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OAKLAND  
2005 MAY 12 PM 7:11

**CITY OF OAKLAND**  
*Agenda Report*

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: May 24, 2005

**RE: A RESOLUTION ADOPTING FINDINGS AND SETTING A HEARING TO RECEIVE SUPPORTING EVIDENCE AND PUBLIC COMMENTS ON A PROPOSED CONDITIONAL VACATION OF PORTIONS OF THOMAS L. BERKLEY WAY, WILLIAMS STREET, AND 19th STREET BETWEEN SAN PABLO AVENUE AND TELEGRAPH AVENUE FOR THE UPTOWN OAKLAND MIXED USE PROJECT AND A PROPOSED QUIT CLAIM OF THE UNDERLYING FEE INTERESTS IN THE VACATED RIGHTS-OF-WAY TO THE OAKLAND REDEVELOPMENT AGENCY**

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**SUMMARY**

A resolution has been prepared adopting findings and setting a hearing for the City Council to receive supporting evidence and public comments on a proposed conditional vacation of portions of Thomas L. Berkley Way (formerly 20th Street), Williams Street, and 19th Street between San Pablo Avenue and Telegraph Avenue, and quit claiming the underlying fee interests in the vacated rights-of-way to the Oakland Redevelopment Agency. The Redevelopment Agency will retain ownership of the Uptown Oakland building sites and the abutting vacated portions of the streets. The mixed-use redevelopment project will occupy approximately three-fourths of the two blocks currently bounded by these streets (refer to Exhibit C). The proposed vacations of public street right-of-way would provide land area that is part of the Uptown Project including construction of a new public park and a new mid-block street (as yet unnamed) connecting Williams Street with 19th Street and Thomas L. Berkley Way, reconstruction of Williams Street closer to 19th Street, and construction of three new low-rise mixed-use residential/commercial buildings. The resulting rights-of-way will maintain safe traffic flow and pedestrian access (refer to the attached Exhibits A and B).

The process for vacating public right-of-way is prescribed by the California Streets and Highways Code (section 8300 et seq.). Staff has completed the public announcement requirements: site posting, newspaper publication, and utility company notifications (refer to attached Exhibit C). Two sequential public hearings by the City Council are now required to complete the vacation process. The first meeting of the Council would, by resolution, adopt findings required by the Streets and Highways Code and the Public Resources Code and set a following hearing to receive public testimony. The second meeting of the Council would receive public testimony and complete the first reading of the proposed vacation ordinance. In a companion report, staff recommends that the Council schedule the second public hearing for their June 21 agenda. In this report, staff recommends that the Council schedule the first public hearing for their June 7 agenda. As required by City Charter, the final reading of the proposed vacation ordinance would be scheduled for the July 19 Council agenda. This scheduling will assist the project with obtaining discretionary approvals for inclusion with a bond-funding application in mid-July.

**FISCAL IMPACT**

Staff costs for processing the proposed street vacation will be covered by fees set by the Master Fee Schedule and paid by the applicant. The Redevelopment Agency would acquire title to the underlying fee interests in the vacated public rights-of-way from the City without cost. The City would acquire title

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to the public park from the Redevelopment Agency without cost. The City's standard subdivision agreement will require that public infrastructure improvements (replacement sewer main, pavement, sidewalks, curbs, gutters, street lighting, etc.) are bonded and constructed by the developer and warranted for one year without cost to the City.

## **BACKGROUND**

### **Project Infrastructure Requirements**

The Uptown Oakland Environmental Impact Report (EIR) and the developer's land use application (Planned Unit Development) identified four public infrastructure elements that are necessary for the viable development of the mixed-use project:

- new construction of a *two-block public street* (New Street) transecting Williams Street and connecting 19th Street to Thomas L. Berkley Way, which would be completed by the developer without cost to the City as a condition of approving the re-subdivision of the abutting parcels and would be dedicated by the Redevelopment Agency to the City; and
- new construction of a *public park* fronting on the new public street, 19th Street, and Williams Street, which would be completed by the developer without cost to the City as a condition of approving the proposed re-subdivision of the abutting parcels and would be dedicated by the Redevelopment Agency to the City through the subdivision map; and
- re-construction of *Williams Street shifting closer to 19th Street* and re-configuration of *Williams Street allowing bi-directional traffic flow*, which would be completed by the developer without cost to the City as a condition of approving the proposed re-subdivision of the abutting parcels; and
- net reduction of existing right-of-way widths (*narrower sidewalks and curbside parking lanes*) along 19th Street (two feet), Williams Street (six feet eight inches), and Berkley Way (nine feet), which would be vacated by the City to the Redevelopment Agency without cost through the proposed vacation ordinance, and

The land areas needed for the three Uptown Oakland building sites are dependent upon the incorporation of the vacated public rights-of-way shown in the Exhibit A. The Redevelopment Agency will offset the proposed vacation of fourteen feet four inches of right-of-way along the north side of Williams Street with a dedication of seven feet eight inches of restorative right-of-way from the parcels abutting the south side of Williams Street. The resulting pavement, sidewalk, and parking lane widths for 19th Street, Williams Street, and Thomas L. Berkley Way are shown in Exhibit B.

No existing subsurface utility lines are located within the proposed vacated rights-of-way, and therefore, no newly dedicated public easements are needed. The EIR identified that a replacement public sewer main will be needed in Williams Street and New Street to serve the new buildings.

### **Transfer of Right-Of-Way Ownership**

Staff's review of historical records indicates that the three public streets pre-date the original subdivision of the two blocks in 1876. Consequently, the City owns the underlying fee interest in the right-of-way. Staff is recommending that the Council quit claim the land area to the Redevelopment Agency without valuable consideration (\$0 transfer of ownership).

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## **KEY ISSUES AND IMPACTS**

The California Streets and Highways Code requires that a local jurisdiction make the following determinations for a proposed vacation of right-of-way:

- the vacation will conform with the City's adopted General Plan (so identified in the Environmental Impact Report for the Uptown Oakland project); and
- the vacated right-of-way will not require a public easement for existing or future utility lines (so confirmed by the utility agencies); and
- the public was notified by site postings and newspaper publications of two sequential public hearings, one setting the date to hear public comments and the second receiving public comments (so certified in the attached Exhibit C); and
- the vacation will not impact current or future access for non-motorized transportation (so identified in the Environmental Impact Report for the Uptown Oakland project); and
- the vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety (so confirmed by the Public Works Agency and Alameda County Transit Authority).

The California Public Resources Code further requires that a local jurisdiction determine that a project complies with the requirements of the California Environmental Quality Act (CEQA). Although a vacation of public right-of-way is categorically exempted, in this case an EIR has been prepared.

The City must further determine whether the City or the abutting property owners retain the underlying fee interest in the vacated right-of-way (City ownership so confirmed by staff).

## **SUSTAINABLE OPPORTUNITIES**

### **Economic**

The Uptown Oakland redevelopment project will provide opportunities for professional services and construction related jobs for the Oakland community. The developer is required to follow City policies for bidding and awarding contracts to Small and Local Business Enterprise firms.

### **Environmental**

Land use approvals and construction permits for public infrastructure improvements and new buildings require that the permittees 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 Uptown Oakland project will provide affordable housing opportunities, will assist the economic revitalization of the downtown redevelopment zone, and will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

Public sidewalks and traffic signals that will be newly constructed, replaced, or relocated will conform with Caltrans and City requirements for handicapped accessibility. Access within the public park will similarly comply with state building code and City requirements for handicapped accessibility.

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## RECOMMENDATIONS

Staff recommends that the Committee accept this report and forward it to the City Council for their scheduled meeting on June 7, 2005, to adopt the proposed resolution adopting findings for the proposed conditional vacation and setting a hearing for the City Council to receive supporting evidence and public comments on the proposed conditional vacation of portions of Thomas L. Berkley Way, Williams Street, and 19th Street and quit claiming the underlying fee interest to the Oakland Redevelopment Agency.

## ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed resolution adopting findings for the proposed conditional vacation and setting a hearing for the June 21, 2005, agenda of the City Council to receive supporting evidence and public comments on and complete the first reading of a proposed conditional vacation of portions of Thomas L. Berkley Way, Williams Street, and 19th Street and quit claiming the underlying fee interest to the Oakland Redevelopment Agency.

Respectfully submitted,



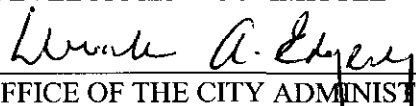
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**CLAUDIA CAPPIO**  
Development Director  
Community and Economic Development Agency

Prepared by:

Raymond M. Derania  
Interim City Engineer  
Building Services Division

APPROVED FOR FORWARDING TO  
THE COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE



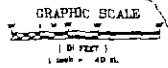
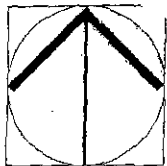
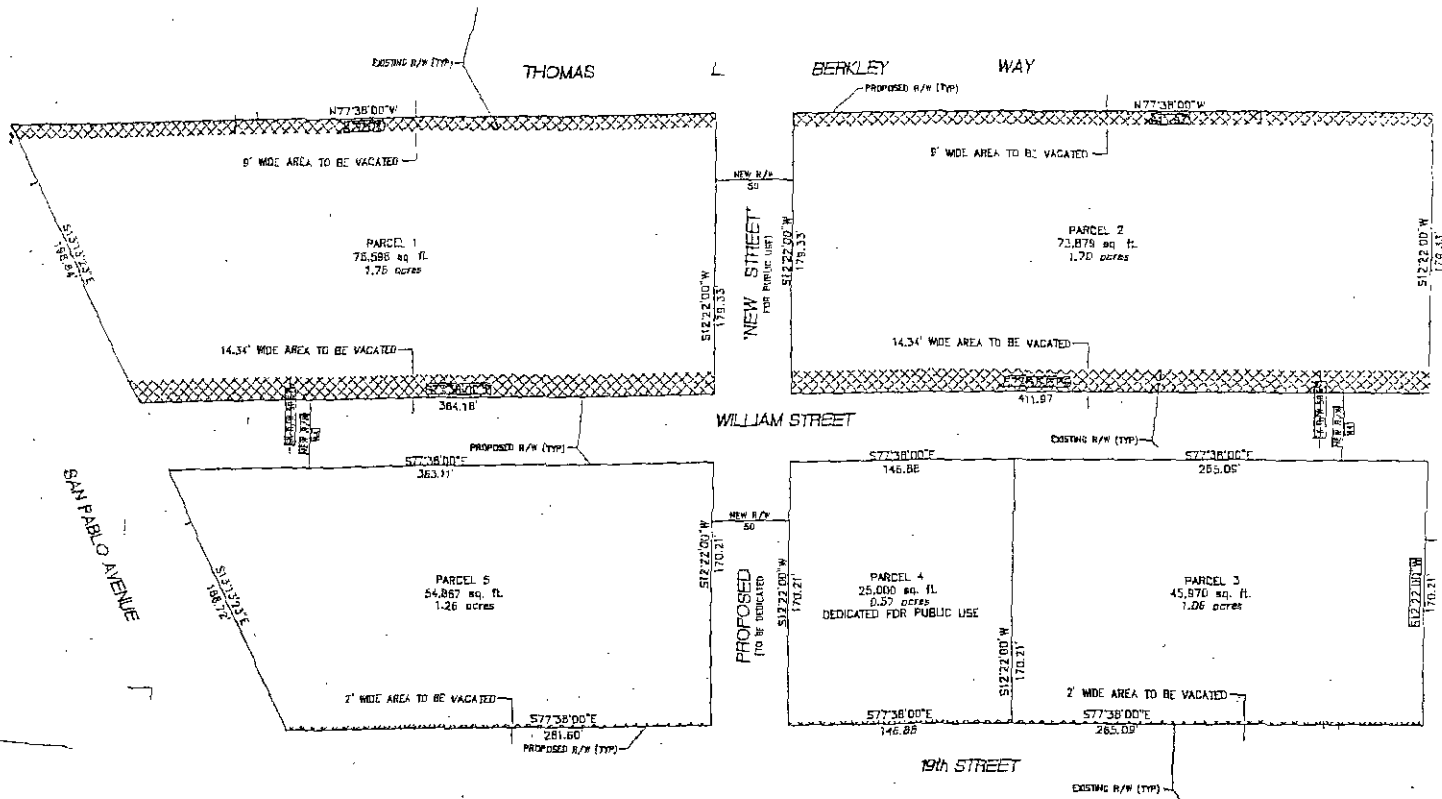
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OFFICE OF THE CITY ADMINISTRATOR

Attachments: Resolution - findings and a public hearing for a proposed vacation ordinance  
Exhibit A - location and limits of proposed street vacations  
Exhibit B - traffic lane, sidewalk, and parking lane widths  
Exhibit C - affidavit certifying notification of a public hearing

# Exhibit A

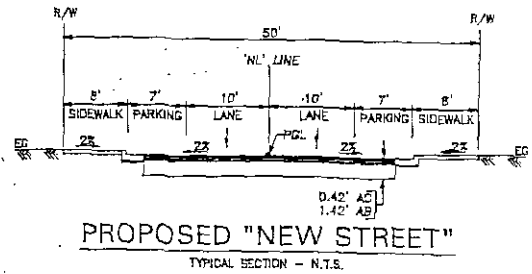
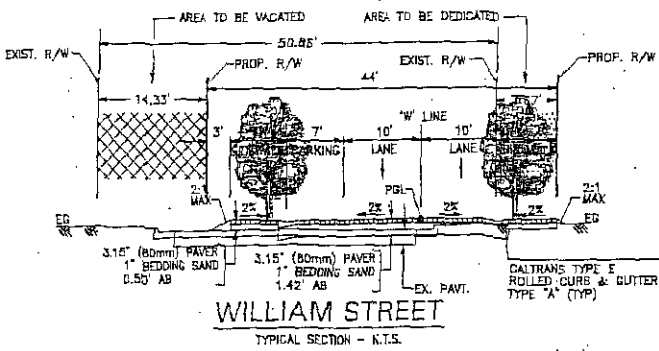
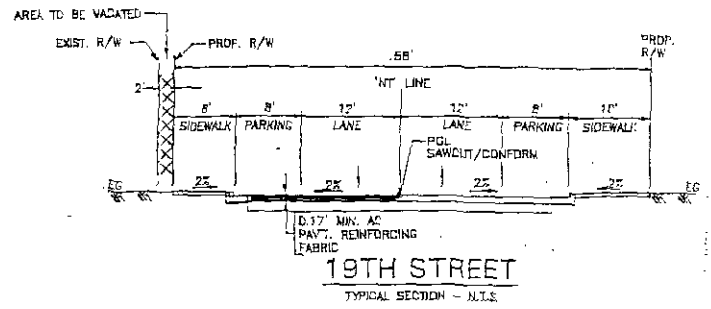
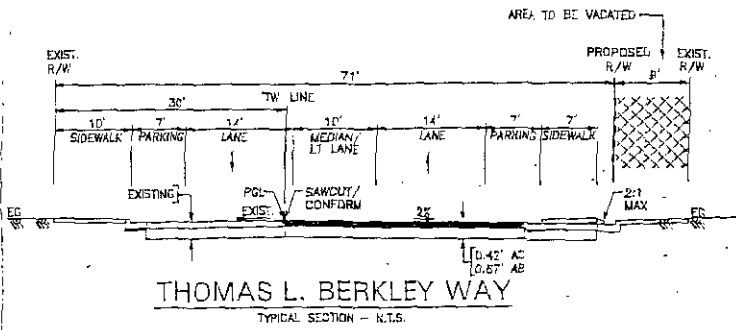
## Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street



TELEGRAPH AVENUE

## Exhibit B

### Proposed Street Reconstructions For Vacated Rights-Of-Way For The Uptown Oakland Mixed-Use Redevelopment Project Street



## Exhibit C

### An Affidavit Certifying Notifications Of A Public Hearing On Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street

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

The attached placard was affixed on April 22, 2005, at 9:00 a.m. local time to City street light poles in the public sidewalk at intervals not exceeding 300 feet on Thomas L. Berkley Way, Williams Street, and 19th Street and have remained in place since then advising the public of a hearing on June 7, 2005, at 7:01 p.m., 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 schedule a meeting on June 21, 2005, at the same time and same location to receive evidence and public testimony on the proposed vacation of portions of the public rights-of-way delineated on the placard.

#### Newspaper Publication

The attached notice was published in the *Oakland Tribune* on April 21, 2005, and May 2, 2005, advising the public of a hearing on June 7, 2005, at 7:02 p.m., 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 schedule a meeting on June 21, 2005, at the same time and same location to receive evidence and public testimony on the proposed vacation of portions of the public rights-of-way and further advising the public that a map delineating the portions of the rights-of-way proposed for vacation is available at the Building Services counter on the second floor of the Dalziel Administration building, 250 Frank H. Ogawa Plaza.

date

05/02/05

by

Derania

RAYMOND M. DERANIA

Interim City Engineer

Community and Economic Development Agency

## Exhibit C

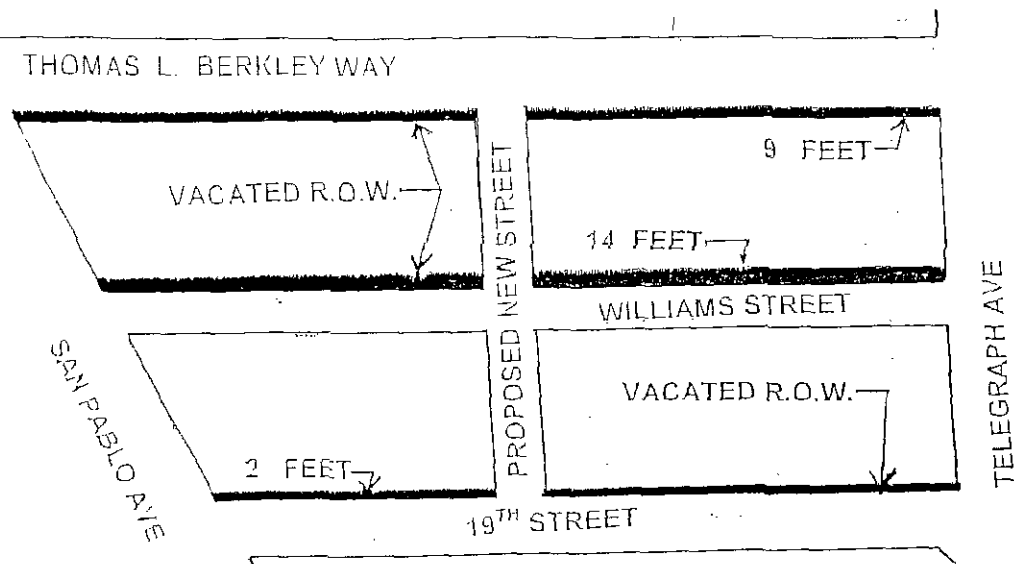
### Public Notifications Of A Public Hearing On Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street



# PUBLIC NOTICE

Community & Economic Development Agency  
Building Services Division  
Dalziel Administration Building  
250 Ogawa Plaza - 2nd Floor  
Oakland, CA 94612

## PUBLIC HEARING ON PROPOSED STREET VACATIONS



Pursuant to California Streets and Highways Code Section 8320 et seq., notice is given to the public that the Council of the City of Oakland intends to conditionally vacate portions of Thomas L. Berkley Way, Williams Street, and 19th Street for use by the Uptown Oakland mixed use redevelopment project and to quit claim the underlying fee interest in the proposed vacation to the Oakland Redevelopment Agency.

Notice is also given to the public that the Council of the City of Oakland will hold a hearing to receive evidence supporting and public comments for the proposed conditional vacation in the Chamber of the City Council, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on June 7, 2005, at 7:01 p.m. local time.

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



## Exhibit C

### Public Notifications Of A Public Hearing On Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street

#### PUBLIC NOTICE

##### Public Hearing for Partial Vacations of Public Streets

Pursuant to California Streets and Highways Code section 8320 et seq., the Council of the City of Oakland will hold a public hearing in the Chamber of the City Council, Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on June 7, 2005, at 7:01 p.m. local time to receive evidence supporting and public comments for a proposed ordinance conditionally vacating portions of the rights-of-way along Thomas L. Berkeley Way, Williams Street, and 19th Street for the Uptown Oakland mixed use redevelopment project and quit claiming the underlying fee interest in the public rights-of-way proposed for vacation to the Oakland Redevelopment Agency without valuable consideration to the City. A map fully delineating the proposed vacations is available at the City of Oakland, Building Services Division, Dalziel Administration Building, Second Floor, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.

The Oakland Tribune, #500382

April 25,

May 2, 2005

FICTITIOUS BUSINESS

Introduced by

Approved for Form and Legality

\_\_\_\_\_  
Councilmember

*Farimah Faiz*

\_\_\_\_\_  
City Attorney

## OAKLAND CITY COUNCIL

**Resolution No. \_\_\_\_\_ C.M.S.**

**RESOLUTION ADOPTING FINDINGS AND SETTING A HEARING TO RECEIVE SUPPORTING EVIDENCE AND PUBLIC COMMENTS ON A PROPOSED CONDITIONAL VACATION OF PORTIONS OF THOMAS L. BERKLEY WAY, WILLIAMS STREET, AND 19th STREET BETWEEN SAN PABLO AVENUE AND TELEGRAPH AVENUE FOR THE UPTOWN OAKLAND MIXED USE REDEVELOPMENT PROJECT AND A PROPOSED QUIT CLAIM TO THE OAKLAND REDEVELOPMENT AGENCY OF THE UNDERLYING FEE INTERESTS IN THE VACATED RIGHTS-OF-WAY**

**Whereas**, the Community and Economic Development Agency (CEDA) of the City of Oakland (City) has determined with reasonable certainty from a thorough examination of the available historical public records that the public rights-of-way of Thomas L. Berkley Way (formerly 20th Street and Degler Street), Williams Street (formerly 19th Street), and 19th Street (formerly Frederick Street) between San Pablo Avenue and Telegraph Avenue were used as public streets before the abutting real property was originally divided as part of the Hogan Tract subdivision in 1876; and

**Whereas**, CEDA has determined with reasonable certainty from a thorough examination of the available historical public records that public rights-of-way were not offered for dedication to the City as part of original division of the abutting real property by the Hogan Tract subdivision in 1876; and

**Whereas**, CEDA has therefore determined with reasonable certainty that the City owns the underlying fee interest in the public rights-of-way of Thomas L. Berkley Way, Williams Street, and 19th Street between San Pablo Avenue and Telegraph Avenue; and

**Whereas**, the Oakland Redevelopment Agency (ORA) has acquired and is continuing to acquire by negotiation and eminent domain proceedings, as prescribed by state and federal statutes, the abutting real properties bounded by 19th Street, San Pablo Avenue, Thomas L. Berkley Way, Telegraph Avenue, and Williams Street for construction of the Uptown Oakland Mixed-Use redevelopment project (Uptown project); and

**Whereas**, ORA has entered into a long-term redevelopment agreement with the private developer of the Uptown project, Forest City, to construct privately owned buildings and appurtenant privately maintained infrastructure on these abutting real properties; and

**Whereas**, the Planning Commission of the City of Oakland will determine at its scheduled meeting on June 1, 2005, in a public hearing for an application by the Uptown project for a Planned Unit Development whether the proposed vacations of portions of Thomas L. Berkley Way, Williams Street, and 19th Street conform with the adopted General Plan of the City of Oakland; and

**Whereas**, ORA has determined the development of the Uptown project will necessitate that portions of the abutting public rights-of-way along Thomas L. Berkley Way, Williams Street, and 19th Street be occupied by these privately owned buildings and appurtenant privately maintained infrastructure; and

**Whereas**, pursuant to California Streets and Highways Code Sections 8312 and 8355, ORA has requested that the City vacate portions of the public rights-of-way along the south side of Thomas L.

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Berkley Way, the north side of Williams Street, and the north side of 19th Street to facilitate construction of the Uptown project, as delineated in the attached Exhibit A; and

**Whereas**, ORA has further requested that the City quit claim the underlying fee interest in the vacated public rights-of-way to ORA without valuable consideration to the City; and

**Whereas**, pursuant to the real property subdivision provisions of California Government Code Section 66475 and Oakland Municipal Code Chapter 16.20, ORA will irrevocably offer for dedication to the City portions of the abutting real properties along the south side of Williams Street to replace contiguous public right-of-way vacated by the City in order to retain safe traveled widths of the traffic lanes for private vehicles and public transit and the sidewalk for pedestrians; and

**Whereas**, pursuant to Oakland Municipal Code Chapter 16.20, the private developer will construct at no additional expense to the City replacement public infrastructure improvements, including new underground utilities, street pavement, sidewalk, curb, and gutter, that will be removed from the vacated right-of-way during construction of the Uptown project; and

**Whereas**, the Public Works Agency of the City has concurred that the reconfigurations in the traveled widths of the existing traffic lanes along Thomas L. Berkley Way, Williams Street, and 19th Street resulting from the vacation of these public rights-of-way will not impede the safe flow of traffic and the safe access by pedestrians, as delineated in the attached Exhibit B; and

**Whereas**, pursuant to Guidelines Section 15301 – Class I of the California Environmental Quality Act, CEQA has determined that the vacation of these public rights-of-way is categorically exempted; and

**Whereas**, pursuant to California Streets and Highways Code Sections 8317, 8322, and 8323, facsimiles of the newspaper publication and public posting and an affidavit are attached as Exhibit C confirming that CEQA has completed the statutory requirements for notifying the public of the City's intention to vacate portions of these public rights-of-way and of the public hearing to receive supporting evidence and public comments for the proposed vacation; and

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

**Whereas**, pursuant to California Streets and Highways Code Section 8348, CEQA has notified the serving public utilities and has determined from their written responses that dedication of public easements in the vacated portions of the public rights-of-way to maintain, operate, replace, remove or renew their existing works is not required for public convenience and necessity; and

**Whereas**, pursuant to California Streets and Highways Code Section 892, CEQA has determined that vacation of portions of the public rights-of-way will not limit public use of or impede public access for non-motorized transportation; and

**Whereas**, pursuant to California Streets and Highways Code Section 8320, a map may be used to describe fully the portions of public streets to be vacated; and

**Whereas**, pursuant to California Streets and Highways Code Section 8324, the City 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.

**Now, therefore, the Council of the City of Oakland does resolve as follows:**

**Resolved**, that the City of Oakland owns the underlying fee interest in Thomas L. Berkley Way, Williams Street, and 19th Street; and be it further

**Resolved**, that a map is attached hereto as Exhibit A that fully describes and delineates the portions of the public streets proposed for vacation; and it is further

**Resolved**, that upon determination by the Planning Commission of conformance with the City's adopted General Plan, the proposed vacations of these portions of public rights-of-way will so conform; and be it further

**Resolved**, that the proposed vacation of these portions of public rights-of-way is categorically exempted from the requirements of the California Environmental Quality Act; and be it further

**Resolved**, that dedication of public easements to maintain, operate, replace, remove or renew existing works within the proposed portions of the public rights-of-way proposed for vacation is not required for public convenience or necessity; and be it further

**Resolved**, that the reconfigured traffic lanes and sidewalks resulting from the proposed vacation and companion dedication of public rights-of-way, as delineated in the attached Exhibit B, and proposed reconstruction of replacement public improvements will not increase the inconvenience of the public or decrease the safety of motorized and non-motorized vehicles and pedestrians, and be it further

**Resolved**, that the proposed vacation of portions of the public rights-of-way does not limit public use of or impede public access for non-motorized transportation; and be it further

**Resolved**, that the statutory requirements for conspicuous site posting of the proposed vacation and newspaper publication of the pending public hearing of the proposed vacation have been completed; and be it further

**Resolved**, that a hearing to receive supporting evidence and public comments for a proposed ordinance that would conditionally vacate portions of the public rights-of-way along Thomas L. Berkley Way, Williams Street, and 19th Street and would quit claim the underlying fee interest in the public rights-of-way proposed for vacation to the Oakland Redevelopment Agency without valuable consideration to the City will occur in the Chamber of the City Council, Third Floor of City Hall, at One Frank Ogawa Plaza, in Oakland, California, on June 21, 2005, at 7:01 p.m. local time.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

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

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