

**CITY OF OAKLAND  
AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 JUN - 9 AM 10: 07

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Community and Economic Development  
DATE: June 21, 2005

RE: **ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A SALES AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) TO SELL CITY OWNED PROPERTY LOCATED NEAR INTERSTATE 880 AND 5<sup>TH</sup> AVENUE (ASSESSOR PARCEL NUMBER 0000-0455-010 (PORTION)); APPROPRIATING THE PROCEEDS OF THE SALE INTO THE REAL ESTATE SURPLUS PROPERTY PROJECT; AND GRANTING PERMANENT MAINTENANCE EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS WITH AN EXPIRATION DATE OF JANUARY 31, 2011 FOR CITY OWNED PROPERTIES (ASSESSOR PARCEL NUMBERS 0000-0455-090 AND 0000-0455-010); ALL PROPERTY RIGHTS WILL BE CONVEYED FOR A FAIR MARKET VALUE TO BE DETERMINED, BUT NOT LESS THAN \$195,100**

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**SUMMARY**

An ordinance has been prepared authorizing the City of Oakland (City) to enter into a sales agreement with California Department of Transportation (Caltrans) to transfer a portion of City owned property located near Interstate 880 and 5<sup>th</sup> Avenue (APN 0000-0455-010) by granting a permanent highway easement/fee. The ordinance will also authorize the City to grant two permanent maintenance easements and two temporary construction easements to Caltrans (APNs 0000-0455-090 AND 0000-0455-010). The property rights are required for a Caltrans project to reconstruct and seismically retrofit the 5<sup>th</sup> Avenue Overhead Structure on Interstate 880. The property rights will be conveyed to Caltrans at a Fair Market Value to be determined but not less than \$195,100. The project requires that all property rights are acquired by August 1, 2005. Caltrans has notified the City that a Resolution of Necessity for the City parcels has been prepared and will be presented to the California Transportation Commission (CTC) at its May 25 - 26, 2005 meeting.

Staff recommends adoption of this ordinance.

**FISCAL IMPACTS**

The proceeds from these easements will generate no less than \$195,100 and will be placed in Real Estate Surplus Property Project (1010), Real Estate Services Org (88639), Miscellaneous Sales Account (45519), Project (P47010), Program (PS32).

**BACKGROUND**

In January 2005 Caltrans forwarded two parcels to the City's Real Estate Division for confirmation of ownership. The parcels, required for a State project, had been mistakenly

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identified as Union Pacific parcels. The City ownership confirmation required submitting the parcels to the Port of Oakland to verify that the parcels were not under Port jurisdiction. The City could not proceed with the confirmation until the Port specified that the parcels were not under Port jurisdiction. After the parcels were confirmed as City owned parcels, they were forwarded to the Public Works Agency (PWA) for review and comment. The PWA determined that the temporary construction easement (TCE) requirement, allowing exclusive access to Caltrans employees for 5 years, would adversely impact the scheduled City projects, particularly the bike path and pedestrian path projects. Collaboration between Caltrans and various City departments resulted in the language of the TCE being modified to include access to City employees and their representatives. Caltrans submitted a written offer for the property rights. The offer is currently being negotiated by the Real Estate Division

The Caltrans project under Civil Code of Civil Procedure (CCP) Section 1240.030, provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following three conditions are established:

- (A) The public interest and necessity require the project
- (B) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury
- (C) The property sought to be acquired is necessary for the project

Also, CCP Section 1245.230 requires that the offer required by section 7267.2 of the Government Code has been made to the owner of record.

The City has been notified that Caltrans is meeting with the CTC on May 25-26, 2005 in Sacramento, Ca to request the CTC to adopt a Resolution of Necessity to acquire the City parcels by eminent domain. The eminent domain process will halt when the City Council approves the conveyance of the property rights.

#### **KEY ISSUES AND IMPACTS**

The City owned property rights are required for a Caltrans project that is scheduled to begin in October 2005. All identified property rights have to be acquired by August 1, 2005. The Real Estate Division has changed the language of the temporary construction easements to allow access to City employees and their representatives. The Caltrans project will upgrade and reconfigure a portion of the Interstate that runs through Oakland. The Caltrans project includes the removal, replacement and widening of an eight-lane deck on Interstate 880 near the 5<sup>th</sup> Avenue exit.

#### **PROJECT DESCRIPTION**

The purpose of these easements is to grant Caltrans property rights to reconstruct and seismically retrofit the 5<sup>th</sup> Avenue Overhead Structure on Interstate 880. The easements authorize Caltrans to use the parcels for the construction and maintenance of the new 5<sup>th</sup> Avenue Overhead structure. Because of the impending City pedestrian/bike path projects Public Works Agency required access rights to the project area during Caltrans construction.

**SUSTAINABLE OPPORTUNITIES**

Economic: The easements are for the benefit of Caltrans. The City will not sustain any economic opportunities.

Environmental: The project is part of a state-wide seismic retrofit project. The existing overhead deck will be replaced with a wider structure.

Social Equity: Constructing a new deck will improve the north bound Interstate 880 Jack London Square exit. Caltrans proposes to replace the existing bike path with a path that will run along the Lake Merritt Channel shoreline. Caltrans also proposes to reserve a right-of-way beneath the replaced 5<sup>th</sup> Avenue Overhead Structure to facilitate a future public access connection along the Lake Merritt Channel to Embarcadero East.

**DISABILITY AND SENIOR CITIZEN ACCESS**

Adoption of this Ordinance will have no direct impact on disabled and senior citizen access.

**RECOMMENDATION(S) AND RATIONALE**

Staff recommends granting the proposed easements to Caltrans to allow the construction, seismic retrofit and maintenance of the 5<sup>th</sup> Avenue Overhead structure..

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the ordinance authorizing the granting of a permanent highway easement/fee, two permanent maintenance easements and two temporary construction easements at fair market value to Caltrans.

Respectfully submitted,

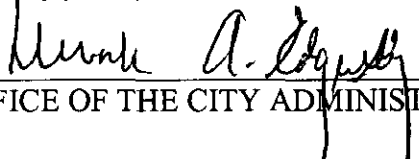


Daniel Vanderpriem, Director Redevelopment  
Housing and Economic Development Divisions  
Community and Economic Development Agency

Forwarded by: Frank Fanelli, Manager  
Real Estate Services

Prepared by: Ava M. Jourdain,  
Real Estate Agent

APPROVED AND FORWARDED TO THE  
CITY COUNCIL



OFFICE OF THE CITY ADMINISTRATOR

Item #: \_\_\_\_\_  
City Council  
June 21, 2005

*Dennis F. Lee*  
DEPUTY CITY ATTORNEY & CLERK  
OAKLAND

2005 JUN -9 AM 10: 07

**ORDINANCE NO. \_\_\_\_\_ C. M. S.**

**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A SALES AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) TO SELL CITY OWNED PROPERTY LOCATED NEAR INTERSTATE 880 AND 5<sup>TH</sup> AVENUE (ASSESSOR PARCEL NUMBER 000O-0455-010 (PORTION)); APPROPRIATING THE PROCEEDS OF THE SALE INTO THE REAL ESTATE SURPLUS PROPERTY PROJECT; AND GRANTING PERMANENT MAINTENANCE EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS WITH AN EXPIRATION DATE OF JANUARY 31, 2011 FOR CITY OWNED PROPERTIES (ASSESSOR PARCEL NUMBERS 000O-0455-090 AND 000O-0455-010); ALL PROPERTY RIGHTS WILL BE CONVEYED FOR A FAIR MARKET VALUE TO BE DETERMINED, BUT NOT LESS THAN \$195,100**

**WHEREAS**, the City of Oakland (City) is the owner of two parcels of land located on or near a former railroad spur along Interstate 880 near 5<sup>th</sup> Avenue identified as APN 000O-0455-090 and APN 000O-0455-010, both illustrated in Exhibit "A" attached hereto; and

**WHEREAS**, the California Department of Transportation (Caltrans) is scheduled to begin a seismic retrofit project on Interstate 880 that includes replacing the overhead deck near the 5<sup>th</sup> Avenue exit; and

**WHEREAS**, Caltrans requires certain property rights to the City owned parcels for construction and maintenance of the highway; and

**WHEREAS**, Caltrans has requested a permanent maintenance easement and temporary construction easement for parcel APN 000O-0455-090; and

**WHEREAS**, the permanent maintenance easement requires approximately 474 square feet and the temporary construction easement, expiring December 31, 2011, requires 23,271 square feet for parcel APN 000O-0455-090; and

**WHEREAS**, Caltrans has requested a permanent highway easement or fee, permanent maintenance easement and temporary construction easement from APN 000O-0455-010; and

**WHEREAS**, the permanent highway easement or fee that Caltrans plans to acquire requires 2,027 square feet, the permanent maintenance easement requires 657 square feet and the temporary construction easement, expiring December 31, 2001, requires 23,842 square feet for APN 000O-0455-010 illustrated in Exhibit "A"; and

**WHEREAS**, the granting of easements and conveyance of properties are exempt from the requirements of the California Environmental Quality Act ("CEQA") by Section

15301 (existing facilities) and Section 15302 (replacement and reconstruction) of the CEQA Guidelines; and

**WHEREAS**, Caltrans has agreed to provide on-going access to the parcels to City employees, its agents and its representatives; and

**WHEREAS**, the fair market value for the parcel Caltrans desires to acquire was determined to be \$195,100 over four years ago; and

**WHEREAS**, Caltrans has determined that the public interest and necessity require the project, has determined that the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and has presented the City a written offer for the property rights; and

**WHEREAS**, Caltrans has notified the City that it has submitted a Resolution of Necessity for the property rights to parcel APN 000O-0455-010 to the California Transportation Commission; now therefore

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

SECTION 1. The City Council finds and determines the requirements to issue a permanent highway easement, two permanent maintenance easements and two temporary construction easements have been satisfied.

SECTION 2. *The City Council hereby authorizes and directs the City Administrator to negotiate and execute a Right of Way Contract – State Highway and an Easement Deed for City parcels APN 000O-0455-090 and APN 000O-0455-010 located along Interstate 880 near 5<sup>th</sup> Ave.*

SECTION 3. The City Administrator is authorized to negotiate and execute a Sales Agreement with Caltrans for fair market value, but no less than \$195,100.

SECTION 4. The amount paid by Caltrans to the City is hereby appropriated and shall be deposited into Real Estate Surplus Property Project (1010), Real Estate Services Org (88639), Miscellaneous Sales Account (45519), Project (P47010), Program (PS32).

SECTION 5. The City Administrator is authorized and directed to take any and all actions required to grant the property rights necessary.

SECTION 6 The City Administrator is hereby directed to file a Notice of Exemption.

SECTION 7. The City Administrator or her designee is hereby authorized to negotiate, execute and amend all documents and agreements and to take all actions necessary to carry out the intent of this Ordinance and to complete the transaction.

SECTION 8. The City Attorney shall review and approve as to form and legality all documents and agreements prepared pursuant to this Ordinance and a copy shall be filed with the Office of the City Clerk.

**IN COUNCIL, OAKLAND, CALIFORNIA PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, KERNIGAHAN, AND CHAIR PERSON  
DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

\_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the City Council of the  
City of Oakland, California

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

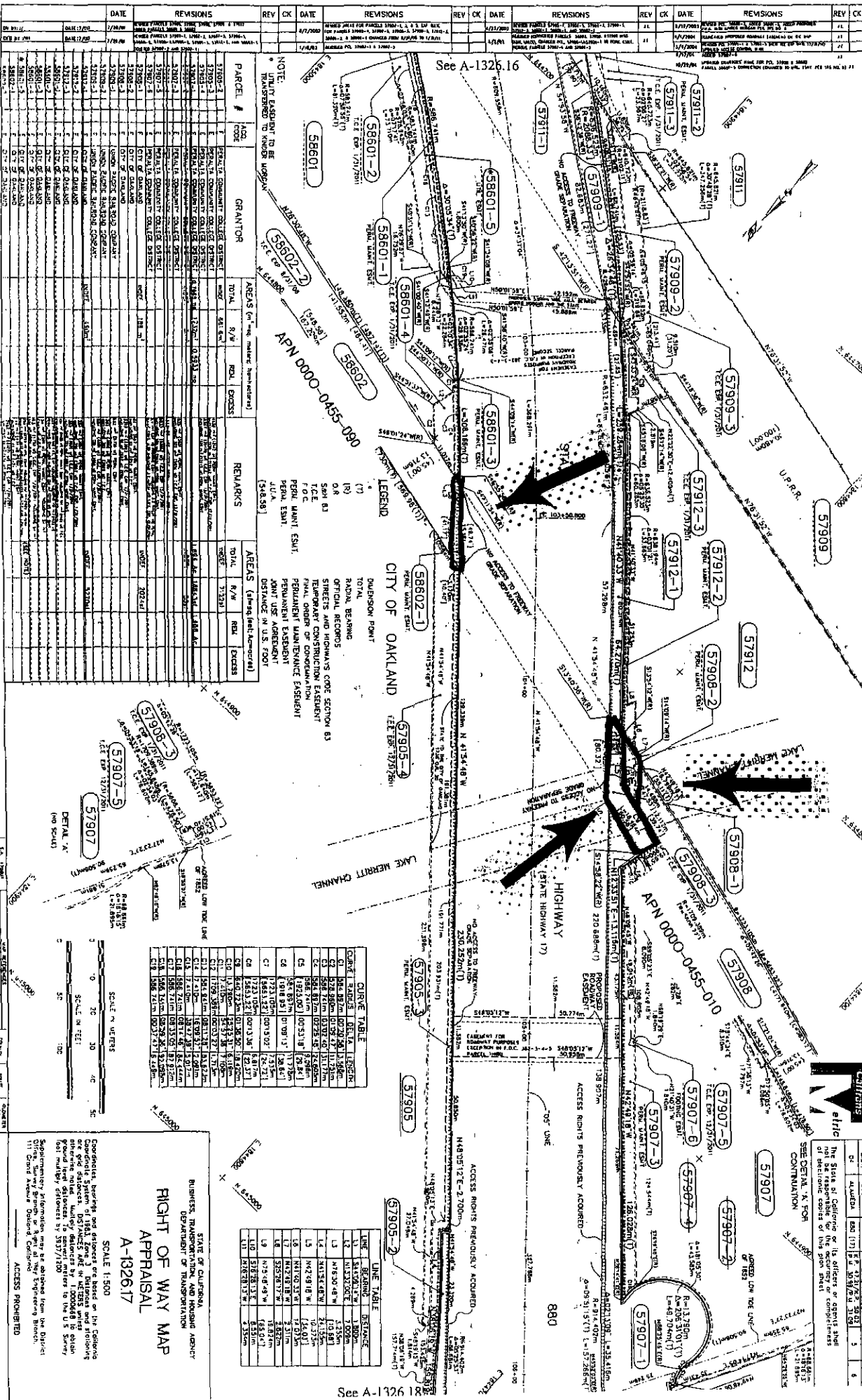
**NOTICE AND DIGEST**

2005 JUN -9 AM 10: 07

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This ordinance provides for the granting of a highway easement or fee, two permanent maintenance easements and two temporary construction easements near Interstate 880 and 5<sup>th</sup> Avenue. The easements are being granted to allow Caltrans to seismically retrofit, construct, replace and maintain the existing 5<sup>th</sup> Avenue deck.

Civil 17 A



REV	CK	DATE	REVISIONS
1		11/27/00	ISSUED FOR PUBLIC REVIEW
2		12/15/00	REVISIONS TO PARCEL 57907-5
3		1/15/01	REVISIONS TO PARCEL 57907-5
4		1/15/01	REVISIONS TO PARCEL 57907-5
5		1/15/01	REVISIONS TO PARCEL 57907-5
6		1/15/01	REVISIONS TO PARCEL 57907-5
7		1/15/01	REVISIONS TO PARCEL 57907-5
8		1/15/01	REVISIONS TO PARCEL 57907-5
9		1/15/01	REVISIONS TO PARCEL 57907-5
10		1/15/01	REVISIONS TO PARCEL 57907-5
11		1/15/01	REVISIONS TO PARCEL 57907-5
12		1/15/01	REVISIONS TO PARCEL 57907-5
13		1/15/01	REVISIONS TO PARCEL 57907-5
14		1/15/01	REVISIONS TO PARCEL 57907-5
15		1/15/01	REVISIONS TO PARCEL 57907-5
16		1/15/01	REVISIONS TO PARCEL 57907-5
17		1/15/01	REVISIONS TO PARCEL 57907-5
18		1/15/01	REVISIONS TO PARCEL 57907-5
19		1/15/01	REVISIONS TO PARCEL 57907-5
20		1/15/01	REVISIONS TO PARCEL 57907-5
21		1/15/01	REVISIONS TO PARCEL 57907-5
22		1/15/01	REVISIONS TO PARCEL 57907-5

DATE	REVISIONS	REV	CK
11/27/00	ISSUED FOR PUBLIC REVIEW	1	
12/15/00	REVISIONS TO PARCEL 57907-5	2	
1/15/01	REVISIONS TO PARCEL 57907-5	3	
1/15/01	REVISIONS TO PARCEL 57907-5	4	
1/15/01	REVISIONS TO PARCEL 57907-5	5	
1/15/01	REVISIONS TO PARCEL 57907-5	6	
1/15/01	REVISIONS TO PARCEL 57907-5	7	
1/15/01	REVISIONS TO PARCEL 57907-5	8	
1/15/01	REVISIONS TO PARCEL 57907-5	9	
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1/15/01	REVISIONS TO PARCEL 57907-5	19	
1/15/01	REVISIONS TO PARCEL 57907-5	20	
1/15/01	REVISIONS TO PARCEL 57907-5	21	
1/15/01	REVISIONS TO PARCEL 57907-5	22	

DATE	REVISIONS	REV	CK
11/27/00	ISSUED FOR PUBLIC REVIEW	1	
12/15/00	REVISIONS TO PARCEL 57907-5	2	
1/15/01	REVISIONS TO PARCEL 57907-5	3	
1/15/01	REVISIONS TO PARCEL 57907-5	4	
1/15/01	REVISIONS TO PARCEL 57907-5	5	
1/15/01	REVISIONS TO PARCEL 57907-5	6	
1/15/01	REVISIONS TO PARCEL 57907-5	7	
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1/15/01	REVISIONS TO PARCEL 57907-5	16	
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1/15/01	REVISIONS TO PARCEL 57907-5	18	
1/15/01	REVISIONS TO PARCEL 57907-5	19	
1/15/01	REVISIONS TO PARCEL 57907-5	20	
1/15/01	REVISIONS TO PARCEL 57907-5	21	
1/15/01	REVISIONS TO PARCEL 57907-5	22	

PARCEL #	NO.	GRANTOR	TOTAL AREA (sq. feet)	REMARKS
57907-5	1	...	...	...
57907-4	1	...	...	...
57907-3	1	...	...	...
57907-2	1	...	...	...
57907-1	1	...	...	...
58601-5	1	...	...	...
58601-4	1	...	...	...
58601-3	1	...	...	...
58601-2	1	...	...	...
58601-1	1	...	...	...
58602-2	1	...	...	...
58602-1	1	...	...	...
57905-2	1	...	...	...
57905-3	1	...	...	...
57905-1	1	...	...	...

LINE BEARING	DISTANCE
N 11° 15' 00" E	1.000m
S 88° 30' 00" W	1.000m
N 88° 30' 00" E	1.000m
S 11° 15' 00" W	1.000m
N 11° 15' 00" E	1.000m
S 88° 30' 00" W	1.000m
N 88° 30' 00" E	1.000m
S 11° 15' 00" W	1.000m
N 11° 15' 00" E	1.000m
S 88° 30' 00" W	1.000m
N 88° 30' 00" E	1.000m
S 11° 15' 00" W	1.000m

LINE BEARING	DISTANCE
N 11° 15' 00" E	1.000m
S 88° 30' 00" W	1.000m
N 88° 30' 00" E	1.000m
S 11° 15' 00" W	1.000m
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S 88° 30' 00" W	1.000m
N 88° 30' 00" E	1.000m
S 11° 15' 00" W	1.000m
N 11° 15' 00" E	1.000m
S 88° 30' 00" W	1.000m
N 88° 30' 00" E	1.000m
S 11° 15' 00" W	1.000m

SCALE: 1:500  
 BUSINESS TRANSPORTATION AND HOUSING AGENCY  
 DEPARTMENT OF TRANSPORTATION  
**RIGHT OF WAY MAP APPRAISAL**  
 A-132617

APN 000-0455-090  
 APN 000-0455-010  
 APN 000-0455-010  
 APN 000-0455-010

APN 000-0455-010  
 APN 000-0455-010  
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