

**REDEVELOPMENT AGENCY OF THE
CITY OF OAKLAND**
AGENDA REPORT

FILED
OF THE CITY CLERK
OAKLAND

2008 JUN 12 PM 6:05

TO: Office of the Agency Administrator
ATTN: Deborah A. Edgerly
FROM: Community and Economic Development Agency
DATE: June 24, 2008

RE: **An Agency Resolution Authorizing The Purchase Of A 1.22 Acre Parcel Of Real Property Located At The Southwest Corner of 73rd Avenue And Foothill Boulevard, Adjacent to Eastmont Town Center, From East Oak Land Associates, LLC For \$2,340,000 And Authorizing Up To \$150,000 For Demolition And Real Estate Closing Costs**

SUMMARY

Approval by the Redevelopment Agency is requested to purchase the property located at the southwest corner of 73rd Avenue and Foothill Boulevard, Oakland (the "Property") from East Oak Land Associates, LLC (the "Owner") under a negotiated purchase agreement. The Property (Assessor Parcel Number # 039-3291-020 described in Exhibit "A" to the resolution) is located within the Central City East ("CCE") Redevelopment Project Area and City Council District 6. The Agency issued Central City East Series 2006A Taxable Bonds to finance the purchase of underutilized and blighted properties in the CCE area. The purchase will control and facilitate the future development of this Property. Staff recommends that the Redevelopment Agency adopt the attached resolution to authorize the acquisition of the Property. On June 2, 2008, the Project Area Committee ("PAC") for CCE recommended approval of the proposed purchase of the Property.

FISCAL IMPACT

Staff of the Community and Economic Development Agency proposes the following Agency funding sources for this acquisition: \$2,340,000 plus an additional \$150,000 for customary real estate closing and demolition costs will be allocated from the Central City East Tax Allocation Bond Series 2006A-T (Taxable) Bonds Fund (9543), Central City East Organization (88699), CCE Land Acquisition Project (S233351).

BACKGROUND

The acquisition of the Property is an opportunity purchase. The Property, located in the Eastmont Town Center in East Oakland, benefits from the frontage on Foothill Boulevard

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and 73rd Avenue. Located on a major commercial intersection, the Property consists of a 53,160 square feet of land on a triangular shaped level lot, improved with a vacant 10,700 square feet single story automotive service building. All off-site improvements and public utilities are available to the Property. The Redevelopment Agency has expressed an interest to the Owner for the possible acquisition under a negotiated purchase agreement to acquire the Property at the appraised value of \$2,340,000.

The Property is part of the Eastmont Town Center. The City now leases two separate spaces in the Eastmont Town Center. The two leases include:

1. **Town Center Lease ("Library Lease")** effective March 17, 1997, which provides for the following:

Term: 20 years commencing August 15, 1998 and terminating August 14, 2018

Option Term to Extend: 5 renewal terms for 2 years per term

Early Termination: City may terminate the Lease, with or without cause, subject to 90 days advance written notice

Premises: 6,760 square feet

Base Rent: Zero (0)

Other City Charges: City pays for the following:

Tenant Construction Allowance Reimbursement Payment

("TCARP"): \$4,627.25 per month required to amortize \$500,000 over 20 years at a rate not to exceed 10% per annum (actual interest rate is 9.3975%) beginning August 15, 1998. Except for a material default by Landlord, if the Library Lease is terminated prior to the end of the Lease Term (August 14, 2018), City shall be required to immediately pay the unamortized balance of the Tenant Construction Allowance to the Landlord. As of April 1, 2008, the unamortized balance was about \$364,514.

Building Operating Expenses and Taxes: \$.35 per square foot per month or \$2,366 per month with adjustments every 24 months (the current building operating expenses and taxes is \$3,648 per month)

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Tenant's Share of Premises Maintenance Expenses: \$.19 per square foot per month or \$1,284.40 with adjustments every 24 months (the current share of the premises maintenance expenses is \$1,840 per month)

Use: Public library

Assignment and Subletting: Requires Landlord's consent

2. **Town Center Lease ("OPD Lease")** effective April 3, 2001, which provides for the following:

Term: 20 years commencing December 7, 2002 and terminating December 6, 2022

Option Term to Extend: 2 renewal terms for 5 years per term

Early Termination: City may terminate the Lease, with or without cause, subject to 90 days advance written notice

Premises: 64,000 square feet

Base Rent: \$.75 per square foot per month or \$48,000 per month (after the 48 months from commencement date of December 7, 2006) with adjustments every two years (the current rent is \$50,587.20 per month)

Building Operating Expenses and Taxes: \$.25 per square foot per month or \$16,000 per month with adjustments every 24 months (the current building operating expenses and taxes is \$16,838 per month)

Use: Police precinct station

Assignment and Subletting: Requires Landlord's consent

According to the preliminary report (order number: NCS347246-CC) from First American Title dated as of March 3, 2008, Seller is the record owner of the Property. Seller has retained ScanlanKemperBard Companies, LLC ("SKB") as asset manager of the Eastmont Town Center. Seller has expressed an interest to sell the Property to the Agency subject to the terms and conditions described in a SKB letter dated March 21, 2008 ("SKB Letter of Intent"), attached.

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According to the SKB Letter of Intent, Seller is interested in entering into a Purchase and Sale Agreement (“Agreement”) with the City subject to the following terms and conditions:

1. **Property:** 1.22 acres parcel (about 53,143 square feet) located at the southwest corner of 73rd Avenue and Foothill Boulevard
2. **Purchase Price:** \$2,340,000 (or about \$44.00 per square foot) including the land and the building payable as follows:
 - a. **Non-refundable earnest money deposit:** \$234,000 payable when the Purchase and Sale Agreement is executed and delivered to both parties.
 - b. **Balance of the purchase price;** \$2,106,000 (adjustment for prorations) at close of escrow.
3. **Amendments to Library Lease contingencies:**
 - a. **Market rate tenant:** The City shall use best efforts to bring a new qualified tenant to lease the existing library space at current market rates.
 - b. **Reduction of 50% in the Tenant Construction Allowance (“TCA”):** Upon the termination of the Library Lease, the City’s unamortized TCA balance will be reduced to 50% of the amount specified in the Library Lease.
 - c. **Reduction of 100% in the TCA:** If the City replaces the library with a market-rate tenant prior to its termination of the Library Lease, 100% of unamortized TCA balance otherwise due from City will be waived.
4. **Amendments to OPD Lease contingencies:**
 - a. The provision in the OPD Lease that entitles the City to terminate the lease on 90 days advance written notice will be amended to suspend the City’s right to terminate the lease for a period of ten (10) years from the close of escrow on the purchase of the Property. Following the ten (10) year suspension period, the City’s right to early termination shall be reinstated and will be effective through the remaining term of the OPD Lease.
 - b. The City will be granted permission to install a new antenna on the

rooftop of the premises at no additional rent.

5. **Closing Costs:** The City shall be responsible for the payment of the City and County transfer tax. Escrow fees will be shared equally between the City and Seller. This transaction is exempt from both City and County transfer taxes.
6. **Condition:** The Property will be conveyed as-is, where-is, with existing improvements in place.
7. **Due Diligence:** The City shall have 60 days to complete its due diligence inspection of the Property following the execution of the Letter of Intent.

These terms are still under negotiation.

KEY ISSUES AND IMPACTS

The key issue is whether the Agency should purchase the Property. If the Agency purchases the Property, the negative aspects of the acquisition include following:

1. The Agency will incur the costs of maintenance for 3 to 5 years until the redevelopment of the Property.
2. The City will waive its right to terminate the OPD Lease (as more specifically described below) upon 90 days advance written notice for 10 years following the purchase of the Property but the City's right to early termination will be effective for the remaining term ending December 6, 2022.

Staff recommends the purchase of the Property for following reasons:

1. The proposed acquisition will satisfy the immediate objective of acquiring properties located at major commercial intersections that will benefit from future redevelopments. In the long run, control of the Property is important to the redevelopment efforts in the Central City East Redevelopment Project Area.
2. The acquisition of the Property presents a unique opportunity to gain site control for the implementation of the Central City East Redevelopment Plan to reuse underutilized and blighted building sites and revitalize the surrounding community
3. The Property was appraised and a purchase price equal to the Fair Market Value was offered to the Owner. The Owner has agreed to enter into a purchase agreement to sell the Property to the Agency for the purchase price of \$2,340,000 plus demolition and closing costs, estimated at about \$150,000.

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After reviewing the Phase I environmental investigation report on the Property, Staff recommends as a part of its due diligence, a Phase II environmental investigation and building survey for hazardous materials be undertaken before the purchase of the Property.

PROJECT DESCRIPTION

The Property is located in the Foothill Boulevard/73rd Avenue commercial area which is located within the Central City East Redevelopment Project Area, and targeted for community and economic development revitalization. The Property consists of a 53,160 square feet of land on a triangular shaped and level lot, improved with a vacant 10,700 square feet single story automotive service building. The topography is level and the frontage of the Property is improved with sidewalks, curbs, gutters, and storm drain. The Property is zoned C-30 Community Commercial Zone Regulations. The zoning allows for a wide range of retail use typically found along a major thoroughfare. The highest and best use for the Property at this time would be for a retail development project. Within six to nine months after the acquisition, the Agency plans to demolish the existing automotive service center building in order to facilitate new development.

SUSTAINABLE OPPORTUNITIES

Economic: In its present condition the Property makes minimum economic contribution to the area. The vacant commercial building provides an opportunity for illegal dumping and other blight-related problems. The future development of this Property, such as new retail is expected to improve the neighborhood conditions, and create an environment that will be more attractive to current and prospective residents, as well as businesses that can provide employment in the City of Oakland and increase the tax base of the City.

Environmental: The acquisition of the Property and future development at this location is expected to create an attractive addition to the community, stimulating neighborhood infill development. The contractors of all future infill projects will be required to make every effort to reuse clean fill materials and recyclable concrete and asphalt products.

Social Equity: The proposed acquisition and potential development will provide further positive stimulus to the local neighborhoods. This future development will be a welcomed contribution to the continued safety, growth, and stability of the neighborhood.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no impact on access for senior citizens or the disabled.

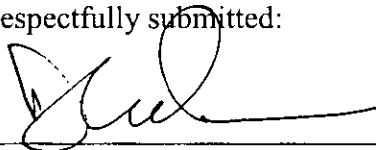
RECOMMENDATION AND RATIONALE

Staff recommends that the Agency adopt the resolution authorizing the purchase of the Property for \$2,340,000 and authorizing up to \$150,000 for costs for demolition and real estate closing. Approving the Agency Resolution will further complete the objectives of the Central City East Redevelopment Plan to implement the process of improving the district with positive economic stimulus, creating better communities for residents. The CCE PAC has recommended the purchase of the Property.

ACTION REQUESTED OF CITY COUNCIL

Council is requested to adopt the Resolution authorizing the purchase of the Property at for \$2,340,000 and authorizing up to \$150,000 for costs for demolition and real estate closing.

Respectfully submitted:



Dan Lindheim
Director
Community and Economic Development Agency

Reviewed by: Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Reviewed by: Frank Fanelli, Manager
Real Estate Services Division

Prepared by: Ed Kawamoto
Real Estate Agent
Real Estate Services Division

APPROVED FOR FORWARDING TO
FINANCE AND MANAGEMENT COMMITTEE:



Office of the City/Agency Administrator

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SCANLANKEMPERBARD COMPANIES
REAL ESTATE, MERCHANT BANKING

March 21, 2008

Mr. Frank Fanelli
Manager, Real Estate Division
City of Oakland
250 Frank H. Ogawa Plaza
Oakland, CA 94612-2033

Re: Eastmont Town Center – 1.22 acres

Dear Frank:

This letter of intent is in response to your counter offer dated February 28, 2008 for the property described above. The purpose of this letter of intent is to set forth the primary terms and conditions upon which East Oak Land Associates, LLC ("Seller") would be willing sell the subject property described below to the City of Oakland ("Buyer"). This letter sets forth the basic terms and conditions of the proposed purchase and sale agreement which are being offered exclusively to the City of Oakland.

1. Property: 1.22 acre parcel and building located at the southwest corner of 73rd Avenue and Foothills Boulevard.
2. Purchase Price: \$2,340,000.00 payable as follows:
 - a. \$234,000.00 non-refundable earnest money deposit upon mutual execution of a formal purchase and sale agreement ("Purchase and Sale Agreement"), said deposit is a good faith deposit of the Buyer's performance of all terms and conditions of the Purchase and Sale Agreement.
 - b. The balance (\$2,106,000.00 subject to adjustment for pro-rations) at close of escrow.
3. Close of Escrow: Escrow shall close Twenty (20) days after release of contingencies.

Title and escrow services to be provided by:

First American Title
1850 Mt. Diablo Blvd. #300
Walnut Creek, CA 94596
Attention: Kat VanSteenhuysen, Escrow Manager
(T) 925-927-2100
(F) 925-927-2180
4. Buyer Due Diligence: Buyer shall have Sixty (60) days to conduct its due diligence and to satisfy Seller's Contingencies, following the full execution of the Letter of Intent.

5. Seller Contingencies: The proposed purchase price of \$2,340,000.00 is subject to the following contingencies:
- a. Oakland Public Library Lease. The City of Oakland shall use its best efforts to bring a new qualified tenant to lease the existing library space at current market rates.
 - b. City of Oakland - Oakland Police Department ("OPD") Lease at Eastmont Town Center (Expires: 12-6-2022). City of Oakland - Oakland Police Department ("OPD") Lease at Eastmont Town Center (Expires: 12-6-2022). The lease shall be amended to suspend the City's right to terminate the lease upon Ninety (90) days notice for a period of Ten (10) years. The Ten (10) year period shall become effective upon closing of the City's purchase of the 1.22 acre site. Following the Ten (10) year suspension period, the City's early termination right shall be reinstated and will be effective through the remaining term of the Lease.
 - c. OPD Antennae Space: OPD previously requested Landlord's approval to install a new antennae on the roof above its Premises. Subject to the sale terms described in this letter, Landlord shall waive OPD's additional monthly rental associated with this antennae space.

6. Oakland Library Lease: Subject to closing of the proposed sale of the 1.22 acre site to the City of Oakland, the Seller agrees that Sections 2.4 and 3.2 of the Oakland Library Lease will be amended with respect to the tenant's obligation to pay the unpaid balance of the amortized Tenant Construction Allowance ("TCA") in accordance with the following:
- a. Tenant's unamortized TCA balance due upon termination of the lease will be reduced to Fifty percent (50%) of the amount currently specified by the lease.
 - b. If the City of Oakland replaces the library with a market-rate tenant (rent, term, tenant improvements) prior to its termination of the library lease, One Hundred percent (100%) of the unamortized TCA balance otherwise due from Tenant, shall be waived.

Inspections: From and after the full execution of the Letter of Intent, Buyer shall have the right to inspect the title and the physical, environmental, economic and legal condition of the Project. Seller shall provide Buyer and its consultants access to the Project during regular business hours so that Buyer and its consultants may conduct such investigations and testing of the physical condition of the Project including the physical, environmental, geological, structural and engineering condition of the Project.

Seller previously contracted for a Phase I environmental site assessment of the Property conducted by a reputable environmental engineering firm.

respected and accepted by banks and financial institutions. The Phase I assessment did not recommend that a Phase II environmental study be conducted.

Buyer may conduct a Phase I environmental site assessment of the Property. Should the findings of the Phase I assessment warrant the recommendation of a Phase II assessment, Buyer and Seller shall determine how the Phase II assessment will be handled at that time with the parameters to be further defined in the Purchase and Sale Agreement.

8. Assurances: The property shall be purchased on an "As Is," "Where Is" basis with existing improvements in place.
9. Purchase & Sale Agreement: Buyer and Seller agree to negotiate a Purchase and Sale Agreement within Twenty (20) business days after the execution of this Letter of Intent.
10. Closing Costs: Buyer, at its sole cost and expense, shall be responsible for the City and County Transfer tax. Buyer and Seller shall split escrow fees 50/50.
11. Exclusivity: In view of the time and expense which Buyer will invest in preparing for the acquisition of the property, Seller agrees not to enter into any purchase and sale agreements relating to the property for Sixty (60) days following the date of this letter of intent.
12. Brokerage: Neither Seller nor Buyer are represented by broker, therefore no brokerage commission or fee shall be payable in connection with this transaction. Each party shall indemnify the other from claims of other brokers claiming by, through, or under the indemnifying party.

This letter of intent is not intended to create a binding agreement on the Seller to sell or the Buyer to buy. This letter is an expression of understanding and intention only, and if accepted, it will provide guidance for drafting agreements acceptable to us and our counsel, which will be binding only after execution and delivery of such agreements by us. This letter of intent is subject to the execution of a purchase and sale agreement and approval of the Oakland City Council. This letter of intent is neither an offer nor an acceptance of an offer, nor does this letter in any way constitute a binding obligation upon either of us. This letter of intent expires March 27, 2008 at 5:00 P.M. PST.

Sincerely,

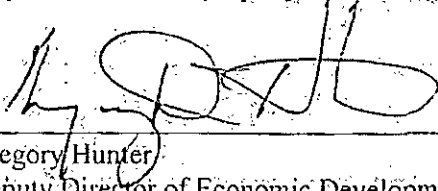
By: ScanlanKemperBard Companies, LLC


Kathleen M. Schultz
Senior Vice President

AGREED AND ACCEPTED. The signatory below warrants that it has the authority to execute this letter on behalf of The City of Oakland, Buyer, and the purchase of the property will be subject to the legislative approval of the Oakland City Council.

Dated:

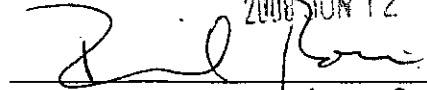
3.26.08



Gregory Hunter
Deputy Director of Economic Development & Redevelopment
Community and Economic Development Agency
City of Oakland

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY: 2008 JUN 12 PM 6:05



Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AN AGENCY RESOLUTION AUTHORIZING THE PURCHASE OF A 1.22 ACRE PARCEL OF REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 73RD AVENUE AND FOOTHILL BOULEVARD, ADJACENT TO EASTMONT TOWN CENTER, FROM EAST OAK LAND ASSOCIATES, LLC FOR \$2,340,000, AND AUTHORIZING UP TO \$150,000 FOR DEMOLITION AND REAL ESTATE CLOSING COSTS

WHEREAS, the Central City East Redevelopment Plan includes the elimination of general blight and unsafe conditions as a goal for the Central City East Redevelopment Project Area; and

WHEREAS, the Redevelopment Agency is implementing projects in the Central City East Redevelopment Project Area as part of the Redevelopment Plan to improve the Project Area; and

WHEREAS, Section 33391 of the California Community Redevelopment Law (Health & Safety Code Sections 33000, et seq.) authorizes a redevelopment agency to purchase real property in a project area for purposes of redevelopment; and

WHEREAS, the real property (APN 039-3291-020) located at the southwest corner of 73rd Avenue and Foothill Boulevard, (the "Property"), as described in Exhibit A attached hereto, is within the Central City East Redevelopment Project Area in Oakland; and

WHEREAS, the Property consists of a 1.22 acre parcel improved with a vacant 10,700 square feet building that is currently blighted and underutilized; and

WHEREAS, the Agency desires to acquire the Property to eliminate its current blighting conditions and to hold for future redevelopment; and

WHEREAS, the current owner of the Property, East Oak Land Associates, LLC ("Owner"), has offered to sell the Property to the Redevelopment Agency; and

WHEREAS, the fair market value of the Property has been appraised, a Phase I environmental investigation has been completed and the Agency has negotiated a purchase of the Property at its fair market value of \$2,340,000; and

WHEREAS, the estimated cost of demolition and real estate closing costs is \$150,000; and

WHEREAS, the Agency issued Series 2006-T bonds for the Central City East and Coliseum Redevelopment Project Areas to be used for, among other things, the acquisition of vacant, blighted, obsolete and/or underutilized properties; and

WHEREAS, the funding for the acquisition of the Property is available from Central City East Tax Allocation Bond Series 2006A-T (Taxable) Bonds Fund (9543), Central City East Organization (88699), Central City East Land Acquisition Project (S233351); and

WHEREAS, the Central City East Redevelopment Project Area Committee recommended approval of the acquisition of the Property on June 2, 2008; and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore, be it

RESOLVED: That the Agency hereby authorizes the purchase of Property located at the southwest corner of 73rd Avenue and Foothill Boulevard for an amount not to exceed \$2,340,000, authorizes an additional amount up to \$150,000 for demolition and real estate closing costs, and authorizes the Agency Administrator to negotiate and execute a Purchase and Sales Agreement for the purchase of Property; and be it

FURTHER RESOLVED: That funds will be allocated from Central City East Tax Allocation Bond Series 2006A-T (Taxable) Bonds Fund (9543), Central City East Organization (88699), Central City East Land Acquisition Project (S233351); and be it

FURTHER RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA under Section 15183 (projects consistent with a General Plan), of the CEQA Guidelines, and directs the Agency Administrator to file a Notice of Exemption and an Environmental Declaration (California Fish and Game Code section 711.4) with the County of Alameda; and be it

FURTHER RESOLVED: That the Agency Administrator or her designee is hereby authorized to take whatever other action is necessary with respect to the acquisition of the Property consistent with this Resolution and its basic purposes; and be it

FURTHER RESOLVED: That Agency Counsel shall review and approve all agreements as to form and legality, and a copy shall be placed on file with the Agency Secretary.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES-

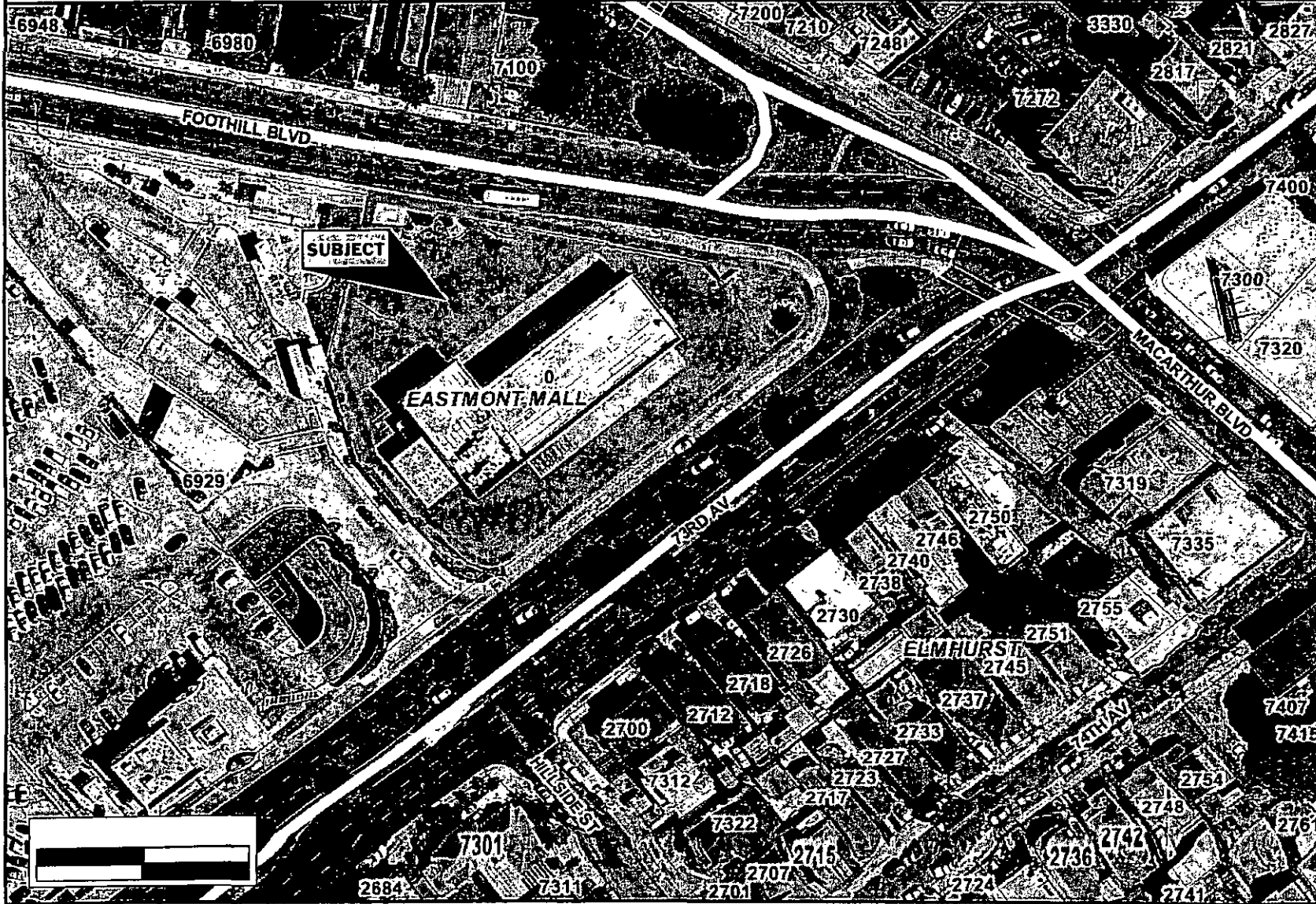
ABSENT-

ABSTENTION-








ATTEST: _____
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California

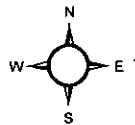
EXHIBIT A

Southwest corner of 73rd Ave and Foothill



Legend

-  Identified Features
-  Selected Features
- City Limits
-  Parcels
-  Freeways
-  Major Sts
-  Streets
-  Water
-  Land



PARCEL FOUR:

PARCEL A, PARCEL MAP 7755, FILED JULY 19, 2002, BOOK 266 OF PARCEL MAPS, PAGES 46 AND 47, ALAMEDA COUNTY RECORDS.