVISION |
|------|----|----------|
| | | |
| | | |
| | | |

EXHIBIT B

Subdivision Map Entitled "Map Of Clinton, As Surveyed By H. A. Higley",
 Recorded June 20, 1854, In Book B Of Maps, Page 537, By The Alameda County Recorder

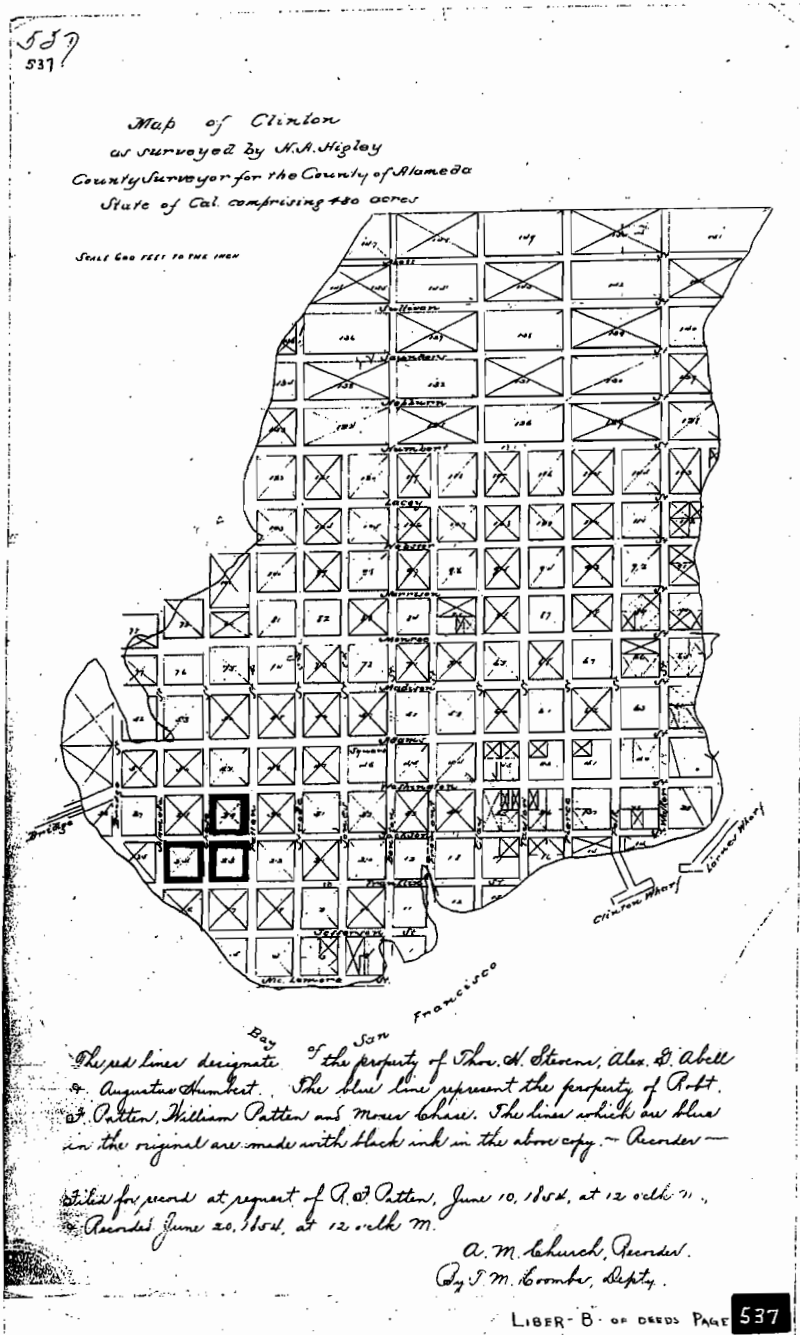


EXHIBIT C

Notification Of A Public Hearing On A Proposed Abandonment Of A Portion Of A Public Utility Easement And A Sanitary Sewer Main Adjoining East 11th Street And 3rd Avenue To Facilitate Reconstruction Of The Downtown Education Complex By The Oakland Unified School District

PUBLIC NOTICE

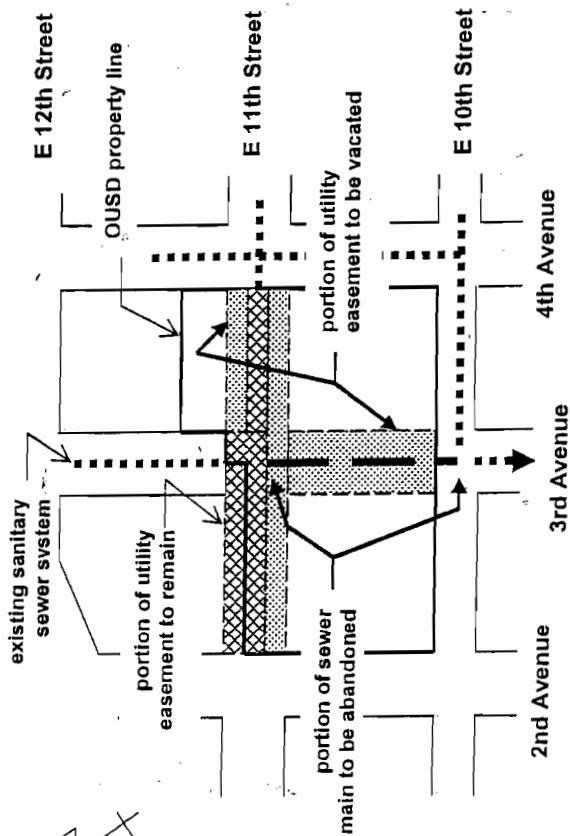
Public Hearing For Abandoning A Public Utility Easement And A Sanitary Sewer Main

Pursuant to California Streets and Highways Code section 8320 et seq., the Council of the City of Oakland will hold a public hearing in the Chamber of the City Council, Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on September 7, 2010, and September 21, 2010, beginning at 5:30 p.m., local time, to receive supporting evidence and public comments for a proposed ordinance conditionally vacating a portion of a public utility easement and abandoning a portion of a sanitary sewer main adjoining East 11th Street and 3rd Avenue to facilitate reconstruction of the Downtown Education Complex by the Oakland Unified School District. A map fully delineating the proposed vacation and abandonment is available at the City of Oakland, Building Services Division, Dalziel Administration Building, Second Floor, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.

EXHIBIT C

Notification Of A Public Hearing On A Proposed Abandonment Of A Portion Of A Public Utility Easement And A Sanitary Sewer Main Adjoining East 11th Street And 3rd Avenue To Facilitate Reconstruction Of The Downtown Education Complex By The Oakland Unified School District

PUBLIC NOTICE



Pursuant to California Streets and Highways Code Section 8320 et seq., notice is given to the public that the Council of the City of Oakland intends to abandon a portion of a public utility easement and a sanitary sewer main adjoining East 11th Street and 3rd Avenue to facilitate reconstruction of the Downtown Educational Complex by the Oakland Unified School District.

Notice is also given to the public that the Council of the City of Oakland will hold a hearing to receive evidence supporting and public comments for the proposed conditional vacation in the Chamber of the City Council, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on September 7, 2010, and September 21, 2010, beginning at 5:30 p.m. local time.

It is a misdemeanor to deface or to remove this posting. Violators are subject to a fine of \$1,000 and a jail sentence of 6 months.

EXHIBIT D

Affidavit Certifying Notifications Of A Public Hearing On A Proposed Abandonment Of A Portion Of Public Utility Easement And A Sanitary Sewer Main Adjoining East 11th Street And 3rd Avenue To Facilitate Reconstruction Of The Downtown Education Complex By The Oakland Unified School District

Pursuant to California Streets and Highways Code Section 8322, I hereby certify that the following public notifications did occur on the dates and times and at the locations and for the durations indicated below:

Site Posting

Facsimiles of the attached placard were affixed before September 7, 2010, to City street light poles in the public sidewalk at intervals not exceeding three hundred (300) feet along East 11th Street and 3rd Avenue, and have remained in place since then advising the public of a hearing on September 7, 2010, and September 21, 2010, at 5:30 p.m. local time, in the Chambers of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, to receive evidence and public testimony on the proposed abandonment of a portion of a public utilities easement and a sanitary sewer main delineated on the placard.

Newspaper Publication

The attached notice was published in the *Oakland Tribune* on July 7, 2010, and July 14, 2010, advising the public of a hearing on September 7, 2010, and September 21, 2010, beginning at 5:30 p.m. local time in the Chambers of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza to receive evidence and public testimony on the proposed abandonment of a portion of public utility easement and a sanitary sewer main adjoining East 11th Street and 3rd Avenue advising the public that a map delineating the portion of the public utility easement and sanitary sewer main proposed for abandonment is available at the Building Services counter on the Second Floor of the Dalziel Administration Building at 250 Frank H. Ogawa Plaza.

date July 15, 2010 by R M Derania
RAYMOND M. DERANIA
City Engineer
Community and Economic Development Agency