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DEPUTY CITY ATTORNEY

# OAKLAND CITY COUNCIL

RESOLUTION NO. 80327 C.M.S.

**RESOLUTION AUTHORIZING A \$120,000 SUBGRANT TO EAST BAY HABITAT FOR HUMANITY FROM THE CITY'S BROWNFIELD CLEANUP REVOLVING LOAN FUND FOR ENVIRONMENTAL CLEANUP OF A SITE ON EDES AVENUE FOR DEVELOPMENT OF 26 SINGLE FAMILY AFFORDABLE HOMES**

**WHEREAS**, The City of Oakland (the "City") received funds from the United States Environmental Protection Agency (the "EPA") that have been used to establish and administer the Brownfields Cleanup Revolving Loan Fund ("BCRLF") from which the City is authorized to make subgrants to entities to undertake remediation and mitigation of hazardous substances on brownfields; and

**WHEREAS**, The Redevelopment Agency of the City of Oakland (the "Agency") has authorized funding and has entered agreements with Habitat for development of twenty-six affordable homeownership units at 10900 Edes Avenue in the City of Oakland (the "Property"), which is depicted on the Map and described in the Legal Description which are attached hereto as **Exhibit "A"** and **Exhibit "B"**, respectively, and incorporated herein by this reference; and

**WHEREAS**, the Agency has provided Habitat a \$375,000 property acquisition loan and subsequently through the City/Agency 2003 Affordable Rental and Ownership Housing competition, awarded a \$1,700,000 affordable housing development loan for total financing of \$2,075.00 for affordable homeownership housing units; and

**WHEREAS**, certain hazardous substances have been identified in the soil at the Property, and a plan to remediate has been developed; and

**WHEREAS**, on April 21, 2003 the State of California Department of Toxic Substances Control ("DTSC") approved the Final Removal Action Workplan ("RAW") for the remediation of hazardous materials on the Property for the protection of public health and safety and the environment, and created a Community Profile and Participation Plan as part of the RAW; and

**WHEREAS**, Habitat carried out the removal plan with interim loan funds obtained from the State of California DTSC Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) Program and performed the remediation work in 2004/05; and

**WHEREAS**, in 2002, the CITY agreed to approve a BCRLF grant to Habitat for cleanup

at the Property, however funding was delayed pending EPA's approval of the City's BCRLF Transition Application under the new EPA program guidelines, allowing for sub-grants in addition to loans to eligible non-profit organizations; and

**WHEREAS**, in July 2006, the EPA approved the City's application allowing subgrants to eligible non-profits for remediation of brownfields and requiring a 20% match; and

**WHEREAS**, Habitat is eligible to receive subgrants under the BCRLF Transition program because it is a nonprofit entity and the Property to be remediated is not listed, nor proposed to be listed, on the EPA's National Priorities List; and

**WHEREAS**, the City will meet the 20% match requirement with \$375,000 provided by the City to Habitat for acquisition of the Property; and

**WHEREAS**, the City Administrator will delegate to the Community & Economic Development Agency authority to act on behalf of the City to implement the loan program and to satisfy the requirements of the EPA Cooperative Agreement; and

**WHEREAS**, the City Council agrees to grant Habitat one hundred and twenty thousand dollars (\$120,000.00) in BCRLF Funds for the Mitigation Project on the Property; and

**WHEREAS**, the requirements of the California Environmental Quality Act ("CEQA"), the CEQA guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now therefore be it

**RESOLVED:** That the City Administrator is hereby authorized to execute a subgrant in the amount of \$120,000 to Habitat for Humanity East Bay for payoff of its CLEAN program loan, so long as Habitat has carried out the Mitigation Project in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 104(k); Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (40 CFR Part 31); and all other applicable provisions of federal, state or local laws; and be it

**FURTHER RESOLVED:** That the subgrant funds will be allocated from Environmental Protection Agency Fund (2125), Business Development Org: (88559), and EPA-Brownfield Cleanup Project (G183830); and be it

**FURTHER RESOLVED:** That the subgrant must be drawn down within a period of one (1) year from the date the Agreement is executed; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or her designee to negotiate terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures and take all other actions necessary to carry out the basic purposes of this resolution; and be it

**FURTHER RESOLVED:** That the City Council has independently reviewed and considered this environmental determination and the City Council finds and determines, based on the information in the staff report accompanying this resolution, that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Sections 15301 (existing facilities) and 15304 (minor alterations to land) of the CEQA guidelines; and be it

**FURTHER RESOLVED:** That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this project; and be it

**FURTHER RESOLVED:** That the execution of any documents legally committing the City to fund these projects shall be expressly conditioned upon compliance with the requirements of NEPA, as certified by the City Administrator or her designee; and be it

**FURTHER RESOLVED:** That all documents shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution, and copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 19 2006, 2006

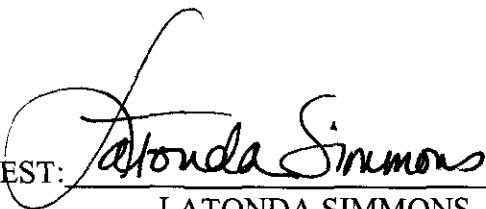
PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

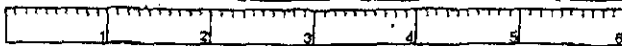
ABSENT- 0

ABSTENTION- 0

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

This map may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability of loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

1-800-345-7334



SCALE 1/16 OF AN INCH

ASSESSOR'S MAP 45

Code Area No 17-032

DIAGRAM OF LANDS IN PARTITION

JOHN R. WALKER VS CARMEN PERALTA SCHWARTZ, ET AL. (San Ct. No. 13000)

(Part Lot 121)

Scale: 1"=100'

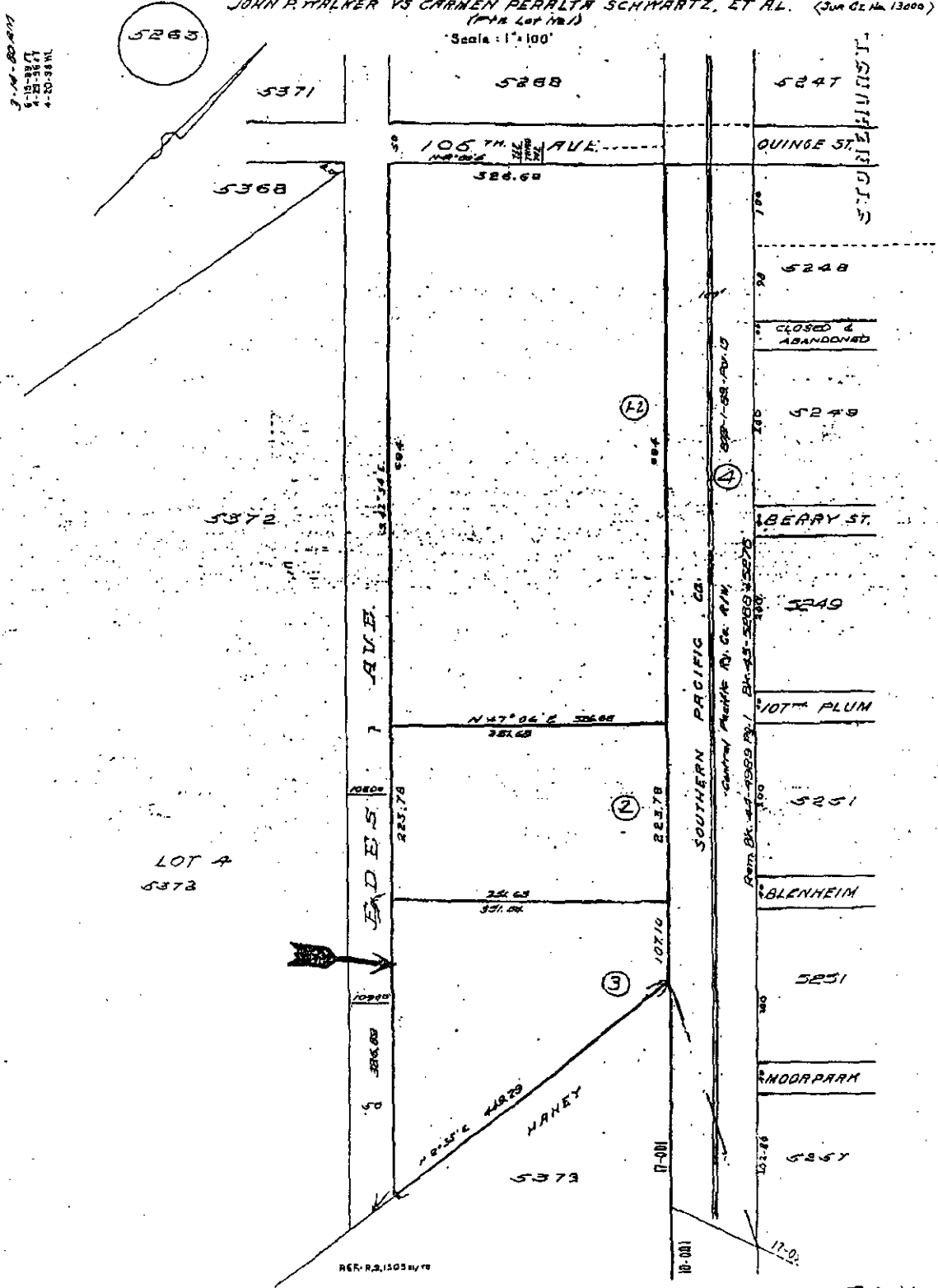


EXHIBIT A

# ASSESSOR'S MAP 45

Code Area No.  
11-032

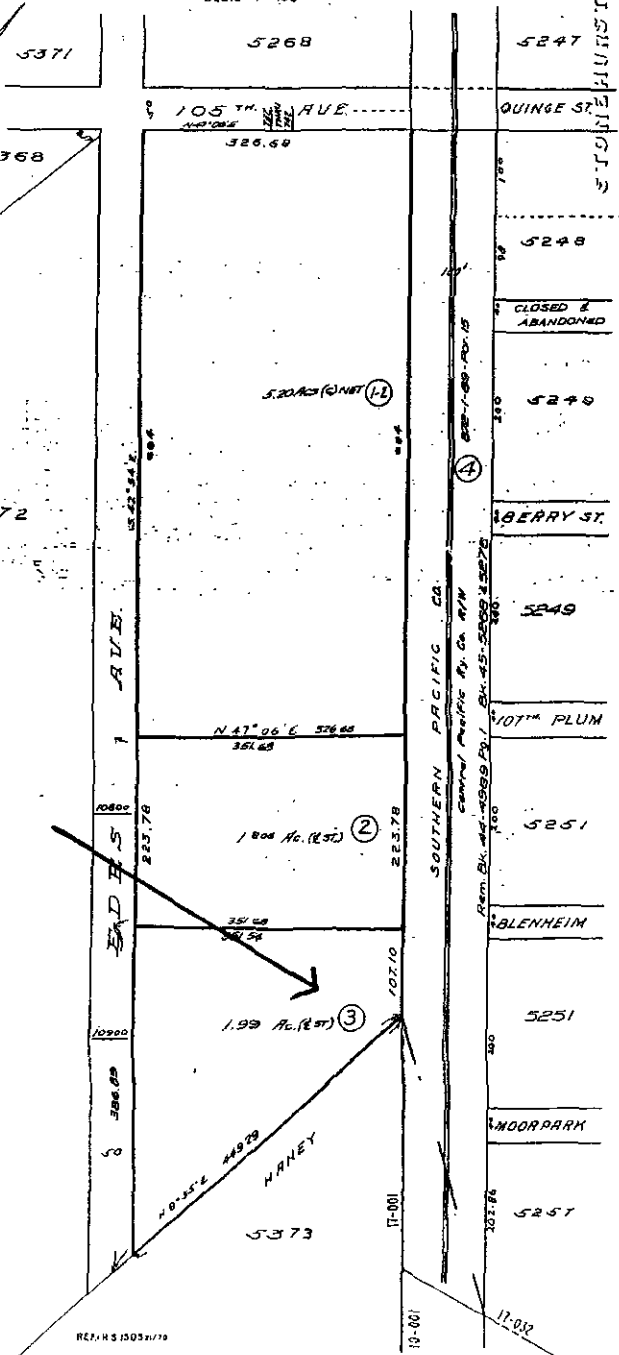
## DIAGRAM OF LANDS IN PARTITION

JOHN P. WALKER VS CARMEN PERALTA SCHWARTZ, ET AL. (Sup Ct No 13096)  
(PFA Lot No 1)

Scale: 1" = 100'

PLAN 80-847  
6-14-88 ST  
4-25-88 ST  
4-20-88 PL

5263



LOT 4  
5372

Order Number: 159937ALA

Page Number: 5

### LEGAL DESCRIPTION

Real property in the City of Oakland, County of Alameda, State of California, described as follows:

Portion of Lot 1, and a portion of the road 50 feet wide adjoining said lot on the Southwest, as said lot and road, 50 feet wide, are shown on that certain "Diagram of Lands in partition John P. Walker, vs. Carmen Peralta Schwartz, et al", accompanying the papers in Case 13006 in the Superior Court of the State of California, in and for the County of Alameda, described as follows:

Beginning at a point in a direct production Southeasterly of the center line of Edes Avenue, distant thereon South 42°54' East 942.78 feet from the point of intersection of said production with the center line of 105th, formerly South Bartlett Avenue, Map entitled "Map of the Cunha and Walker Property", filed August 12, 1909, Map Book 24, Page 90, Alameda County Records; thence along said production of the center line of Edes Avenue, South 42°54' East 386.89 feet to the direct production Southerly of the Eastern line of herein mentioned Lot 1; thence leaving said production of the center line of Edes Avenue, North 8°35' East along said line of Lot 1 and the Southerly production thereof, 449.29 feet to the Southwestern line of the 100 foot right of way of the Central Pacific Railway; thence along said right of way line, North 42°54' West 107.10 feet; thence leaving said right of way line, South 47°06' West 351.54 feet to the point of beginning.

APN: 045 -5263-003