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OFFICE OF THE CITY CLERK
OAKLAND
2013 MAY 30 PM 4:32

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Partial Abandonment And Renaming
Of Apgar Street

DATE: May 13, 2013

City Administrator

Date

Approval

5/30/13

COUNCIL DISTRICT: 1

RECOMMENDATION

Staff recommends that the City Council adopt:

A Resolution Of Findings Supporting The Vacation Without Cost To The Abutting Property Owner Horizon Services Of A Portion Of The Public Right-Of-Way Of Apgar Street From Its Intersection At Telegraph Avenue To Its Termination At The MacArthur Transit Village Project Boundary; and

An Ordinance Vacating Without Cost To The Abutting Property Owner Horizon Services A Portion Of The Public Right-Of-Way Of Apgar Street From Its Intersection At Telegraph Avenue To Its Termination At The MacArthur Transit Village Project Boundary; and

A Resolution Renaming Apgar Street As Apgar Lane Between Telegraph Avenue And the Boundary Of The MacArthur Transit Village Project; and

A Resolution Prohibiting Vehicle Parking And Standing At All Times And Approving Removal By Towing In Apgar Lane (Formerly Apgar Street) Between Its Intersection At Telegraph Avenue And Its Termination At The MacArthur Transit Village Project Boundary; and

Resolution Approving The Installation Of Official Traffic Control Stop Signs For Apgar Lane At Its Intersection At Telegraph Avenue For The MacArthur Transit Village Project

This legislation has been requested by MacArthur Transit Community Partners (MTCPP), who is the developer of the MacArthur Transit Village (MTV) Project located adjacent to the MacArthur BART Station, to facilitate continuing construction of the residential apartment

Item: _____
Public Works Committee
June 11, 2013

buildings. This legislation also implements Planning conditions of approval for the project which were previously approved by the City Council.

OUTCOME

Abandoning a portion of Apgar Street will allow the City Engineer to issue an infrastructure permit (FX1300069) to the project developer, MTCP, for the reconstruction of the existing street to a landscaped pedestrian entry into the southeastern boundary of the project from Telegraph Avenue with driveway access to the two (2) abutting properties.

BACKGROUND/ LEGISLATIVE HISTORY

The City Council approved the Phase I Final Development Plan (FUDF10097) and the Final Map for Tract No. 8047 for the MacArthur Transit Village Project on April 5, 2011 (Resolution No. 83292 C.M.S.), and approved the Stage II Final Development Plan (PUDF10304) on May 17, 2011 (Resolution No. 83365 C.M.S.). The Stage II Final Development Plan and the Environmental Review (ER06004) previously considered the reconstruction of Apgar Street.

ANALYSIS

- Rename Apgar Street as Apgar Lane

California Government Code Section 34091.1 allows a jurisdiction to change the name of an existing street by adoption of a resolution. No other statutory provisions are stipulated. Oakland Municipal Code section 16.16.120 requires that proposed street names not duplicate or too closely approximate phonetically the name of any street in Oakland or other East Bay Cities, or adjacent portions of Alameda County. MTCP has selected the street name and "Apgar Lane" to complement the transit oriented development theme.

- Abandon a portion of Apgar Street

The California Streets and Highways Code stipulates the process for abandoning (vacating) public right-of-way (R.O.W.). A Summary vacation is an abbreviated process that is used for unimproved R.O.W. (e.g., "paper" street). A General vacation is used for improved R.O.W. (e.g., paved street). General vacations of public streets can retain (reserve) public easements for future use (e.g., buried utilities). Because Apgar Street is a paved street, staff has used the General vacation process. Staff has determined that the City Council must make the following findings for partially vacating the Apgar Street right-of-way, as required by the statutes and ordinance indicated below:

- California Streets and Highways Code

- The partial vacation conforms with the City's adopted General Plan.
- The partial vacation will not impact future access for non-motorized transportation.
- The partial vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety.
- A public service easement will be reserved on the partial vacation

- California Public Resources Code

Vacation of public right-of-way is categorically exempted from the requirements of the California Environmental Quality Act (CEQA) - Section 15301 (existing facilities) and Section 15332 (Class 32: Infill Projects).

- Allow encroachments in Apgar Lane

Building D of the MTV project is approximately four (4) feet higher elevation than the abutting Apgar Lane. A concrete handicapped ramp, which will be constructed and maintained by the developer MTCP, is needed to provide pedestrian access from Apgar Lane across the MTV project to Village Way. A minor structure to enclose refuse containers will be constructed and maintained within the reserved easement. In addition, MTV will be installing and maintaining non-standard roadway paving in Apgar Lane to enhance the pedestrian-friendly accouterments.

- Oakland Municipal Code

OMC section 12.04.040 requires that permanent encroachments in the public right-of-way receive approval of the City Council before a permit is issued. The Council has previously approved similar encroachments throughout Oakland.

- Install Stop signs for Apgar Lane

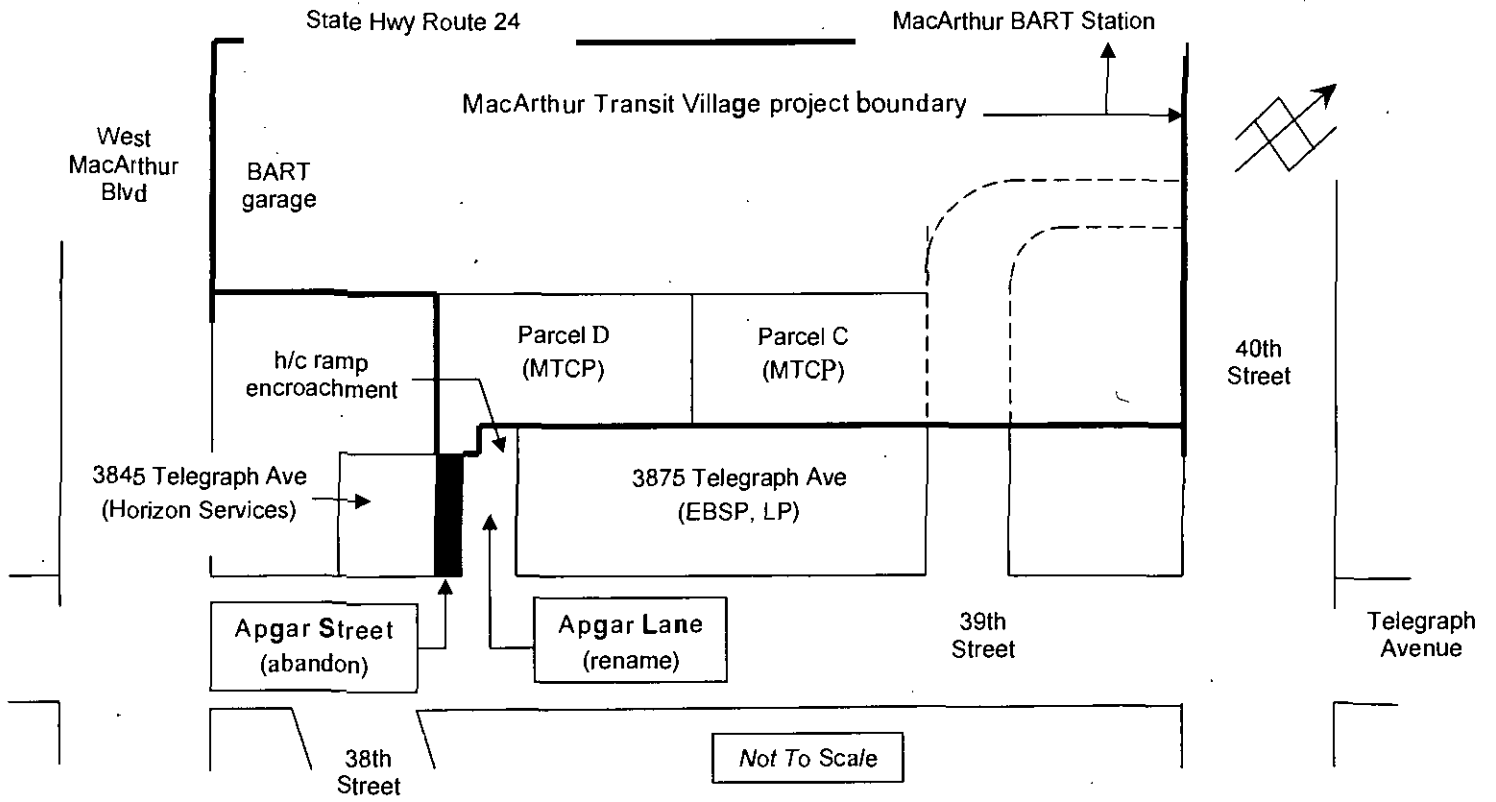
Telegraph Avenue is a major arterial street which require that vehicles entering the traffic flow from Apgar Lane stop before turning into the traffic lanes.

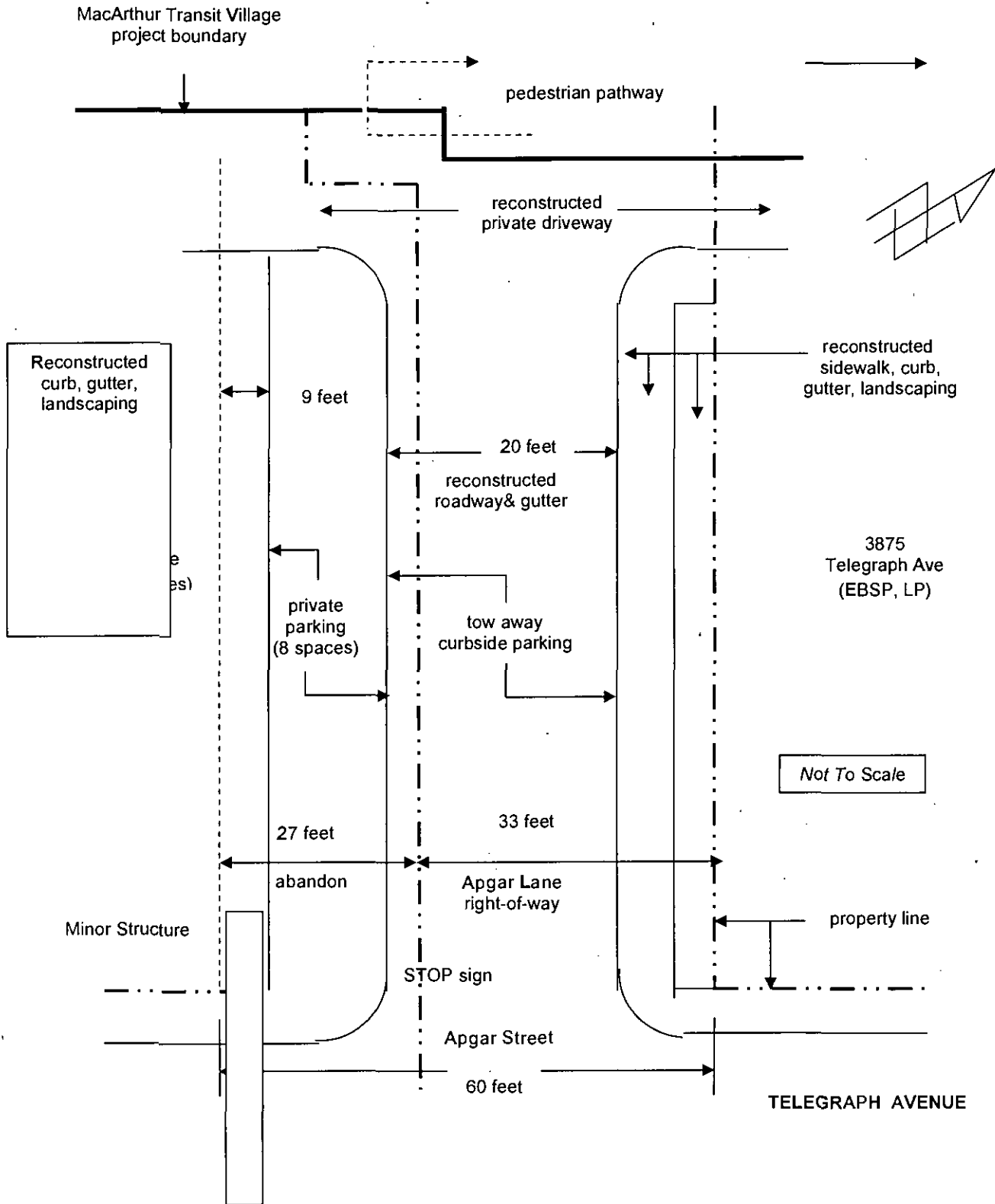
- California Vehicle Code

CVC sections 21100 and 21354 authorizes a City to regulate traffic by means of official traffic control devices (signals, stop signs, etc.) installed at the intersection of a through street by adopting a resolution or an ordinance.

- Oakland Municipal Code

OMC section 10.12.120 requires that the Traffic Engineer install Stop signs at through street intersections.





PUBLIC OUTREACH/ INTEREST

The partial abandonment of Apgar Street is required to assure fire apparatus access to the MTV Project's Parcels C and D, which is a ministerial permitting condition for the Building Official to issue the construction permits.

COORDINATION

The Office of the City Attorney has reviewed the resolution for form and legality. The project developer has contacted the abutting property owners and letters supporting the partial vacation are attached in *Exhibit A* to the legislation. This report has been reviewed by the Budget Office.

COST SUMMARY/ IMPLICATIONS

Staff costs for processing the proposed street abandonment (PPE 13053) and street renaming (PPE 13053) are covered by fees set by the Master Fee Schedule and have been paid by the project developer and were deposited in the special revenue Development Service Fund (2415), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Plan Approval (PS30). The condition of the abandonment requires that the developer, MTCP, of MacArthur Transit Village indemnify and defend the City against potential litigation.

SUSTAINABLE OPPORTUNITIES

Economic: This construction project will provide opportunities for construction related jobs for the Oakland community.

Environmental: Construction permits for infrastructure 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 construction of this mixed-use project will support the economic revitalization of Oakland. Construction permits for building and right-of-way improvements require that the permittee comply with State and City requirements for handicapped accessibility.

CEQA

The Apgar Street abandonment were considered in Environmental Review of the MacArthur Transit Village Project (ER060004), which was certified by the City Council on March 16, 2011.

For questions regarding this report, please contact Ray Derania, City Engineer, at 510/ 238-4780.

Respectfully submitted,



Rachel Flynn, Director
Department of Planning and Building

Reviewed by: Raymond M. Derania, City Engineer

Prepared by: David Harlan, Engineering Manager

Introduced by

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to Form and Legality

2013 MAY 30 PM 4: 32

Office of the City Attorney

Councilmember

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION OF FINDINGS SUPPORTING THE VACATION WITHOUT COST TO THE ABUTTING PROPERTY OWNER HORIZON SERVICES OF A PORTION OF THE PUBLIC RIGHT-OF-WAY OF APGAR STREET FROM ITS INTERSECTION AT TELEGRAPH AVENUE TO ITS TERMINATION AT THE MACARTHUR TRANSIT VILLAGE PROJECT BOUNDARY

WHEREAS, pursuant to California Streets and Highways Code Section 8330 et seq., the San Francisco Bay Area Rapid Transit District (BART), established pursuant to California Public Utilities Code section 28500 et seq., which is one of the three (3) owners of real property abutting Apgar Street between its intersection at Telegraph Avenue and its termination at the southeastern boundary of the MacArthur Transit Village project, has made an application (PPE 1300069) to the City Engineer of the City of Oakland for the vacation of a portion of the public right-of-way of said segment of Apgar Street, as shown in the attached *Exhibit D*; and

WHEREAS, said vacation is supported by BART to facilitate construction of the MacArthur Transit Village project by the developer, MacArthur Transit Community Partners LLC (MTCP), a California limited liability company (200419810042); and

WHEREAS, pursuant to California Streets and Highways Code Section 8320, the metes and bounds establishing the extent of the portion of Apgar Street proposed for vacation is delineated in the attached *Exhibit A*; and

WHEREAS, said vacation will reduce the width of the public right-of-way of Apgar Street, which will be renamed Apgar Lane, from sixty (60) feet to thirty-three (33) feet and the width of the roadway drive aisle from thirty-six (36) feet to twenty (20) feet, as shown in the attached *Exhibit B*; and

WHEREAS, pursuant to Resolution No. 83516 C.M.S., adopted July 26, 2011, which conditionally approved the Final Map for Tract No. 8047 for the MacArthur Transit Village project, MTCP will reconstruct without cost to the City of Oakland the narrowed portion of Apgar Lane, including sidewalks, curbs, gutters, roadway, signs, supporting poles, landscaping, pavement, striping, and buried utilities; and

WHEREAS, pursuant to the 2010 edition of the California Fire Code, Appendix D, section D103.1, and to Oakland Municipal Code section 15.12.010, said narrowed roadway width is the

minimum dimension necessary to provide adequate access for fire apparatus to support fire suppression and rescue operations; and

WHEREAS, MTCP has filed an application with the City Engineer of the City of Oakland for a permit (PX 1300069) to reconstruct Apgar Lane, as shown in the attached *Exhibit C*; and

WHEREAS, pursuant to California Streets and Highways Code Section 8313 and California Government Code Section 65402, the Planning Commission of the City of Oakland determined at its meeting on April 5, 2011, with its approval of the Phase I Final Development Plan (PUDF10097) and the Final Map for Tract No. 8047 for the MacArthur Transit Village Project (Council Resolution 83292 C.M.S.), that the location, purpose, and extent of the proposed vacations conform with the City's adopted General Plan; and

WHEREAS, the owners of the two (2) parcels which abut said portion of Apgar Street acquired title individually for valuable consideration through the following instruments:

PROPERTY ADDRESS	ASSESSOR PARCEL No.	PROPERTY OWNER	GRANT DEED
3845 Telegraph Avenue	012-0967-002-00	Horizon Services	recorded 09-28-1992 series no. 1992-313728
516 Apgar Street	012-0968-055-03	Bay Area Rapid Transit District	Subdivision Map 8047

as recorded by the Alameda County Clerk-Recorder, and shown in *Exhibit A* attached hereto; and

WHEREAS, pursuant to California Civil Code section 831, an owner of land bounded by a road or street is presumed to own to the center of the way; and

WHEREAS, BART, which is one of the two owners of real property abutting said portion of Apgar Street proposed for vacation, voluntarily supports the vacated right-of-way as a Horizon Services, Inc. parcel; and

WHEREAS, Horizon Services, a California corporation (C0776783), which is one of the two owners of real property abutting said portion of Apgar Street proposed for vacation, has voluntarily agreed to exercise its presumed right and accept without cost its proportional segment of the portion of Apgar Street proposed for vacation and also accept without cost said proportional segment of the portion of Apgar Street which BART has declined to accept; and

WHEREAS, pursuant to California Streets and Highways Code section 8348, the City Engineer has informed public utilities serving the three (3) properties abutting Apgar Street of the City's intention to vacate said portion of Apgar Street; and

WHEREAS, pursuant to California Streets and Highways Code section 160, and California Vehicle Code sections 110 and 530, and Oakland Municipal Code section 16.16.090, the residual width of the narrower public right-of-way and roadway for Apgar Lane complies with said statutory requirements; and

WHEREAS, said land area proposed for vacation will be added by the Alameda County Assessor to the general levy of property taxes, a portion of which will accrue to the City of Oakland; and

WHEREAS, said land area proposed for vacation will be removed from the inventory of public streets maintained by the City of Oakland; and

WHEREAS, the City Engineer has determined that adequate street and sidewalk access for the public to the abutting properties addressed as 3845 Telegraph Avenue and 3875 Telegraph Avenue is provided from Telegraph Avenue; and

WHEREAS, the City Engineer has further determined that the proposed vacation will not diminish existing or future access to the abutting properties addressed as 3845 Telegraph Avenue and 3875 Telegraph Avenue; 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 E1* and *Exhibit E2*, and an affidavit, attached hereto as *Exhibit E3*, confirm that the City Engineer completed the statutory requirements for notifying the public of the City's intention to vacate a portion of Apgar 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 said sections of the California Streets and Highways Code, the City Engineer has determined the following:

- the owners, Horizon Services and BART, of the two properties abutting the portion Apgar Street to be vacated, own the underlying fee simple interest in the public right-of-way; and
- pursuant to California Streets and Highways Code Section 892, 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 shall reserve a public service easement for existing and future utility facilities; and
- reconstruction of Apgar Lane will be completed by MTCP without cost to the City of Oakland; and

- said portion of Apgar Street may be vacated by adoption of a companion Ordinance by the Council of the City of Oakland, at the option of its elected members; and
- said vacation will add 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 infrastructure maintenance; and
- said vacation will benefit the public and the citizens of Oakland fiscally by decreasing the cost of public works maintenance services of the public street and increasing the revenue derived from the general levy of property taxes and environmentally by decreasing emissions of the products and components of combustion; and

WHEREAS, pursuant to California Streets and Highways Code Section 8324, the City Council may apply conditions for the vacation of public right-of-way and may instruct the City Clerk not to record a vacation until said conditions have been satisfied; and

WHEREAS, the City Planning Commission certified the MacArthur Transit Village EIR (ER 06004) on June 4, 2008, and on July 15, 2008, pursuant to Ordinance No. 12883 C.M.S., the City Council independently confirmed and adopted as its own findings and determinations (i) the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the Planning Commission on June 4, 2008, and (ii) the Conditions of Approval and Mitigation Monitoring and Reporting Program adopted by the Planning Commission on June 4, 2008, as modified in the July 1, 2008 City Council Supplemental Agenda Report; and

WHEREAS, the City Planning Commission adopted an addendum to said EIR determining that no further environmental review was required on March 16, 2011, and on May 17, 2011, pursuant to Resolution No. 83292 C.M.S., the City Council affirmed the Planning Commission's CEQA determination that no further environmental review was required; and

WHEREAS, the City of Oakland has reviewed and considered documentation relevant to the proposed subdivision and the EIR and hereby finds and determines that there are no changes to the project considered in the EIR, or circumstances under which it will be undertaken, or new information of substantial importance that requires preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 2116 and CEQA Guidelines Sections 15162 and 15163; and the requirements of CEQA and the CEQA Guidelines have been satisfied; now, therefore, be it

RESOLVED, that the vacation to Horizon Services of a portion of Apgar Street between its intersection at Telegraph Avenue and its termination at the southeastern boundary of the MacArthur Transit Village project complies with CEQA; and be it

FURTHER RESOLVED, that the map attached hereto as *Exhibit D* does fully delineate the metes and bounds of the section of public right-of-way proposed for vacation; and be it

FURTHER RESOLVED, that the Council of the City of Oakland will condition the vacation of said portion of Apgar Street to Horizon Services by terms set forth in the companion 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 Apgar Street to Horizon Services will occur in the Chamber of the City Council, Third Floor of City Hall, at One Frank Ogawa Plaza, in Oakland, California, on June 18, 2013, at 6:30 p.m. local time.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF,
AND PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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

EXHIBIT A

Grant Deed for 3845 Telegraph Avenue, recorded 09-28-1992, series no. 1992-313728

RECORDING REQUESTED BY FIRST AMERICAN TITLE GUARANTY COMPANY

Order No. 154887
Ezra/Dw No. 164897
Loan No.

92313728

WHEN RECORDED MAIL TO:
Horizon Services
2595 Depot Road
Hayward, CA 94545



RECORDED IN OFFICIAL RECORDS
ALAMEDA COUNTY, CALIF.
PATRICIA O'CONNELL, C.D. RECORDER

SEP 28 1992
AM 7:18:11 PM 11:21:54:10

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

CITY TRANSFER TAX \$ 5,000.00
DOCUMENTARY TRANSFER TAX \$ 650.00
SURVEY MONUMENT FEE \$ 10.00

SAME AS ABOVE



2. Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less debt or encumbrances
remaining at time of sale.

As registered by the undersigned Grantor
Signature of Declarant or Agent Solemnly Sworn - Print Name

A.P.N. # 12-967-1 & 12-967-2

GRANT DEED

FOR A VALUABLE CONSIDERATION, recital of which is hereby acknowledged,

Philip M. Solsman, a married man as his sole and separate property

notably GRANT(S) to

Horizon Services, a California nonprofit corporation

The real property in the City of
County of

Oakland
Alameda

State of California, described as

FOR LEGAL DESCRIPTION, SEE EXHIBIT 'A' ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Dated September 17, 1992

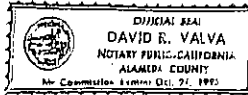
STATE OF CALIFORNIA)
COUNTY OF Alameda) ss.

Philip M. Solsman
Philip M. Solsman

On September 22, 1992
witnessed by David E. Valva (person);
appeared Phillip M. Solsman

personally known to me for purposes herein on the basis of satisfaction
(Witness) to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they
executed the same in his/her/his/their authorized capacity(ies), and that
by his/her/his/their signature(s) on the instrument the person(s) or the
only upon belief of which the person(s) acted, executed the
instrument.

WITNESSES my hand and official seal
Signature *David E. Valva*



(This area for official notarial seal)

1002-BM (6/82)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

D

EXHIBIT B

Schematic of the Apgar Street Vacation

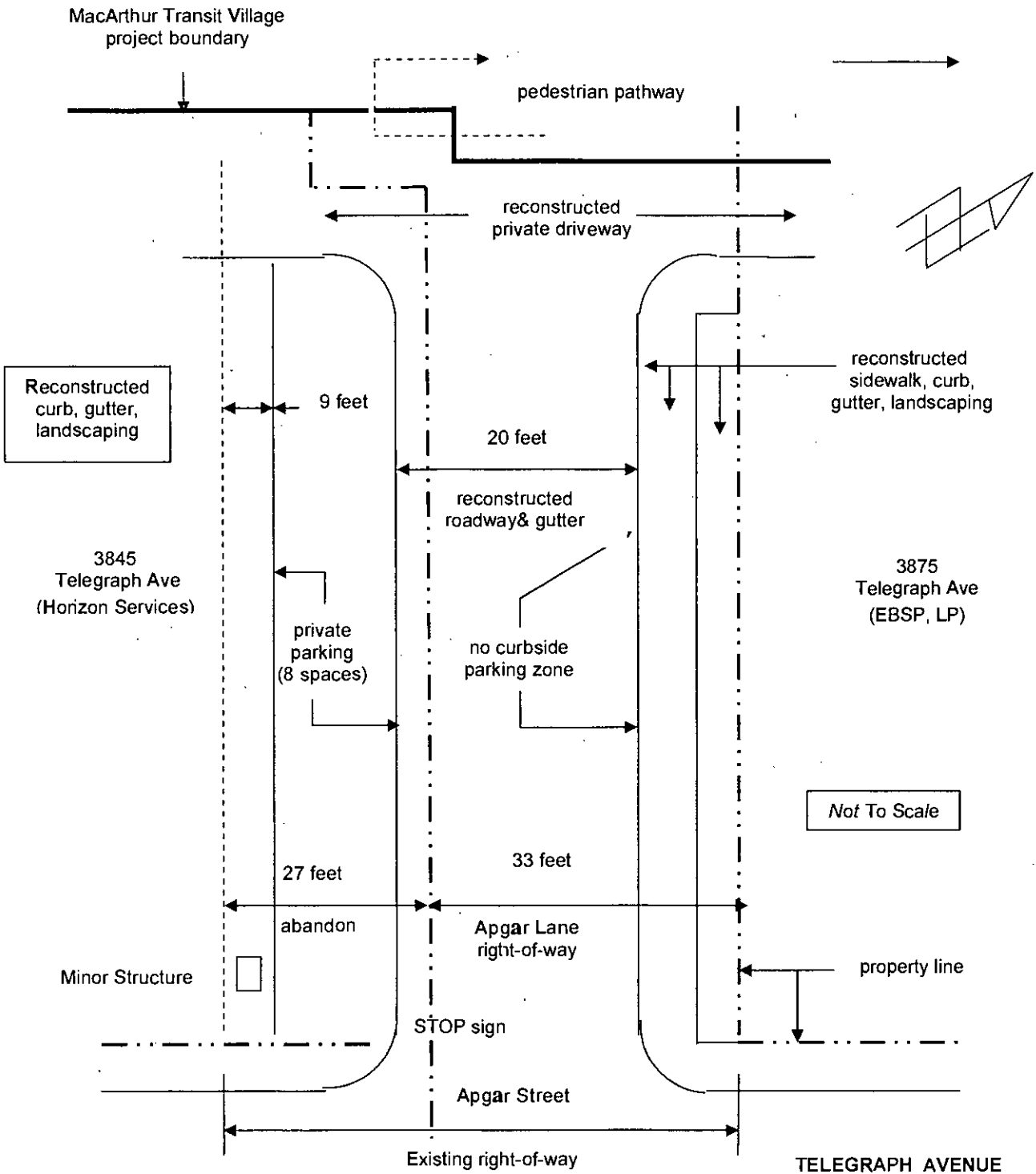
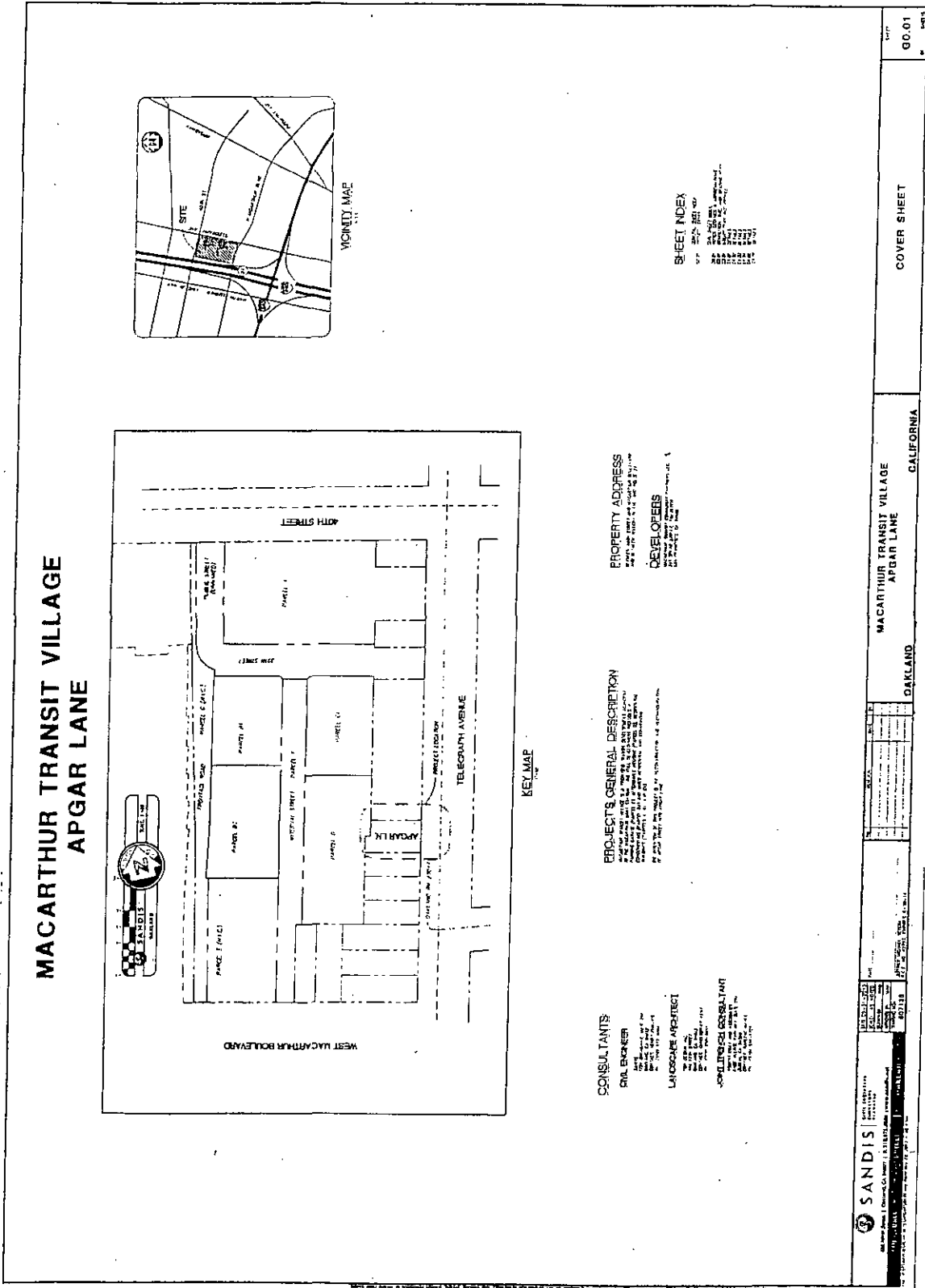
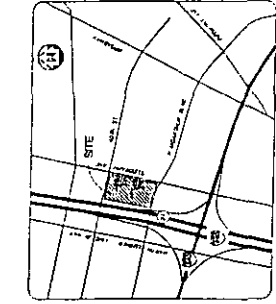


EXHIBIT C

Construction Plans for Infrastructure Permit PX 1300069 To Reconstruct Apgar Lane



MACARTHUR TRANSIT VILLAGE APGAR LANE



VICINITY MAP

KEY MAP

CONSULTANTS
CIVIL ENGINEER
 [Name]
 [Address]
 [City, State, Zip]
LANDSCAPE ARCHITECT
 [Name]
 [Address]
 [City, State, Zip]
CONSULTING CONSULTANT
 [Name]
 [Address]
 [City, State, Zip]

PROJECT'S GENERAL DESCRIPTION
 [Description text]
DEVELOPERS
 [Developer name]
 [Address]
 [City, State, Zip]

PROPERTY ADDRESS
 [Address text]
DEVELOPERS
 [Developer name]
 [Address]
 [City, State, Zip]

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SANDIS CIVIL ENGINEER 10000 Wilshire Blvd., Suite 1000 Los Angeles, CA 90024 (310) 206-1000 FAX: (310) 206-1001 WWW.SANDIS.COM		PROJECT NO. 1300069 SHEET NO. 00.01 DATE: 08/11/18	
PROJECT: MACARTHUR TRANSIT VILLAGE APGAR LANE DAKLAND CALIFORNIA		COVER SHEET	

EXHIBIT D

Metes and Bounds of Apgar Street Vacation

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA AND STATE OF CALIFORNIA, BEING A PORTION OF APGAR STREET, AS SHOWN AND CREATED ON THE "MAP OF THE LUNING TRACT", AS FILED AS FILED OCTOBER 10, 1905 IN BOOK 20 OF MAPS, AT PAGE 76, ALAMEDA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 3, AS SHOWN ON SAID MAP, AT THE INTERSECTION OF THE SOUTHERLY LINE OF APGAR STREET AND THE WESTERLY LINE OF TELEGRAPH AVENUE;

THENCE NORTH 77°07'14" WEST ALONG THE NORTHERLY LINE OF SAID LOT 3 AND THE SOUTHERLY LINE OF APGAR STREET, A DISTANCE OF 109.99 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 3, AT AN INTERSECTION WITH THE EASTERLY LINE OF PARCEL "D", AS SHOWN ON 'TRACT NO. 8047" AS FILED MARCH 23, 2012 IN BOOK 321 OF MAPS, AT PAGES 41-46, ALAMEDA COUNTY RECORDS;

THENCE NORTH 12°52'46" EAST ALONG THE EASTERLY LINE OF SAID PARCEL "D", A DISTANCE OF 15.00 FEET;

THENCE SOUTH 77°07'14" EAST A DISTANCE OF 10.07 FEET;

THENCE NORTH 12°52'46" EAST A DISTANCE OF 12.00 FEET;

THENCE SOUTH 77°07'14" EAST A DISTANCE OF 100.04 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF TELEGRAPH AVENUE;

THENCE SOUTH 13°08'17" WEST ALONG THE WESTERLY LINE OF TELEGRAPH AVENUE, A DISTANCE OF 27.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,851 SQUARE FEET, MORE OR LESS.

EXHIBIT E2

**Newspaper Noticing Of The Public Hearing For The Proposed
Vacation Of A Portion Of The Public Right-Of-Way Of Apgar Street**

PUBLIC NOTICE

**Public Meeting For
Abandoning A Public Street**

Pursuant to California Streets and Highways Code Section 8320 et seq., the Council of the City of Oakland will hold a meeting in the Chamber of the City Council, Third Floor of City Hall, at One Frank Ogawa Plaza, In Oakland, California, on June 18, 2013, beginning at 6:30 p.m., local time, to receive supporting evidence and Public testimony for an ordinance which will abandon (vacate) a portion of the public right-of-way of Apgar Street between its intersection at Telegraph Ave and the MacArthur Transit Village project. A detailed map is available at the Office of the City Engineer, 250 Frank Ogawa Plaza, 2nd Floor, Oakland, CA 94612.

published in the Oakland Tribune
on May 28, 2013, and June 4, 2013

EXHIBIT E3

Affidavit Certifying Notifications Of A Public Meeting To Receive Supporting Evidence And Public Testimony For A Proposed Vacation Of A Portion Of The Public Right-Of-Way Of Apgar Street Between Its Intersection At Telegraph Avenue And The Of The MacArthur Transit Village Project Without Cost To The Abutting Property Owner Horizon Services

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:

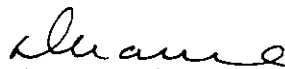
Site Posting

Facsimiles of the attached placard were affixed before May 29, 2013, to City street light poles in the public sidewalk at intervals not exceeding three hundred (300) feet along Apgar Street and Telegraph Avenue, and have remained in place since then advising the public of a meeting on June 18, 2013, at 6:30 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 supporting evidence and public testimony for the proposed vacation of a portion of the public right-of-way of Apgar Street between its intersection at Telegraph Avenue and its termination at the southeastern property boundary of the MacArthur Transit Village project without cost to the abutting property owner, Horizon Services.

Newspaper Publication

The attached notice was published in the Oakland *Tribune* twice on consecutive weeks on May 28, 2013, and June 4, 2013, advising the public of a hearing on June 18, 2013, at 7:01 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 supporting evidence and public testimony for the proposed vacation of a portion of the public right-of-way of Apgar Street between its intersection at Telegraph Avenue and its termination at the southeastern property boundary of the MacArthur Transit Village project without cost to the abutting property owner, Horizon Services, and advising the public that a map delineating the limits of the portion of the public right-of-way proposed for vacation is available at the Office of the City Engineer, Dalziel Administration Building, 2nd Floor, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.

by



RAYMOND M. DERANIA
Deputy Director - City Engineer
Department of Planning and Building

Introduced by

Councilmember

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2013 MAY 30 PM 4:33

Approved as to Form and Legality

Allen Chen
Office of the City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AN ORDINANCE VACATING WITHOUT COST TO THE ABUTTING PROPERTY OWNER HORIZON SERVICES A PORTION OF THE PUBLIC RIGHT-OF-WAY OF APGAR STREET FROM ITS INTERSECTION AT TELEGRAPH AVENUE TO ITS TERMINATION AT THE MACARTHUR TRANSIT VILLAGE PROJECT BOUNDARY

WHEREAS, pursuant to California Streets and Highways Code Section 8320 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 18, 2013, beginning at 6:30 p.m. local time to adopt findings for a proposed ordinance vacating a portion of the improved public right-of-way of Apgar Street between its intersection at Telegraph Avenue and its termination at the southeastern property boundary of the MacArthur Transit Village project without cost to one of the two abutting property owners, Horizon Services; and

WHEREAS, said meeting also set a hearing beginning at 6:30 p.m. 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 June 18, 2013, to receive supporting evidence and public testimony on said ordinance vacating said portion of Apgar Street; and

WHEREAS, the owners of the two parcels which abut said portion of Apgar Street acquired title individually for valuable consideration through the following instruments:

PROPERTY ADDRESS	ASSESSOR PARCEL No.	PROPERTY OWNER	GRANT DEED
3845 Telegraph Avenue	012-0967-002-00	Horizon Services	recorded 09-28-1992 series no. 1992-313728
516 Apgar Street	012-0968-055-03	Bay Area Rapid Transit District	Subdivision Map 8047

as recorded by the Alameda County Clerk-Recorder, and shown in **Exhibit A** attached hereto; and

WHEREAS, pursuant to California Civil Code section 831, an owner of land bounded by a road or street is presumed to own to the center of the way; and

WHEREAS, the San Francisco Bay Area Rapid Transit District (BART) established pursuant to California Public Utilities Code section 28500 et seq., who is one of the two owners of real property abutting said portion of Apgar Street proposed for vacation, voluntarily supports the redesign and partial vacation of the future Horizon Services parcel; and

WHEREAS, Horizon Services, a California corporation (C0776783), who is one of the two owners of real property abutting said portion of Apgar Street proposed for vacation, has voluntarily agreed to exercise its presumed right and accept without cost its proportional segment of the portion of Apgar Street proposed for vacation and also accept without cost said proportional segment of the portion of Apgar Street which BART supports; and

WHEREAS, pursuant to the California Streets and Highways Code, California Government Code, and California Public Resources Code, the Council of the City of Oakland has previously made the following statutory determinations by Resolution:

- the Council of the City of Oakland may adopt terms of performance by an abutting property owner that condition the vacation; 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 said property owners of the parcel abutting Apgar Street own the underlying fee simple interest in the portion of the public right-of-way proposed to be vacated; and
- the City Council approved a resolution (83516) on July 26, 2011, for the division of real property, dedications and vacations of public right-of-way and easements, and construction of publicly and privately maintained infrastructure comprising the Final Map for Tract No. 8047; and
- the proposed vacation does not require reservation of public service easement for emergency vehicle access; and
- the proposed vacation will reserve a public service easement for public utilities; 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 and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
- the proposed vacation will benefit the public and the citizens of Oakland fiscally by decreasing the cost of police services for nuisance and criminal activities and increasing the revenue derived from the general levy of property taxes; and

WHEREAS, the extent of the portion of Apgar Street proposed for vacation is shown in a schematic attached hereto as **Exhibit B** and is delineated in the metes and bounds attached hereto as shown in **Exhibit C**; 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 right-of-way and may instruct the City Clerk not to record a vacation until the conditions have been satisfied; and

WHEREAS, the City Planning Commission certified the MacArthur Transit Village EIR (ER 06004) on June 4, 2008, and on July 15, 2008, pursuant to Ordinance No. 12883 C.M.S., the City Council independently confirmed and adopted as its own findings and determinations (i) the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the Planning Commission on June 4, 2008, and (ii) the Conditions of Approval and Mitigation Monitoring and Reporting Program adopted by the Planning Commission on June 4, 2008, as modified in the July 1, 2008 City Council Supplemental Agenda Report; and

WHEREAS, the City Planning Commission adopted an addendum to said EIR determining that no further environmental review was required on March 16, 2011, and on May 17, 2011, pursuant to Resolution No. 83292 C.M.S., the City Council affirmed the Planning Commission's CEQA determination that no further environmental review was required; and

WHEREAS, the City of Oakland has reviewed and considered documentation relevant to the proposed subdivision and the EIR and hereby finds and determines that there are no changes to the project considered in the EIR, or circumstances under which it will be undertaken, or new information of substantial importance that requires preparation of a subsequent or supplemental EIR, as specified in CEQA and the State EIR Guidelines, including without limitation, Public Resources Code Section 2116 and State EIR Guidelines Section 15162 and 15163; and the requirements of CEQA and the CEQA Guidelines have been satisfied; now, therefore,

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

Section 1. The vacation of a portion of the public right-of-way of Apgar Street between its intersection at Telegraph Avenue and its termination at the southeastern property boundary of the MacArthur Transit Village project, as delineated in the attached **Exhibit C**, without cost to the abutting property owner, Horizon Services, complies with CEQA and is hereby ordered.

Section 2. This order of vacation does reserve a public service easement across the vacated right-of-way.

Section 3. Access to the vacated right-of-way by the general public may be controlled or prohibited by said abutting property owner, subject to the final inspection approvals by the City Engineer and Fire Chief of the City of Oakland of infrastructure permits for the reconstruction of the narrowed portion of the Apgar Street right-of-way by the developer of the MacArthur Transit Village project, MacArthur Transit Community Partners LLC (MTCP), a California limited liability company (200419810042).

Section 4. Pursuant to California Streets and Highways Code section 8336, this order of vacation shall not be complete unless and until this Ordinance has been filed for recording with the Alameda County Clerk-Recorder.

Section 5. Construction of Apgar Lane shall be completed by the agent, MTCP, of the abutting property owner, BART, without cost to the City of Oakland with infrastructure permits issued by the City Engineer and within three (3) years of the date of approval of this order of vacation.

Section 6. The conditions herein shall equally bind the abutting property owners, BART and Horizon Services, and the agents of BART, MTCP, and their representatives, heirs, beneficiaries, successors in interest, and assigns and the successive owners of said abutting properties.

Section 7. The developer of the MacArthur Transit Village project, MTCP, as the agent of the abutting property owner, BART, promises to defend, hold harmless, and indemnify the City of Oakland and its officials, officers, employees, agents, representatives, and volunteers from any and all claims, demands, lawsuit and judgment for damages of any kind and nature whatsoever arising out of or caused by the said vacation of a portion of the public right-of-way of Apgar Street and that the hereinabove condition shall be binding upon said agent and its beneficiaries, heirs, assigns, and successors in interest.

Section 8. The abutting property owner, Horizon Services, 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, agrees that it will use the area in the future at its own risk.

Section 9. The abutting property owner, Horizon Services, 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 officials, officers, employees, agents, representatives 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 be 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 1251 et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1400 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.), the Toxic Substance Control Act (15 U.S.C. Sections 2601-2692), 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 Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5 et seq.).

Section 10. The abutting property owner, Horizon Services, 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.

Section 11. The abutting property owner, Horizon Services, 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 Horizon Service's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

Section 12. This vacation shall expire by limitation and become void should reconstruction of Apgar Lane not be issued a Certificate of Completion by the City Engineer within three (3) years following adoption of this Ordinance by the Council of the City of Oakland.

Section 13. Should any article, section, subsection, sentence, clause, or phrase of this Ordinance or the attached Exhibits be held to be invalid or unconstitutional, the

offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

Section 14. This Ordinance is enacted by the Council of the City of Oakland pursuant to the police powers accorded to the City by and through section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

Section 15. Upon final adoption or approval of a reconsideration by sufficient votes of the Council of the City of Oakland, this Ordinance shall be effective on and after the day established in section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF,
AND PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION --

ATTEST:

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

EXHIBIT A

Grant Deed for 3845 Telegraph Avenue, recorded 09-28-1992, series no. 1992-313728

RECORDING REQUESTED BY FIRST AMERICAN TITLE GUARANTY COMPANY

Order No. 154697
Escrow No. 154687
LORN No.

92313728

WREN RECORDED MAIL TO:
Horizon Services
2595 Depot Road
Hayward, CA 94645



RECORDED IN OFFICIAL RECORDS
ALAMEDA COUNTY, CALIF
PATRICK O'CONNELL, CO. RECORDER

SEP 28 1992
AM 7:58 PM 1:21:34:516

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

CITY TRANSFER TAX \$ 5,000.00
DOCUMENTARY TRANSFER TAX \$ 650.00
SURVEY MONUMENT FEE \$ 10.00

SAME AS ABOVE



Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale.

As declared by the undersigned Grantor
Signature of Declarant or Agent determining tax - Firm Name

A.P.N. # 12-967-1 & 12-967-2

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Philip M. Spielman, a married man as his sole and separate property

hereby GRANT(S) to

Horizon Services, a California nonprofit corporation

the real property in the City of
County of

Oakland
Alameda

State of California, described as

FOR LEGAL DESCRIPTION, SEE EXHIBIT 'A' ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Dated September 17, 1992

STATE OF CALIFORNIA
COUNTY OF Alameda

Philip M. Spielman
Philip M. Spielman

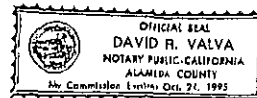
On September 22, 1992
before me David R. Valva
appeared Phillip M. Spielman

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their own free will and capacity, and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature

David R. Valva



(This area for official notary seal)

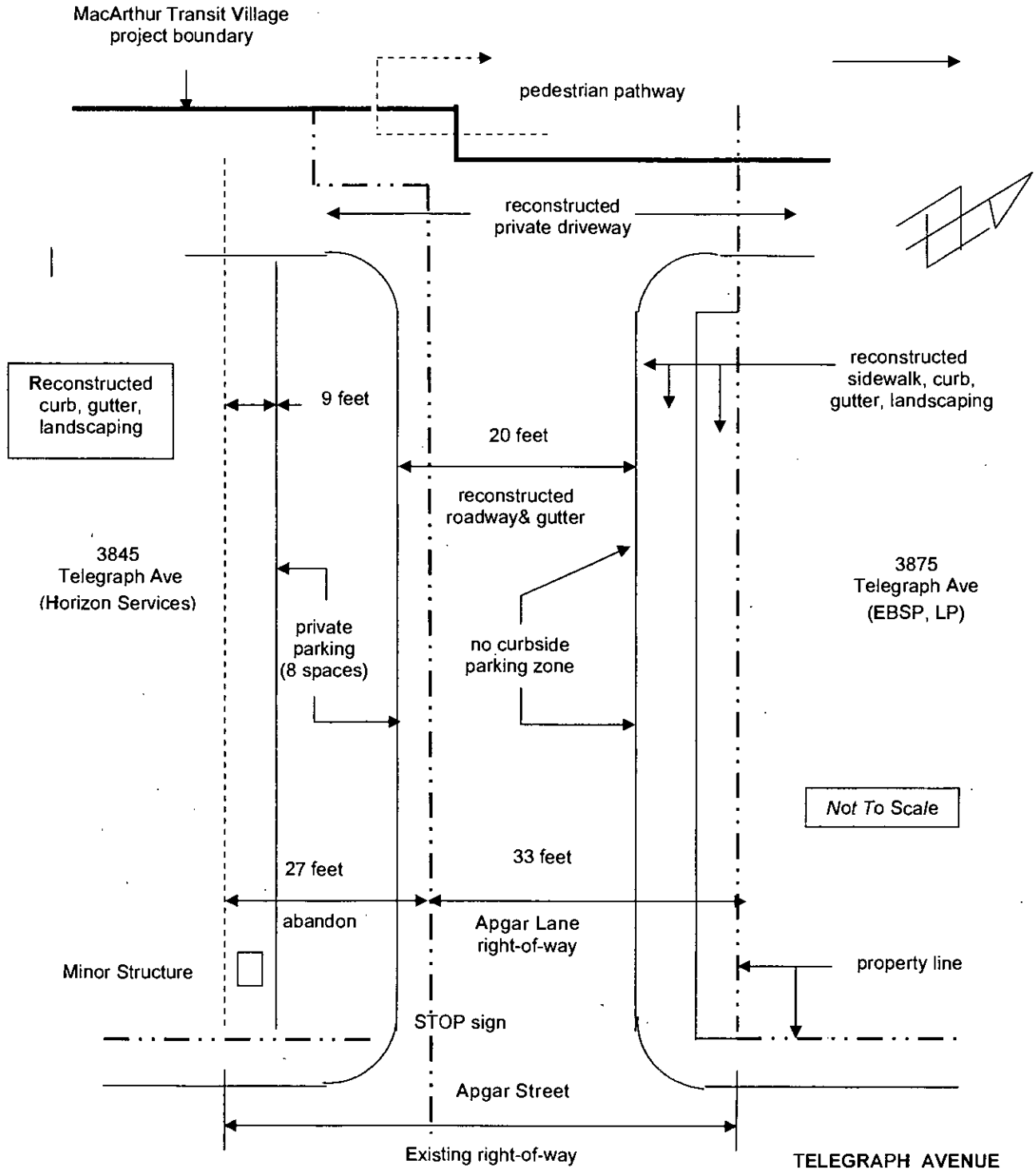
1002-EM (6/82)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

D

EXHIBIT B

Schematic of the Apgar Street Vacation



Metes and Bounds of Apgar Street Vacation

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA AND STATE OF CALIFORNIA, BEING A PORTION OF APGAR STREET, AS SHOWN AND CREATED ON THE "MAP OF THE LUNING TRACT", AS FILED AS FILED OCTOBER 10, 1905 IN BOOK 20 OF MAPS, AT PAGE 76, ALAMEDA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 3, AS SHOWN ON SAID MAP, AT THE INTERSECTION OF THE SOUTHERLY LINE OF APGAR STREET AND THE WESTERLY LINE OF TELEGRAPH AVENUE;

THENCE NORTH 77°07'14" WEST ALONG THE NORTHERLY LINE OF SAID LOT 3 AND THE SOUTHERLY LINE OF APGAR STREET, A DISTANCE OF 109.99 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 3, AT AN INTERSECTION WITH THE EASTERLY LINE OF PARCEL "D", AS SHOWN ON 'TRACT NO. 8047" AS FILED MARCH 23, 2012 IN BOOK 321 OF MAPS, AT PAGES 41-46, ALAMEDA COUNTY RECORDS;

THENCE NORTH 12°52'46" EAST ALONG THE EASTERLY LINE OF SAID PARCEL "D", A DISTANCE OF 15.00 FEET;

THENCE SOUTH 77°07'14" EAST A DISTANCE OF 10.07 FEET;

THENCE NORTH 12°52'46" EAST A DISTANCE OF 12.00 FEET;

THENCE SOUTH 77°07'14" EAST A DISTANCE OF 100.04 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF TELEGRAPH AVENUE;

THENCE SOUTH 13°08'17" WEST ALONG THE WESTERLY LINE OF TELEGRAPH AVENUE, A DISTANCE OF 27.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,851 SQUARE FEET, MORE OR LESS.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Introduced by

Approved as to Form and Legality

2013 MAY 30 PM 4: 33

Office of the City Attorney

Councilmember

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

A RESOLUTION RENAMING APGAR STREET AS APGAR LANE BETWEEN TELEGRAPH AVENUE AND THE BOUNDARY OF THE MACARTHUR TRANSIT VILLAGE PROJECT

WHEREAS, on July 26, 2011, the Council of the City of Oakland conditionally approved through Resolution No. 83516 C.M.S. the subdivision of real property identified by the Alameda County Clerk-Recorder as a Final Map for Tract No. 8047 for the MacArthur Transit Village (MTV) project; and

WHEREAS, as a condition of acceptance by the City of Oakland of said dedications, the developer of the MTV project, MacArthur Transit Community Partners LLC (MTCP), a California limited liability company (200419810042), is required to improve the new public right-of-way to public street standards and specifications established by the Public Works Agency of the City of Oakland; and

WHEREAS, MTCP has filed a request with the City Engineer to change the existing name of Apgar Street to Apgar Lane, which will be narrowed in width through an Ordinance of vacation to facilitate construction of the MTV project; and

WHEREAS, MTCP will provide, without cost to the City of Oakland, new street signs for the reconstructed Apgar Lane, as shown in *Exhibit A* attached hereto; and

WHEREAS, pursuant to Section 34091.1 of the California Government Code, the Council of the City of Oakland is authorized to designate names for City streets by resolution; and

WHEREAS, the City Planning Commission certified the MacArthur Transit Village EIR (ER 06004) on June 4, 2008, and on July 15, 2008, pursuant to Ordinance No. 12883 C.M.S., the City Council independently confirmed and adopted as its own findings and determinations (i) the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the Planning Commission on June 4, 2008, and (ii) the Conditions of Approval and Mitigation Monitoring and Reporting Program adopted by the Planning Commission on June 4, 2008, as modified in the July 1, 2008 City Council Supplemental Agenda Report; and

WHEREAS, the City Planning Commission adopted an addendum to said EIR determining that no further environmental review was required on March 16, 2011, and on May 17, 2011,

pursuant to Resolution No. 83292 C.M.S., the City Council affirmed the Planning Commission's CEQA determination that no further environmental review was required; and

WHEREAS, the City of Oakland has reviewed and considered documentation relevant to the proposed subdivision and the EIR and hereby finds and determines that there are no changes to the project considered in the EIR, or circumstances under which it will be undertaken, or new information of substantial importance that requires preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 2116 and CEQA Guidelines Sections 15162 and 15163; and the requirements of CEQA and the CEQA Guidelines have been satisfied; now, therefore, be it

RESOLVED: That changing the existing name of Apgar Street to Apgar Lane does comply with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the Council of the City of Oakland does hereby approve changing the name of Apgar Street to Apgar Lane from its intersection at Telegraph Avenue to its termination at the southeastern property boundary of the MacArthur Transit Village project; and be it

FURTHER RESOLVED: That the City Engineer is authorized to require that MacArthur Transit Community Partners LLC install new street signs without cost to the City of Oakland; and be it

FURTHER RESOLVED: That pursuant to California Government Code Section 34092, the City Engineer is hereby authorized to forward a copy of this Resolution to the Alameda County Board of Supervisors.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF,
AND PRESIDENT KERNIGHAN

NOES -

ABSENT -

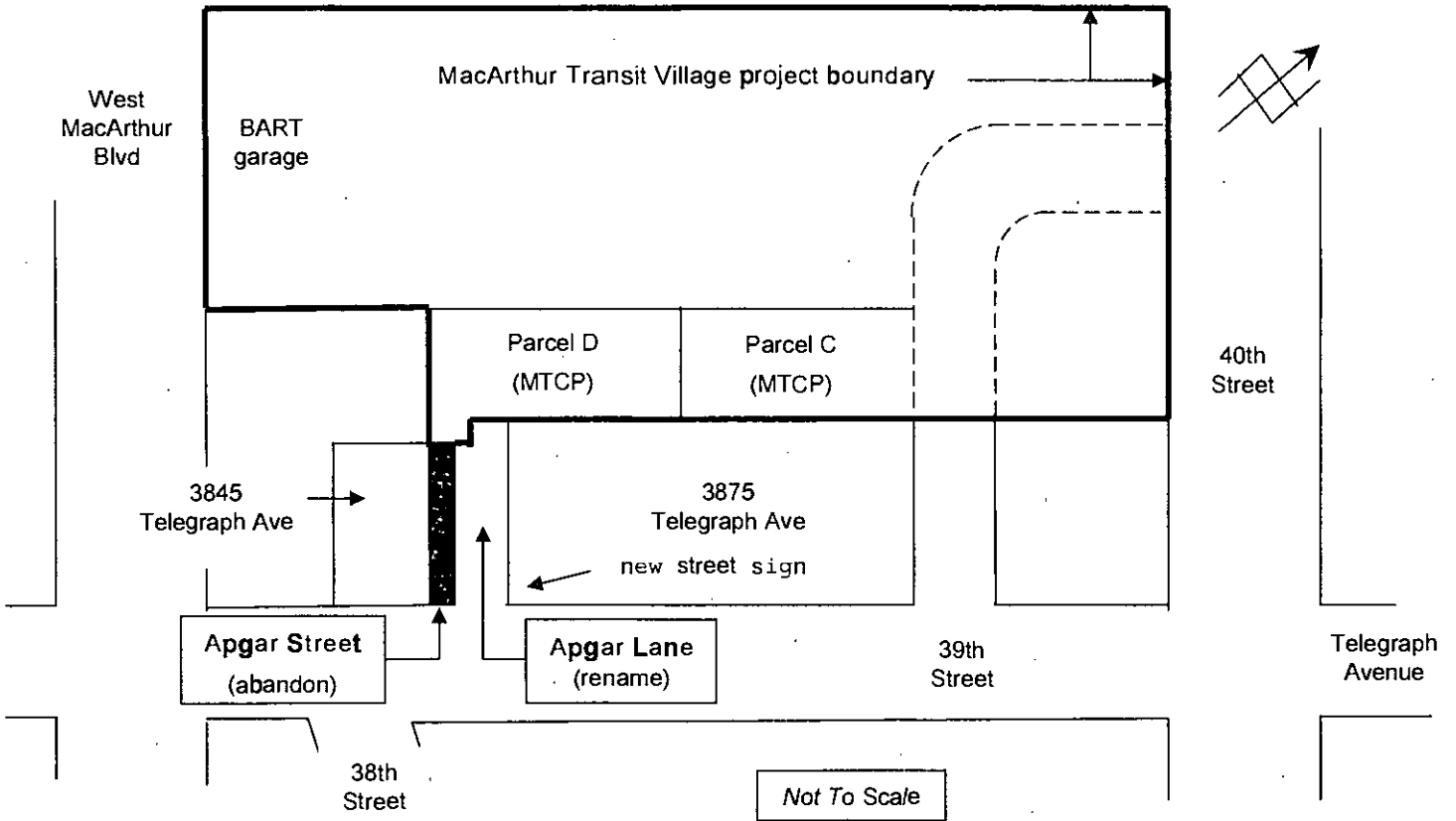
ABSTENTION -

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

EXHIBIT A

State Hwy Route 24

MacArthur BART Station

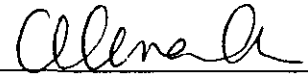


FILED
OFFICE OF THE CITY CLERK
OAKLAND

Introduced by

2013 MAY 30 PM 4:33

Approved as to Form and Legality


Office of the City Attorney

Councilmember

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

**A RESOLUTION PROHIBITING VEHICLE PARKING AND STANDING
AT ALL TIMES AND APPROVING REMOVAL BY TOWING IN APGAR
LANE (FORMERLY APGAR STREET) BETWEEN ITS INTERSECTION
AT TELEGRAPH AVENUE AND ITS TERMINATION AT THE
MACARTHUR TRANSIT VILLAGE PROJECT BOUNDARY**

WHEREAS, pursuant to California Streets and Highways Code section 8330 et seq., the City Council has approved the vacation of a portion of Apgar Street, newly renamed as Apgar Lane, between its intersection with Telegraph Avenue and its termination at the southeastern boundary of the MacArthur Transit Village project; and

WHEREAS, said vacation will reduce the width of the public right-of-way of Apgar Lane, formerly named Apgar Street, from sixty (60) feet to thirty-three (33) feet and the width of the roadway drive aisle, from a thirty-six (36) foot to a twenty (20) feet drive aisle; and

WHEREAS, pursuant to Resolution No. 83516 C.M.S., adopted July 26, 2011, which conditionally approved the Final Map for Tract No. 8047 for the MacArthur Transit Village project, MacArthur Transit Community Partners LLC (MTCP), a California limited liability company (200419810042), will reconstruct without cost to the City of Oakland the narrowed portion of Apgar Lane, including pavement, sidewalks, curbs, gutters, roadway, signs and supporting poles, landscaping, striping, and buried utilities; and

WHEREAS, pursuant to the 2010 edition of the California Fire Code, Appendix D, section D103.1, and to Oakland Municipal Code section 15.12.010, said narrowed roadway width is the minimum dimension necessary to provide adequate access for fire apparatus to support fire suppression and rescue operations; and

WHEREAS, maintaining said narrowed roadway free of parked and standing vehicles at all times is critical to assure adequate access for fire apparatus to support fire suppression and rescue operations for the properties and structures abutting Apgar Lane; and

WHEREAS, pursuant to Oakland Municipal Code section 10.28.250, the Council of the City of Oakland may prohibit parking or standing of vehicles at any time on any street or part of any street, as shown on the attached *Exhibit A*, provided appropriate signs are in place giving notice thereof; and

WHEREAS, pursuant to California Vehicle Code section 22651(n), signs shall be posted giving notice to the public that vehicles illegally parked or left standing will be removed by towing, and

WHEREAS, the City Planning Commission certified the MacArthur Transit Village EIR (ER 06004) on June 4, 2008, and on July 15, 2008, pursuant to Ordinance No. 12883 C.M.S., the City Council independently confirmed and adopted as its own findings and determinations (i) the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the Planning Commission on June 4, 2008, and (ii) the Conditions of Approval and Mitigation Monitoring and Reporting Program adopted by the Planning Commission on June 4, 2008, as modified in the July 1, 2008 City Council Supplemental Agenda Report; and

WHEREAS, the City Planning Commission adopted an addendum to said EIR determining that no further environmental review was required on March 16, 2011, and on May 17, 2011, pursuant to Resolution No. 83292 C.M.S., the City Council affirmed the Planning Commission's CEQA determination that no further environmental review was required; and

WHEREAS, the City of Oakland has reviewed and considered documentation relevant to the proposed subdivision and the EIR and hereby finds and determines that there are no changes to the project considered in the EIR, or circumstances under which it will be undertaken, or new information of substantial importance that requires preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 2116 and CEQA Guidelines Sections 15162 and 15163; and the requirements of CEQA and the CEQA Guidelines have been satisfied; now, therefore, be it

RESOLVED: That the prohibition of vehicle parking and standing at all times and approval of removing by towing in Apgar Lane between its intersection at Telegraph Avenue and its termination at the MacArthur Transit Village project boundary complies with CEQA; and be it

FURTHER RESOLVED: That vehicle parking and standing in the roadway of Apgar Lane shall be prohibited at all times; and be it

FURTHER RESOLVED: That signs approved by the Traffic Engineer of the City of Oakland shall be installed at locations approved by both the Traffic Engineer and MTCP, without cost to the City of Oakland, advising the public of said prohibited vehicle parking and standing and of removal of such illegally parked or standing vehicles by towing.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

**AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF,
AND PRESIDENT KERNIGHAN**

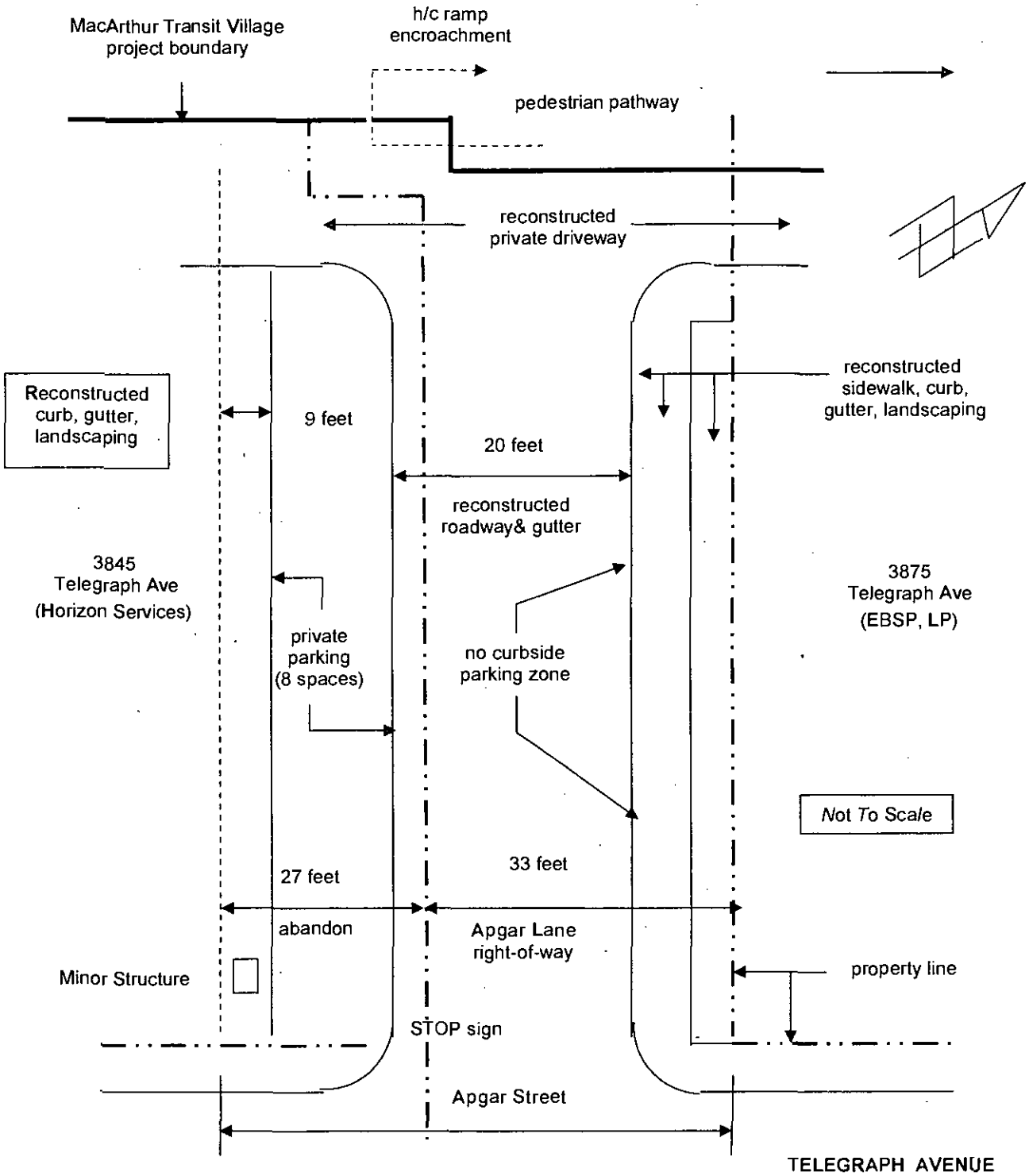
NOES -

ABSENT -

ABSTENTION -

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

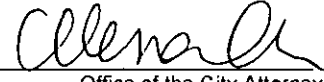
EXHIBIT A



Introduced by

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to Form and Legality



Office of the City Attorney

Councilmember

2013 MAY 30 PM 4:34
OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION APPROVING THE INSTALLATION OF OFFICIAL TRAFFIC CONTROL STOP SIGNS FOR APGAR LANE AT ITS INTERSECTION AT TELEGRAPH AVENUE FOR THE MACARTHUR TRANSIT VILLAGE PROJECT

WHEREAS, pursuant to Resolution No. 83516 C.M.S., the Council of the City of Oakland conditionally approved the Final Map for Tract No. 8047 for the MacArthur Transit Village (MTV) project on July 26, 2011; and

WHEREAS, as a condition of approval of the Final Map, the developer of the MTV project, MacArthur Transit Community Partners LLC (MTCP), a California limited liability company (200419810042), is required to construct publicly maintained infrastructure improvements without cost to the City of Oakland, including the reconstruction of Apgar Street, which will be renamed Apgar Lane, from its existing intersection at Telegraph Avenue to its termination at the southeastern property boundary of the MTV project; and

WHEREAS, the intersection will introduce motor vehicles through turning movements into the traffic flow of Telegraph Avenue; and

WHEREAS, the Traffic Element of the General Plan of the City of Oakland designates Telegraph Avenue as an arterial street of the MTV project; and

WHEREAS, pursuant to the California Department of Transportation Traffic Manual section IA.13.12, an arterial street is a general term denoting a street primarily used by through traffic; and

WHEREAS, pursuant to California Vehicle Code section 600, through streets have vehicular traffic from intersecting streets regulated by stop signs or traffic control signals; and

WHEREAS, pursuant to California Vehicle Code sections 21100 and 21400, local authorities may adopt regulations by resolution regarding the regulation of traffic by means of official traffic control devices; and

WHEREAS, pursuant to Oakland Municipal Code section 10.12.110, official traffic control devices are required to be installed at through street intersections; and

WHEREAS, the City Planning Commission certified the MacArthur Transit Village EIR (ER 06004) on June 4, 2008, and on July 15, 2008, pursuant to Ordinance No. 12883 C.M.S., the City Council independently confirmed and adopted as its own findings and determinations (i) the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the

Planning Commission on June 4, 2008, and (ii) the Conditions of Approval and Mitigation Monitoring and Reporting Program adopted by the Planning Commission on June 4, 2008, as modified in the July 1, 2008 City Council Supplemental Agenda Report; and

WHEREAS, the City Planning Commission adopted an addendum to said EIR determining that no further environmental review was required on March 16, 2011, and on May 17, 2011, pursuant to Resolution No. 83292 C.M.S., the City Council affirmed the Planning Commission's CEQA determination that no further environmental review was required; and

WHEREAS, the City of Oakland has reviewed and considered documentation relevant to the proposed subdivision and the EIR and hereby finds and determines that there are no changes to the project considered in the EIR, or circumstances under which it will be undertaken, or new information of substantial importance that requires preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 2116 and CEQA Guidelines Section 15162 and 15163; and the requirements of CEQA and the CEQA Guidelines have been satisfied; now, therefore, be it

RESOLVED: That the installation of an official traffic control stop sign at the intersection of Apgar Lane at Telegraph Avenue complies with CEQA; and be it

FURTHER RESOLVED: That pursuant to California Vehicle Code sections 21100 and 21400, the Council of the City of Oakland hereby designates Telegraph Avenue as a through street for the purpose of installing official traffic control stop signs at the intersections of Apgar Lane, and be it

FURTHER RESOLVED: That pursuant to Oakland Municipal Code section 10.12.110, the installation of an official traffic control stop sign at the intersection of Apgar Lane and Telegraph Avenue, as shown in *Exhibit A* attached hereto, is hereby approved.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF,
AND PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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

EXHIBIT A

Stop Sign Location Schematic

