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OFFICE OF THE CITY CLERK  
OAKLAND

CITY OF OAKLAND



2007 OCT 25 PM 5: 27

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

IGNACIO De La FUENTE  
*President of the City Council*

(510) 238-7005  
FAX (510) 238-6129  
TDD (510) 238-7413

October 25, 2007

Dear Fellow Council Members:

I am respectfully submitting this request to rescind Southern Pacific Company's (now Union Pacific Railroad's) revocable permit to maintain and operate an existing spur track between 23<sup>rd</sup> and 29<sup>th</sup> Avenues on Derby, Lancaster, Ford and Glascock Streets and between 29<sup>th</sup> Avenue and Lancaster Street along Glascock Street.

This track faces many types of businesses, residences and pedestrian routes. The track crosses the off-ramp that accesses Fruitvale Avenue - a main arterial. The track also crosses 29<sup>th</sup> Avenue, the access to the Park Street Bridge, a vital connection to the City of Alameda.

Union Pacific Railroad wishes to reactivate this railroad track due an anticipated inability to continue to use their tracks along Embarcadero Avenue. This is the result of both a settlement agreement with a private land owner and an eminent domain action by Caltrans associated with the 5<sup>th</sup> Avenue overpass widening project.

No environmental documentation was done in association with the Caltrans projects or with the proposed reactivation. No noticing was done to the residents or property owners in the vicinity of the track that would be reactivated. In the past month, Union Pacific has begun work in the City's right of way illegally, again without any notice. To date there has been no opportunity for the City or community representatives to have a conversation with Union Pacific about their plans. The City only became aware of Union Pacific's plans in September 2007 and the illegal work began soon thereafter.

Rail service on these tracks will be a detriment to this community because of several types of environmental and public safety impacts. The foremost is traffic. A stalled rail car on these tracks would lead to a backup on I-880 and inaccessibility to the City of Alameda. A stalled train could also result in severe fire/police response problems. Noise is another major concern to residents in the area. In the past, trains on these tracks have run day and night.

For the reasons explained here, I ask you to join me in rescinding this permit and to encourage Union Pacific to initiate an authentic public process regarding its proposed train service in this neighborhood.

Sincerely,

  
Ignacio De La Fuente  
Oakland City Council President

2007 OCT 25 PM 5:27

Oakland City Attorney's Office

**DRAFT**

## OAKLAND CITY COUNCIL

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

INTRODUCED BY COUNCILMEMBER

**RESOLUTION RESCINDING RESOLUTION NO. 23515 C.M.S. APPROVED 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") AND DIRECTING THE CITY ADMINISTRATOR TO FILE AN ACTION FOR "ADVERSE ABANDONMENT" OF THE FRUITVALE TRACK WITH THE DEPARTMENT OF TRANSPORTATION SURFACE TRANSPORTATION BOARD**

**WHEREAS**, the City Council of the 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 Attachment 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 Attachment 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**, Union Pacific Railroad began operating trains on the Fruitvale Track at some point after August 30, 1949; and

**WHEREAS**, Union Pacific Railroad 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 ("I880 Track"); and

**WHEREAS**, Union Pacific Railroad has not regularly used the Fruitvale Track for approximately two years; and

**WHEREAS**, The area in and around the Fruitvale Track has become less industrial and increasingly residential with housing developments on Glascock Street, Lancaster Street, Ford Street over the past five years; and

**WHEREAS**, Union Pacific Railroad wishes to re-activate the Fruitvale Track to serve the same businesses it is currently serving on the I880 Track; and

**WHEREAS**, re-activation of the Fruitvale track will be detrimental to the public interest because of impacts related to traffic and pedestrian safety, noise,

air quality, and police and fire service access, and access to the City of Alameda; now, therefore, be it

**RESOLVED:** Based on information contained in the City Administrator's report accompanying this Resolution, the City Council finds and determines that re-activation of the Fruitvale Track shall be detrimental to the public interest because it would impact traffic and pedestrian safety, noise, air quality, and police and fire service access, and access to the City of Alameda; and be it

**FURTHER RESOLVED:** That the City Council hereby rescinds Resolution No. 23515 C.M.S., approved 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 Attachment A to this Resolution; 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 Attachment 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 this permit rescission for the Fruitvale Track is deemed complete and final and no further action by the Port of Oakland Board of Commissioners is required; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby directed to file an action for adverse abandonment of the Fruitvale Track with the federal Department of Transportation Surface Transportation Board and/or other federal or state agencies as necessary to permanently prohibit use of the Fruitvale Track.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

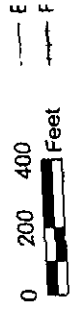
NOES -  
ABSENT -  
ABSTENTION -

ATTEST:

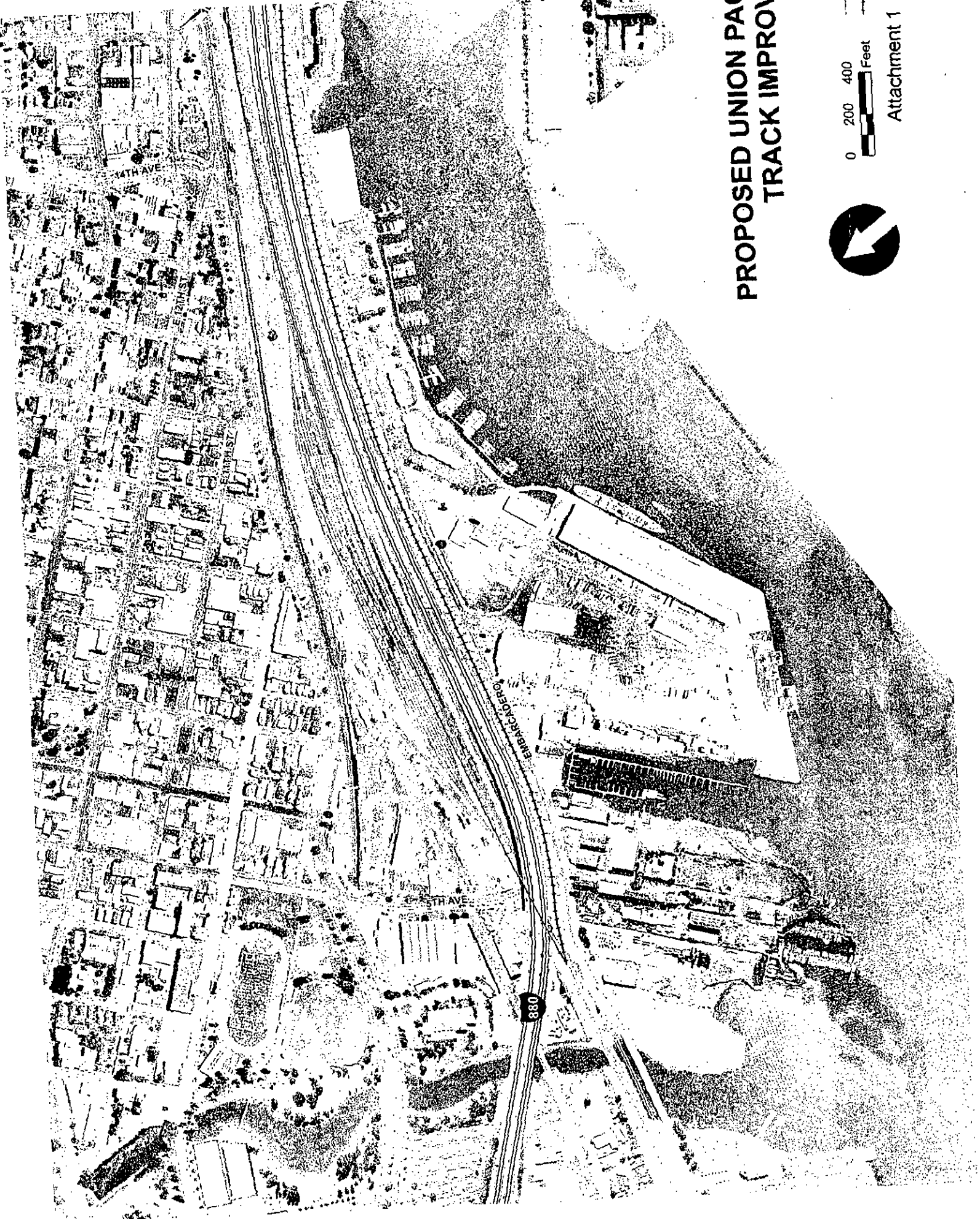
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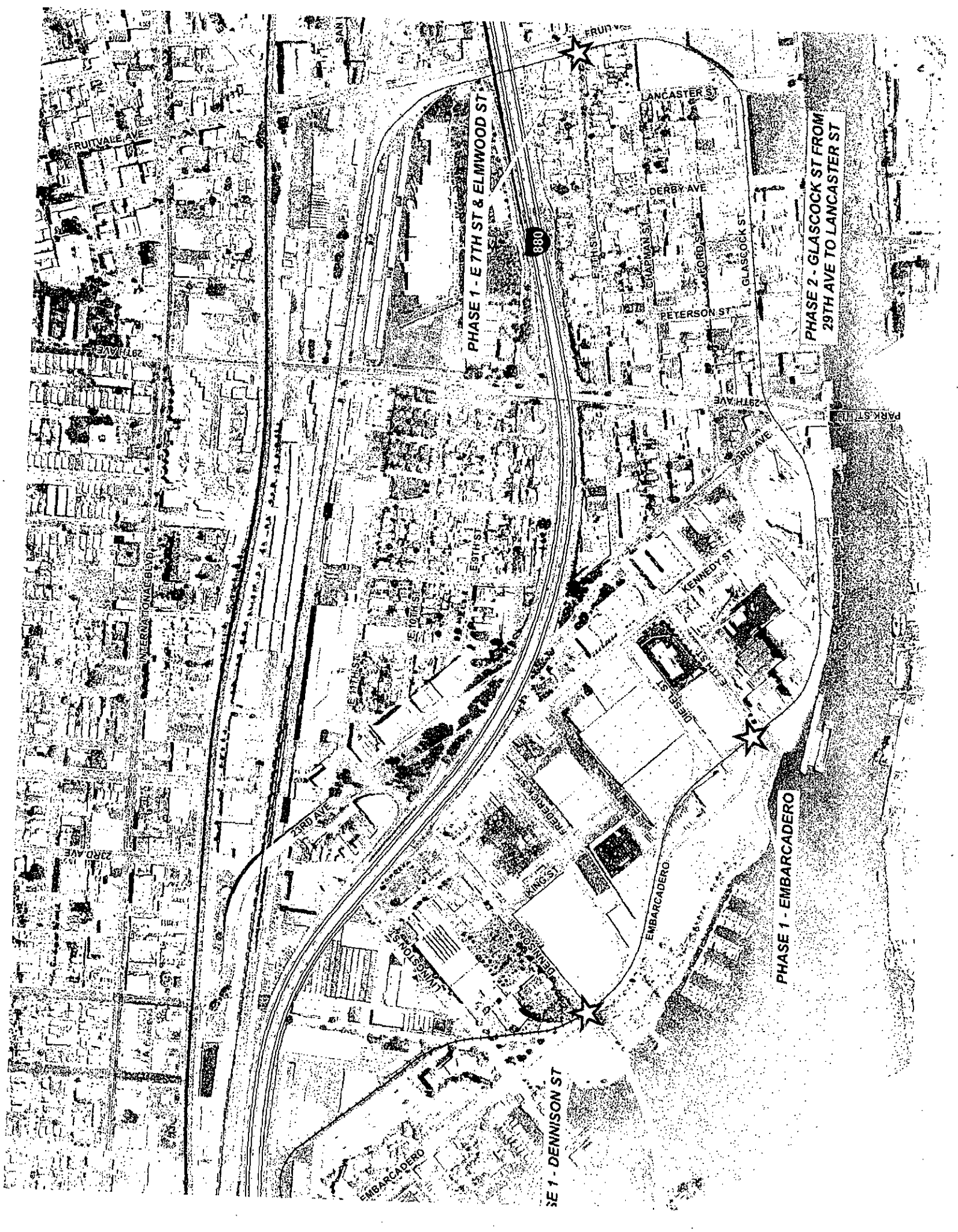
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California

# PROPOSED UNION PAC TRACK IMPROVE



Attachment 1





PHASE 1 - E 7TH ST & ELMWOOD ST

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

PHASE 1 - EMBARCADERO

PHASE 1 - DENNISON ST

880



FRUITVALE AVE

FRUITVALE AVE

INTERNATIONAL BLVD

29TH AVE

30TH AVE

31ST AVE

32ND AVE

33RD AVE

34TH AVE

35TH AVE

36TH AVE

37TH AVE

38TH AVE

39TH AVE

40TH AVE

41ST AVE

42ND AVE

43RD AVE

44TH AVE

45TH AVE

46TH AVE

47TH AVE

48TH AVE

49TH AVE

50TH AVE

51ST AVE

52ND AVE

53RD AVE

54TH AVE

LANCASTER ST

DERBY AVE

PETERSON ST

29TH AVE

30TH AVE

KENNEDY ST

EMBARCADERO

EMBARCADERO

EMBARCADERO

FRUITVALE AVE

LANCASTER ST

DERBY AVE

PETERSON ST

29TH AVE

30TH AVE

KENNEDY ST

EMBARCADERO

EMBARCADERO

EMBARCADERO

FRUITVALE AVE

LANCASTER ST

DERBY AVE

PETERSON ST

29TH AVE

30TH AVE

KENNEDY ST

EMBARCADERO

EMBARCADERO

EMBARCADERO

City of Alameda California



October 18, 2007

Council President Ignacio De La Fuente  
City of Oakland  
1 Frank H. Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

Dear Council President De La Fuente:

On October 16, 2007, the Alameda City Council passed the enclosed resolution encouraging the Oakland City Council to revoke the Union Pacific Railroad Permit for the Fruitvale/Glascock Railroad Spur. As you know, the City of Alameda is very concerned about the potential traffic impacts associated with the reactivation of this spur, and we encourage you and your colleagues on the City Council to revoke Union Pacific's permit.

If you have any questions about the City of Alameda's position on this matter, please don't hesitate to contact me.

Sincerely,

  
Beverly J. Johnson  
Mayor

cc: Alameda City Council  
Alameda City Manager  
Oakland City Clerk

CITY OF ALAMEDA RESOLUTION NO. 14153

ENCOURAGING THE OAKLAND CITY COUNCIL TO REVOKE THE UNION PACIFIC RAILROAD PERMIT FOR THE FRUITVALE/GLASCOCK SPUR

WHEREAS, the Union Pacific Railroad intends to reroute trains from the Embarcadero alignment to the inactive Fruitvale/Glascock railroad spur in order to provide service to two businesses along the Estuary; and

WHEREAS, the City of Oakland granted the railroad a revocable permit for this spur in 1949; and

WHEREAS, the Fruitvale/Glascock railroad spur, which is currently inactive, crosses both 29<sup>th</sup> Avenue and 23<sup>rd</sup> Avenue at the base of the Park Street Triangle; and

WHEREAS, rail traffic in the Park Street Triangle area will contribute to increased congestion on Park Street and the Park Street Bridge; and

WHEREAS, this area is already crowded with traffic traveling to and from Alameda and the I-880 freeway; and

WHEREAS, Alameda has limited Estuary crossings, and increasing traffic on one bridge will affect traffic on the other bridges and in the tubes.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Alameda encourages the Oakland City Council to revoke the Union Pacific permit for the Fruitvale/Glascock spur.

\* \* \* \* \*

Approved as to Form

  
City Attorney



I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda during the Regular Meeting of the City Council on the 16<sup>th</sup> day of October 2007, by the following vote to wit:

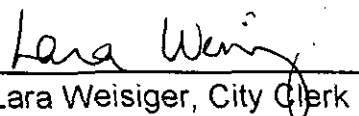
AYES: Councilmembers deHaan, Gilmore, Matarrese, Tam and Mayor Johnson - 5.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 17<sup>th</sup> day of October, 2007.

  
\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda