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OFFICE OF THE CITY CLERK  
OAKLAND

**CITY OF OAKLAND**  
**AGENDA REPORT**

2009 JAN 22 PM 6:09

**TO:** Office of the City Administrator  
**ATTN:** Dan Lindheim  
**FROM:** Community and Economic Development Agency  
**DATE:** January 27, 2009

**RE: A Supplemental Report And Two Pieces Of Legislation:**

**1) A Resolution Rescinding No. 80939 C.M.S. Adopted December 4, 2007, Which Will: 1) Restore Resolution No. 23515 C.M.S., Passed August 30, 1949, Which Granted A Revocable Permit For The Maintenance And Operation Of A Spur Track On And Across 23<sup>rd</sup> Avenue, 29<sup>th</sup> Avenue, Derby Street, Lancaster Street And Ford Street And Upon And Along Glascock Street Between 29<sup>th</sup> Avenue And Lancaster Street In The City Of Oakland ("Fruitvale Track"), And 2) Withdraw Previous Direction Regarding The Filing Of An Action For "Adverse Abandonment" Of The Fruitvale Track With The Department Of Transportation Surface Transportation Board, And**

**2) A Resolution Authorizing The City Administrator To Execute A Letter Of Understanding And Subsequent Cooperative Agreement With The California Department Of Transportation ("Caltrans") To Close The Railroad Crossing At 5<sup>th</sup> Avenue, Known As The Hanlon Lead, Provided That Certain Railroad Safety And Community Improvements Are Implemented On And Around The Fruitvale Track With Funding Provided By Caltrans, All In Connection With Caltrans 5<sup>th</sup> Avenue Seismic Retrofit Project**

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**SUMMARY**

Two resolutions have been prepared for Council approval. The first resolution rescinds Resolution No. 80939, which was adopted by the Council on December 4, 2007, and the second resolution authorizes the City Administrator to execute a Letter of Understanding (LOU) with Caltrans.

The resolution adopted by the City Council in December 2007 revoked a 1949 permit for railroad operations and maintenance on a spur track along Glascock Avenue. This action would restore the City's original legislation granting that permit in return for short-term safety improvements, long-term safety improvements and community improvements in the Glascock Avenue vicinity. The various improvements are outlined in *Attachment A* to this report.

Staff recommends approval of the two resolutions.

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## **FISCAL IMPACT**

Execution of the LOU will allow the City to receive \$1,242,500 from Caltrans for community improvements to streets and sidewalks, as well as an estimated amount of \$129,750 for railroad crossing safety improvements in the City's jurisdiction, which will be implemented by the City.

In addition, the LOU identifies an estimated amount of \$874,375 of railroad crossing improvements that will be installed within the railroad's jurisdiction. There would be no adverse fiscal impact from the actions requested in this report. Caltrans will fund the improvements that are described in *Attachment A*.

## **BACKGROUND**

Caltrans is retrofitting the 5<sup>th</sup> Avenue overcrossing of Interstate 880 to bring it up to modern seismic standards. Part of the project will include widening the roadway to allow shoulders. The project will require that Union Pacific railroad abandon the Hanlon Lead, a track running along Embarcadero. Union Pacific has customers, including ConAgra, that still require train service. Union Pacific plans to service those customers using the spur track along Fruitvale and Glascock Avenues. In 1949, the City of Oakland granted a revocable permit by resolution for train operations along the Glascock spur. The City Council revoked that permit in December of 2007, pursuant to the terms for revocation in the 1949 resolution and the Oakland City Charter.

## **KEY ISSUES AND IMPACTS**

The 5<sup>th</sup> Avenue overcrossing retrofit project is one of the, if not the, highest priority projects for Caltrans in our area. There is an extreme time urgency to resolve the dispute between the City of Oakland and Union Pacific over the use of the Glascock spur. The ongoing disagreement between the City and Union Pacific has put the Caltrans project in jeopardy as Caltrans needs to open bids for the work on February 4, 2009.

In an effort to facilitate agreement between the City of Oakland and Union Pacific, Caltrans has offered to fund safety improvements, required by the California Public Utilities Commission (CPUC), and other community improvements in the area. The basic agreement will have Caltrans fund the required safety improvements required by the CPUC in order to use the Glascock spur. In addition, Caltrans will agree to fund a series of public improvements along the spur track as outlined in *Attachment A*.

There are three types of work contemplated as part of the Letter of Understanding (LOU). The first two types, short term safety improvements and long term safety improvements, are categorically exempt from CEQA review based on sections 15301 (existing facilities), 15302 (replacement or reconstruction) and 15303 (new construction or conversion of small structures). The already existing Glascock spur track will have new and improved safety devices installed as

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required by the California Public Utilities Commission. These safety improvements to existing structures would need to be completed by the City of Oakland independent of the existence of the LOU. These are accessory to the existing use of the tracks and constitute construction of small, safety related structures and repair and reconstruction of existing safety devices. The community improvements contemplated by the LOU are categorically exempt from CEQA review based on sections 15301 (existing facilities), 15302 (replacement or reconstruction) and 15303 (new construction or conversion of small structures). The community improvements consist of building new sidewalks in areas of the public right-of-way without sidewalks, extension of existing sidewalks in the public right-of-way and some repair and replacement of existing sidewalks in the public right-of-way.

### **SUSTAINABLE OPPORTUNITIES**

*Economic:* No economic opportunities have been identified.

*Environmental:* No environmental opportunities have been identified.

*Social Equity:* No social equity issues were identified in this report.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The street and sidewalk improvements outlined in this report will improve disabled and senior access in the area.

### **RECOMMENDATION(S) AND RATIONALE**

Staff recommends that the City Council adopt the resolution restoring the 1949 resolution that granted the revocable permit and rescinding the direction to pursue the adverse abandonment action, and adopt the resolution authorizing the City Administrator to execute a Letter of Understanding with Caltrans to fund certain short term safety, long term safety and community improvements along the Glascock spur track.

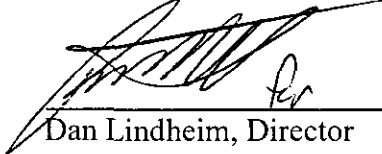
Normally, the city would be responsible for installing the CPUC required safety improvements that are estimated to cost approximately \$130,000. By resolving the dispute with these actions the City of Oakland will be reimbursed for these costs by Caltrans and receive an additional amount of approximately \$1.25 million worth of public improvements in the area.

**ACTION REQUESTED OF THE CITY COUNCIL**

That the City Council:

- 1) Adopt the resolution to restore the 1949 resolution that granted a revocable permit; and
- 2) Rescind the direction to pursue an abandonment action on the Glascock spur; and
- 3) Adopt the resolution authorizing the City Administrator to execute a Letter of Understanding with Caltrans to fund certain short term safety, long term safety and community improvements along the Glascock spur track.

Respectfully submitted,



Dan Lindheim, Director  
Community & Economic Development Agency

Reviewed by:  
Michael J. Neary, P.E.  
Deputy Director  
Community & Economic Development Agency

Prepared by:  
Wladimir Wlassowsky, P.E.  
Transportation Services Division

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:

  
Office of the City Administrator

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# **ATTACHMENT A**

**Near and Long Term CPUC Recommended and  
Additional Related Improvements**

**And**

**Community Requested Improvements**

# Exhibit A

## NEAR AND LONG TERM CPUC RECOMMENDED AND ADDITIONAL RELATED IMPROVEMENTS\*

		COST	IMPLEMENTING AGENCY	
			CITY	OTHERS
<b>Near Term CPUC Recommended Improvements:</b>				
<b>1 East 7th Street</b>				
4	Remove Tree		X	
1a	Trim Tree	\$ 1,000.00	X	
2	Install limit line & stop sign	\$ 600.00	X	
3	Install additional street lamp	\$ 1,000.00	X	
4	Remove or pave over track	\$ 7,500.00		X
5	Relocate stop limit line at T-intersection	\$ 600.00	X	
6	Relocate stop limit line near Fruitvale Av	\$ 600.00	X	
7	Install red curb	\$ 500.00	X	
8	Install KEEP CLEAR markings	\$ 2,000.00	X	
9	Install W 10-1 advance marking sign	\$ 500.00		X
10	Install W 10-3 advance marking sign	\$ 500.00		X
11	Install DO NOT STOP ON TRACKS sign	\$ 500.00	X	
12	Install STOP sign and Crossbuck	\$ 1,000.00		X
13	Stop northbound train	\$ -		X
14	Maintain vegetation in UPRR R/W			X
15	Remove billboards (UPRR Property)	\$ 2,000.00		X
<b>2 Lancaster St at Glascock St</b>				
1	Install KEEP CLEAR markings	\$ 2,000.00	X	
2	Modify hatch marking	\$ 2,000.00	X	
3	Install Crossbuck sign (R15-1)	\$ 500.00		X
4	Remove tree		X	
4a	Curb Gutter Sidewalks 45 ft	\$ 9,000.00	X	
5	Maintain trees along Lancaster St		X	
6	Enforce parking prohibitions	\$ -	X	
7	SB/WB trains stop @ Glascock	\$ -		X
8	Install K-rail			X
9	Install Crossbuck	\$ 500.00		X
10	Remove south spur track	\$ 43,750.00		X
11	Maintain Crossbuck signs			X
<b>3 Derby Ave at Glascock St</b>				
1	Install & maintain RXR pavement markings	\$ 1,000.00	X	
2	Install W10-1 sign	\$ 500.00		X

# Exhibit A

## NEAR AND LONG TERM CPUC RECOMMENDED AND ADDITIONAL RELATED IMPROVEMENTS\*

		COST	IMPLEMENTING AGENCY	
			CITY	OTHERS
<b>4 Estero Way</b>				
1	Assign DOT#			X
2	Post DOT# on Crossbuck			X
<b>5 Peterson Street</b>				
1	Install & maintain W10-1 sign	\$ 1,500.00		X
2	Install & maintain STOP sign	\$ 500.00	X	
3	Remove or trim vegetation (8ea)			
4	<b>Remove tree</b>		X	
5	No parking sign	\$ 500.00	X	
<b>6 29th Ave (NB) and 23rd Ave (SB)</b>				
1a	Install street lamps (west of 23rd Av)	\$ 10,000.00	X	
1b	Install street lamps (Between 23rd & 29th Av)	\$ 15,000.00	X	
2	Install hatch markings & red curb	\$ 2,000.00	X	
3	Install KEEP CLEAR markings	\$ 2,000.00	X	
4A	Raise traffic painted traffic island	\$ 6,000.00	X	
5A	LED pre-emption sign 23rd Avenue	\$ 6,000.00	X	
6A	Install R61 sign	\$ 600.00	X	
7A	No Ped crossing signs	\$ 1,200.00	X	
8A	Refresh pavement markings Kennedy	\$ 1,000.00	X	
9A	No Left Turn sign	\$ 600.00	X	
10	<b>Stop train before crossing 23rd/29th Ave.</b>			X
11	Reconfigure Park St Triangle	see Exhibit B	X	
12	Install train activated amber flashers	\$ 125,000.00		X
13	Relocate bus stop	\$ 25,000.00	X	
14	Provide railroad preemption of the traffic signals	\$ 20,000.00		X
15	Install railroad crossing pre-signal	\$ 340,000.00		X
16	Install flashing light signals on OH cantilevers	\$ 50,000.00		X
<b>8 Dennison Street</b>				
1	Repaint & Maintain STOP limit line	\$ 600.00	X	
2	<b>Install hatch &amp;/or KEEP CLEAR markings</b>		X	
3	Trim trees	\$ 2,000.00	X	
4	Remove Tracks Connecting to Hanlon Lead	\$ 106,250.00		X
5	Stop E/B train prior to crossing			X
	<b>Subtotal</b>	<b>\$ 793,300.00</b>	<b>\$ 92,800.00</b>	<b>\$ 699,500.00</b>
	<b>Contingency @ 25%</b>	<b>\$ 198,325.00</b>	<b>\$ 23,200.00</b>	<b>\$ 174,875.00</b>
	<b>TOTAL-NEAR TERM IMPROVEMENTS</b>	<b>\$ 991,625.00</b>	<b>\$ 116,000.00</b>	<b>\$ 874,375.00</b>

# Exhibit A

## NEAR AND LONG TERM CPUC RECOMMENDED AND ADDITIONAL RELATED IMPROVEMENTS\*

		COST	IMPLEMENTING AGENCY	
			CITY	OTHERS
<b>Long Term CPUC Recommended Improvements</b>				
<b>1 East 7th Street</b>				
4	Remove driveway		X	-
2	Remove tank		X	-
3	Track realignment		-	X
4	Install automatic warning devices		-	X
<b>3 Derby Ave at Glasscock St</b>				
1	Install curb, gutter & sidewalk	\$ 10,000.00	X	
2	Enforce parking prohibitions	\$ -	X	
<b>5 Peterson Street</b>				
1	Install red curb	\$ 1,000.00	X	
	<b>Subtotal</b>	<b>\$ 11,000.00</b>		
	<b>Contingency @ 25%</b>	<b>\$ 2,750.00</b>		
	<b>TOTAL-LONG TERM IMPROVEMENTS</b>	<b>\$ 13,750.00</b>	<b>\$ 13,750.00</b>	<b>\$ -</b>

<b>GRAND TOTAL</b>	<b>\$ 1,005,375.00</b>	<b>\$ 129,750.00</b>	<b>\$ 874,375.00</b>
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\* This itemized list prepared by the City of Oakland and Caltrans represents all of the recommended improvements in the CPUC Meeting Notes (distributed Aug. 9, 2008) and further related improvements recommended by the City of Oakland's independent traffic study. The City has determined that this list represents all of the itemized improvements necessary for concurrence with Caltrans' application to the CPUC for modification of the Hanlon Lead Track, except those items indicated by strike out font, which the City deems to be unnecessary.



# EXHIBIT B

## COMMUNITY REQUESTED IMPROVEMENTS

		Unit	Qty	Amount	Description of Work
<b>A SIDEWALKS AND SHOULDER WORK</b>					
1	Lancaster St/Chapman	FT	520	\$ 320,000.00	WORK INCLUDES SIDEWALKS 8' TO 10' WITH PLANTER AREAS THROUGHOUT, CURB AND GUTTER, NEW DRAINAGE, AND SECTIONS OF ROADWAY REPAIR
2	Glasscock St	FT	560	\$ 112,000.00	WORK INCLUDES SIDEWALKS 8' TO 9' WITH PLANTER AREAS THROUGHOUT, CURB AND GUTTER, MAY REQUIRE A NEW INLET AND CONNECTION
3	Peterson St	FT	40	\$ 8,000.00	WORK INCLUDES 8' SIDEWALK CURB AND GUTTER AT APPROACH TO INTERSECTION
4	Derby Ave	FT	220	\$ 44,000.00	WORK INCLUDES SIDEWALKS 8' TO 9' WITH PLANTER AREAS THROUGHOUT, CURB AND GUTTER, MAY REQUIRE A NEW INLET AND CONNECTION
5	Fruitvale Avenue	FT	1100	\$ 258,000.00	WORK INCLUDES SIDEWALKS 8', CURB AND GUTTER, REPLACEMENT OF EXISTING DRAINAGE INLETS, MINOR GRADING AND ROADWAY WORK NEAR ALAMEDA AVENUE AND ONE INLET.
6	East 7th Street	FT	160	\$ 32,000.00	WORK INCLUDES SIDEWALKS 8' TO 10', CURB AND GUTTER, MINOR GRADING AND ROADWAY REPAIR AROUND RAILROAD TRACKS.
<b>B REPLACE FENCE ALONG FRUITVALE LEAD</b>					
1	Replace fence 300 ft.	LS	1	\$ 15,000.00	
2	Repair adjoining property fences	LS	1	\$ 5,000.00	
<b>C PARK STREET TRIANGLE</b>					
1	Project Development	LS	1	\$ 250,000.00	Park Street Triangle Study
		SUB TOTAL		\$ 1,044,000.00	
Contingency		25%		\$ 198,500.00	(DOES NOT INCLUDE PARK STREET TRIANGLE STUDY - \$250K)
<b>Total Community Requested Improvement</b>				<b>\$ 1,242,500.00</b>	

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**DRAFT**

Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

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

INTRODUCED BY COUNCILMEMBER

**RESOLUTION RESCINDING NO. 80939 C.M.S. ADOPTED DECEMBER 4, 2007, TO:**

- 1) RESTORE RESOLUTION NO. 23515 C.M.S., PASSED AUGUST 30, 1949, WHICH GRANTED A REVOCABLE PERMIT FOR THE MAINTENANCE AND OPERATION OF A SPUR TRACK ON AND ACROSS 23<sup>RD</sup> AVENUE, 29<sup>TH</sup> AVENUE, DERBY STREET, LANCASTER STREET AND FORD STREET AND UPON AND ALONG GLASCOCK STREET BETWEEN 29<sup>TH</sup> AVENUE AND LANCASTER STREET IN THE CITY OF OAKLAND ("FRUITVALE TRACK"), AND**
- 2) WITHDRAW PREVIOUS DIRECTION REGARDING THE FILING OF AN ACTION FOR "ADVERSE ABANDONMENT" OF THE FRUITVALE TRACK WITH THE DEPARTMENT OF TRANSPORTATION SURFACE TRANSPORTATION BOARD**

**WHEREAS**, the City Council of the City of Oakland approved Resolution No. 23515 C.M.S. on August 30, 1949, which granted a revocable permit to Southern Pacific Company to maintain and operate an existing spur track upon and across 23<sup>rd</sup> Avenue, 29<sup>th</sup> Avenue, Derby Street, Lancaster Street and Ford Street and upon and along Glascock Street between 29<sup>th</sup> Avenue and Lancaster Street in the City of Oakland ("Fruitvale Track") as illustrated in Exhibit A to this Resolution; and

**WHEREAS**, Resolution No. 23515 C.M.S was approved pursuant to Oakland City Charter Article IX, *Powers Of The City And Of The City Council*, Section 51, Subdivision 55, *Spur Tracks*, which authorized the City Council, as follows:

To permit the laying down of spur or side tracks and running cars thereon, for the purpose of connecting warehouses, manufactories or other business industries and enterprises with any line of railroad or railroads that may be built along the water front or with any other line or lines of railroad which do now or may hereafter enter the City, subject to such regulations and conditions as may be prescribed from time to time by the Council, such tracks to be used for transportation of freight only, and not

to be used as a main line or a part thereof; and also for the purpose of excavating and filling in a street or portion of a street or the adjoining land, during such limited time as may be necessary for such purpose and no longer.

Such tracks may be laid level with the street and must be operated under such restrictions as not to interfere with the use of the streets by the public. All permits granted under the provisions of this subdivision shall be revocable at the pleasure of the Council.

**WHEREAS**, the revocable permit granted under Resolution No. 23515 C.M.S. was not a railroad franchise as the granting of a railroad franchise would have required an action by the City Council approving an ordinance according to provisions of Oakland City Charter Article XX, *Franchises*, Sections 137 through 151; and

**WHEREAS**, at the time Resolution No. 23515 C.M.S was approved, the area in which the Fruitvale Track is located was wholly or partly within the jurisdiction of the Port of Oakland; and

**WHEREAS**, the Board of the Port of Oakland approved Port Resolution No. B518 on August 22, 1949, which granted a revocable permit to Southern Pacific Company to maintain and operate an existing spur track over the same area authorized by the City resolution for the Fruitvale Track as illustrated in Exhibit A to this Resolution; and

**WHEREAS**, City staff has determined that the permit area described in Resolution No. 23515 C.M.S and Port Resolution B518 is now entirely within the jurisdiction of the City of Oakland and no longer within the jurisdiction of Port of Oakland; and

**WHEREAS**, railroad operations on the Fruitvale Track and the permit were assumed by Union Pacific Railroad ("Union") at some point after August 30, 1949; and

**WHEREAS**, Union currently and for many years has served businesses located along the Estuary on Embarcadero Avenue in the area of the Fruitvale Track, by running trains on another track along Interstate 880 ("Hanlon Track"); and

**WHEREAS**, Caltrans must construct seismic improvements to Interstate 880 over the Hanlon Track that will prohibit continued use of the track; and

**WHEREAS**, Union will reroute trains from the Hanlon Track to the Fruitvale Track which will require Union and City to construct improvements to the track, related traffic facilities, etc.; and

**WHEREAS**, Caltrans has agreed to pay for essential and non-essential improvements that Union and/or the City would otherwise pay for, including track improvements, traffic signals, signs, sidewalks; and

**WHEREAS**, the Caltrans Letter of Understanding ("LOU") covering the payment promise and other agreements will be submitted to the Council under separate resolution; and

**WHEREAS**, this Resolution shall not take effect until after Caltrans and the City have entered into a Cooperative Agreement, as such agreement is specified in the LOU; now, therefore, be it

**RESOLVED:** That Resolution No. 80939 adopted December 4, 2007, (which revoked a permit to Southern Pacific Company to maintain and operate an existing spur track on and across 23<sup>rd</sup> Avenue, 29<sup>th</sup> Avenue, Derby Street, Lancaster Street and Ford Street and upon and along Glascock Street between 29<sup>th</sup> Avenue and Lancaster Street in the City of Oakland ("Fruitvale Track") as illustrated in Exhibit A to this Resolution), is hereby rescinded, including all findings adopted therein as well as direction regarding the filing of an adverse abandonment action with the Department of Transportation Surface Transportation Board; and be it

**FURTHER RESOLVED:** Based on information contained in the City Administrator's report accompanying this Resolution, the City Council finds and determines that the Fruitvale track, as illustrated in Exhibit A, is currently entirely within the jurisdiction of the City of Oakland and no longer in the jurisdiction of the Port of Oakland; and be it

**FURTHER RESOLVED:** That the action taken under this Resolution regarding the Fruitvale Track permit is deemed complete and final and no further action by the Port of Oakland Board of Commissioners is required.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

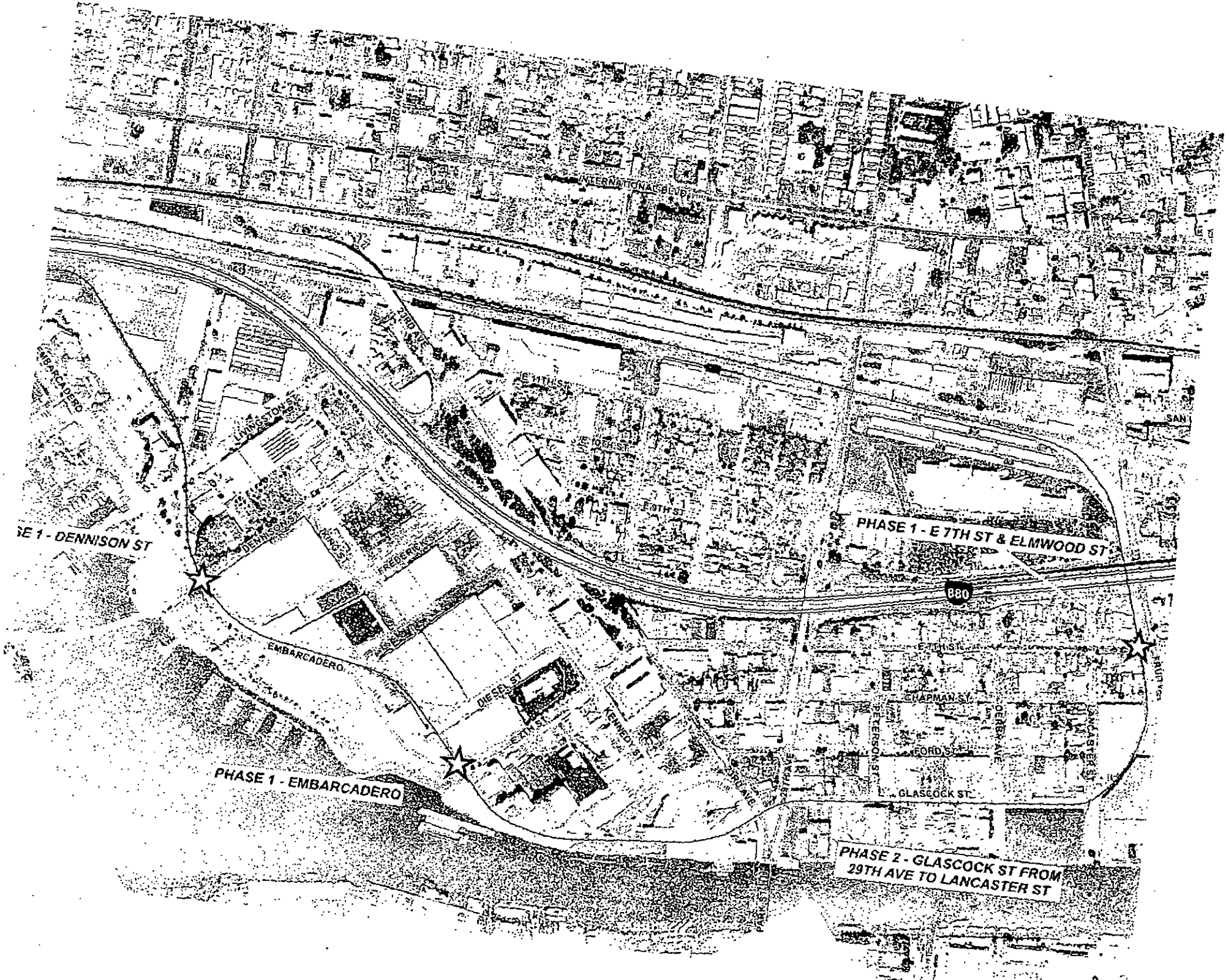
NOES -  
ABSENT -  
ABSTENTION -

ATTEST:

**DRAFT**

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

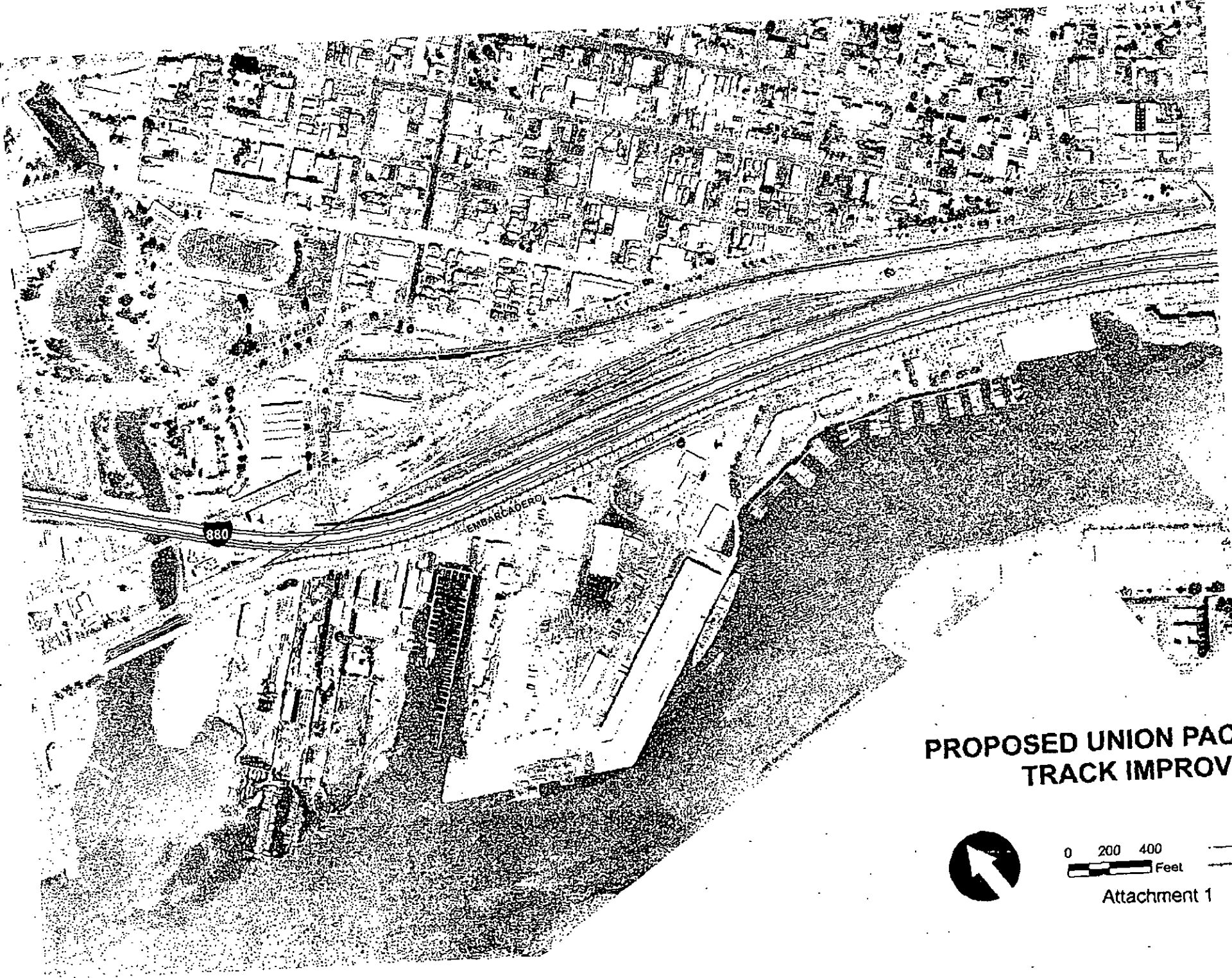


PHASE 1 - DENNISON ST

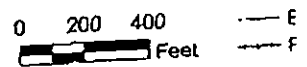
PHASE 1 - EMBARCADERO

PHASE 1 - E 7TH ST & ELMWOOD ST

PHASE 2 - GLASCOCK ST FROM  
29TH AVE TO LANCASTER ST



**PROPOSED UNION PAC  
TRACK IMPROVEMENT**



Attachment 1

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OAKLAND CITY COUNCIL

Approved as to Form and Legality

**DRAFT**

City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LETTER OF UNDERSTANDING AND SUBSEQUENT COOPERATIVE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION ("CALTRANS") TO CLOSE THE RAILROAD CROSSING AT 5TH AVENUE, KNOWN AS THE HANLON LEAD, PROVIDED THAT CERTAIN RAILROAD SAFETY AND COMMUNITY IMPROVEMENTS ARE IMPLEMENTED ON AND AROUND THE FRUITVALE TRACK WITH FUNDING PROVIDED BY CALTRANS, ALL IN CONNECTION WITH CALTRANS 5TH AVENUE SEISMIC RETROFIT PROJECT**

**WHEREAS**, the City of Oakland fully supports the State Department of Transportation ("Caltrans") seismic retrofit project affecting portions of Interstate 880 in Oakland; and

**WHEREAS**, Caltrans' seismic retrofit project will require the permanent closing of an existing railroad crossing at 5<sup>th</sup> Avenue known as the Hanlon Lead; and

**WHEREAS**, as a direct result of the seismic retrofit project, Union Pacific Railroad ("Union Pacific") will be required to reroute trains from the Hanlon Track to the Fruitvale Track; and

**WHEREAS**, the Fruitvale Track is a pre-existing spur track that is in disrepair, and use of the track will require Union Pacific and City to construct certain improvements as required by the California Public Utilities Commission ("CPUC"), including but not limited to replacing old tracks, providing new signage, signaling devices and related traffic facilities; and

**WHEREAS**, Caltrans has agreed to pay for certain improvements that Union Pacific and/or the City would otherwise pay for, including but not limited to replacing old tracks, improving traffic signals, signs and sidewalks; now, therefore, be it

**RESOLVED:** That the City Administrator is authorized to negotiate and execute, modify, amend or extend a Letter of Understanding and subsequent Cooperative Agreement with Caltrans, consistent with this resolution; and be it

**FURTHER RESOLVED:** That the terms of the Letter of Understanding and subsequent Cooperative Agreement shall include, but not be limited to, the following:

1. Caltrans will provide to the City of Oakland upon executing the Cooperative Agreement, a certain amount of money, not to exceed \$1.35 million dollars for the construction of improvements identified by the City and CPUC as necessary and desirable for the continued operation of trains along the Fruitvale Track.
2. The monies provided by Caltrans will be used by the City for upgrades and improvements to the Fruitvale track and areas adjacent to or in the vicinity of the tracks, including but not limited to vehicular roadways and approaches, vehicular and pedestrian crossings, signaling devices, signage, lighting, and certain community improvements, such as sidewalks and approaches thereto; 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 Section 15301 (existing facilities), 15302 (replacement or reconstruction) and 15303 (new construction or conversion of small structures) of the CEQA guidelines; and be it

**FURTHER RESOLVED:** That the City Administrator, or his designee, shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration (California Fish and Game Code Section 711.4) for this action; and be it

**FURTHER RESOLVED:** That all agreements shall be approved as to form and legality by the City Attorney and shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

**DRAFT**

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