

OFFICE OF THE CITY CLERK

2007 AUG 29 AM 11:28

OAKLAND CITY COUNCIL

ORDINANCE NO. 12828 C. M. S.

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE 1) AN AGREEMENT TO ACQUIRE AN EASEMENT ON A PORTION OF A PARCEL OF LAND FROM FRIENDLY TRANSPORTATION COMPANY TO CONSTRUCT A SECTION OF BAY TRAIL ALONG THE OAKLAND TIDAL CANAL AT ALAMEDA AVENUE FOR \$30,000 PLUS CUSTOMARY CLOSING COSTS TO BE FUNDED FROM MEASURE DD, AND 2) A RIGHT OF FIRST REFUSAL FOR FRIENDLY TRANSPORTATION COMPANY TO PURCHASE FUTURE SURPLUS CITY LAND, IF ANY, REMAINING FROM THE PROPOSED 42ND AVE. AND HIGH STREET WIDENING PROJECT, EXTENDING FROM 8TH STREET TO HOWARD STREET, AT FAIR MARKET VALUE, SUBJECT TO APPLICABLE STATE AND CITY STATUTES

WHEREAS, the Oakland Trust for Clean Water and Safe Parks was passed on November 5, 2002, with 80% voter approval; and

WHEREAS, Measure DD provides funds for the Waterfront Trail Acquisition; and

WHEREAS, the Measure DD 2003A Bond sale in August 2003 provided \$70.5 million for Measure DD projects; and

WHEREAS, funds in the amount of \$1.1 million was previously appropriated into project C244010 (U.S. Audio trail), of which this acquisition is a part; and

WHEREAS, Friendly Transportation Company is the owner of a parcel of land located on Alameda Avenue and the Oakland Tidal Canal (APN 033-2250-013-01), which is integral to completion of the Bay Trail; and

WHEREAS, the necessary property rights have been appraised and an offer to acquire the property rights at their appraised fair market value has been made to the property owner; and

WHEREAS, the property owner has agreed to sell to the City an easement across a portion of the parcel of land at its fair market value of \$30,000; and

WHEREAS, Seller has requested as additional consideration, a "Right of First Refusal," to expire on December 31, 2010, to purchase, for fair market value, any surplus property remaining following the 42nd Avenue and High Street Widening Project; and

WHEREAS, the property to be acquired under the Easement for the Bay Trail shall be held by the City of Oakland as Open Space dedicated to Bay Trail usage exclusively; and

WHEREAS, the requirements of the California Environmental Quality Act (“CEQA”) the CEQA guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulation 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 Administrator, or her designee, is authorized to negotiate and execute a Purchase and Sale Agreement to acquire an Easement on a portion of real property located on Alameda Avenue and the Oakland Tidal Canal (APN 033-2250-013-01), the legal description of which is set forth in Exhibit “A”; attached hereto and incorporated herein, from Friendly Transportation Company for a total amount not to exceed \$30,000, plus customary closing costs not to exceed \$2,000.

Section 2. The funds for the acquisition of the necessary property rights will be allocated from Measure DD Fund (5320), Capital Projects – Project Management Organization (92270), Acquisition of Right of Way Account (57111), U.S. Audio Trail DD Project (C244010).

Section 3. The Manager of Real Estate Services or such other City Administrator designee is hereby authorized to negotiate and execute all agreements and take all other actions as may be required to carry out the intent of the terms of the Purchase and Sale Agreement and this Ordinance.

Section 4. That the City Council has independently reviewed and considered this environmental determination, and the Council finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15316 (transfer of ownership of land in order to create parks), Section 15317 (open space contracts or easements) and Section 15325 (transfer of ownership of interest in land to preserve existing natural conditions and historical resources) of the CEQA guidelines, and Council directs the City Administrator to file a Notice of Exemption and an Environmental Declaration (CA Fish and Games Code Sec. 711.4) with the County of Alameda.

Section 5. The City Council approves granting a “Right of First Refusal” to Friendly Transportation Company to acquire remnant surplus land at fair market value resulting from the 42nd Avenue and High Street Widening Project, subject to applicable State and local statutes, and such “Right of First Refusal” shall expire on December 31, 2010.

Section 6. In accordance with the requirements of the City Charter Article IV, the Purchase and Sale Agreement and other agreements shall be approved as to form and legality by the City Attorney’s Office prior to execution and a copy shall be filed with the Office of the City Clerk.

Section 7. This Ordinance shall take effect immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

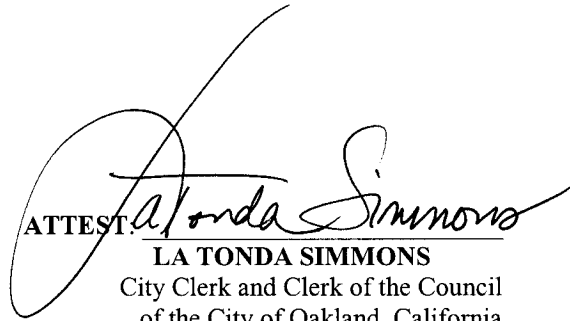
IN COUNCIL, OAKLAND, CALIFORNIA ~~OCT 2~~ **OCT 2 2007**, 2007
PASSED BY THE FOLLOWING VOTE:

AYES BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, KERNIGHAN, AND
 PRESIDENT DE LA FUENTE **-8**

NOES- ~~0~~

ABSENT- ~~0~~

ABSTENTION- ~~0~~

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

Introduction Date: **SEP 18 2007**

EASEMENT "A" – LEGAL DESCRIPTION

THAT LAND, located in the City of Oakland, County of Alameda, State of California, described more fully as follows:

BEGINNING at the intersection of the southerly right-of-way line of Alameda Avenue and the westerly right-of-way line of High Street;

Thence westerly along the southerly right-of-way of Alameda Avenue, the bearing of which is taken as North 89° 20' West for the purposes of this description, 1736.27 feet;

Thence leaving said right of way North 00° 31' East, 25 feet to the intersection with a line parallel with and 25 feet northerly measured perpendicular to the said southerly line of Alameda Avenue;

Thence parallel with said southerly right-of-way line of Alameda Avenue, North 89° 29' West, 225.18 feet to the easterly line of the Tidal Canal as shown in that certain *Record of Survey #1245*, filed July 28, 1994 in book 18 of Records of Survey upon pages 63 to 66 (inclusive), Alameda County Records;

Thence along the easterly line of said Tidal Canal, South 51° 11' 13" East, 42.82 feet;

Thence, continuing along said easterly line of said Tidal Canal, South 49° 13' 13" East 113.66 feet to the intersection with an east/west line parallel with and 75 feet southerly measured perpendicular to the said southerly line of Alameda Avenue. Said point being the **TRUE POINT OF BEGINNING** of this description.

THENCE FROM SAID TRUE POINT OF BEGINNING, South 89° 29' East, along the north westerly line of EASEMENT "A" (said Easement being hereby made a part of this description), 20.95 feet.

Thence North 47° 27' 24" West 45.44 feet;

Thence North 40° 33' 36" West, 92.30 feet, more or less to the Centerline of Alameda Avenue as said street is shown upon the aforementioned *Record of Survey #1245*

Thence South 89° 29' West, along said centerline of Alameda Avenue or a direct extension thereof, 46.89 feet, more or less, to the easterly limits of the Tidal Canal as shown upon *Record of Survey #1245*.

Thence continuing southeasterly along said easterly line of said Tidal Canal South 51° 11' 13" East for a distance of 42.82 feet;

Thence, continuing southeasterly along said easterly limits of the Tidal Canal, South 49° 13' 13" East, 113.66 feet, more or less, returning to the *True Point of Beginning*.

Having an area of 3,057 square feet (0.07 acres) more or less.

END OF DESCRIPTION



NOTICE AND DIGEST

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The acquisition of this property for Trail purposes will serve to open another link in the Bay Trail Project to benefit the Public's access to Bay waters.