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APPROVED AS TO FORM AND LEGALITY  
*[Signature]*  
DEPUTY CITY ATTORNEY

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 12764 C.M.S.**

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**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND CONVEY REAL PROPERTY INTERESTS TO BART AS REQUIRED FOR THE OAKLAND AIRPORT CONNECTOR PROJECT WITHOUT RETURNING TO COUNCIL**

**WHEREAS**, the San Francisco Bay Area Rapid Transit District ("BART") plans to construct the Oakland Airport Connector Project (the "Project"), a 3.2 mile long Automated Guide Way Transit ("AGT") System; and

**WHEREAS**, development of the Project will require BART to acquire certain real property interests, including real property interests held by the City; and

**WHEREAS**, on May 2, 2006, Council passed Resolution No. 79874 C.M.S., which authorized the City to enter into a Cooperative Agreement with BART for the Project, which provides for the City and BART to cooperate in development of the Project; and

**WHEREAS**, it is in the City's best interests to streamline the process for conveying City real property interests to BART for the Project in order to facilitate the Project; and

**WHEREAS**, Section 219(6) of the Charter requires a Council ordinance in order to convey or lease, or authorize the conveyance or lease for longer than one year, of any real property of the City; and

**WHEREAS**, City real property conveyance ordinances require competitive bidding for such conveyances, unless certain findings are made; and

**WHEREAS**, the Council wishes to delegate the power to convey interests in City real property, and negotiate the terms and conditions of such conveyance, as needed for the Project to the City Administrator or delegated staff in order to streamline the process for such transactions; now, therefore,

The Council of the City of Oakland does ordain as follows:

**SECTION 1.** The City Council, pursuant to Section 219(6) of the City Charter, hereby authorizes the City Administrator or her designee, in her discretion, to convey interests in any real property owned by the City of Oakland, or any real property in which the City of

Oakland holds a property interest, to BART, if the City Administrator determines that such conveyance is needed for the Oakland Airport Connector Project. Such interests may include, without limitation, fee interests, easement interests, leasehold interests, or licenses. Any conveyance shall be for such consideration as the City Administrator or her designee determines is in the best interests of the City. The City Administrator or her designee is further authorized to negotiate the terms and conditions of such conveyances, and enter into agreements, deeds, or other documents of conveyance as needed to effect such transfers.

**SECTION 2.** The Council finds and determines that, because of the public benefits of the Project to the City and the general public and the need to expedite the process for conveying City real property in order to facilitate timely development of the Project, it is in the best interests of the City not to require competitive bidding for the conveyance of City property for the Project. Therefore, neither Ordinance No. 11602 C.M.S., related to the sale of City surplus real property, Ordinance No. 11603 C.M.S., related to the lease of City real property, nor Ordinance No. 10142 C.M.S., related to the sale and lease of City non-surplus real property, shall be applicable to the conveyance of City real property to BART for the Project. All procedural requirements in said Ordinances and successor ordinances, including but not limited to Planning Commission review and competitive bidding, are hereby superseded in favor of the requirements of this Ordinance.

**SECTION 3.** All agreements, deeds, and other documents of conveyance entered into pursuant to this Ordinance shall be reviewed and approved by the Office of the City Attorney prior to City execution.

**SECTION 4.** The City Administrator or her designee is hereby authorized to take whatever action is necessary with respect to the Project consistent with this Ordinance and its basic purposes.


**SECTION 5.** If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

**SECTION 6.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, **SEP 19 2006**, 2006

**PASSED BY THE FOLLOWING VOTE:**

- AYES- *Brooks*, BRUNNER, CHANG, KERNIGHAN, ~~NOES~~, QUAN, *Reid*, AND PRESIDENT DE LA FUENTE - 7
- NOES- *Nadel - 1*
- ABSENT- *0*
- ABSTENTION- *0*

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

Introduction Date: **JUL 18 2006**