

Introduced by

Councilmember

OFFICE OF THE CITY CLERK
2012 APR 10 10:4:27

Approved for Form and Legality



City Attorney

OAKLAND CITY COUNCIL

Resolution No. 81255 C.M.S.

A RESOLUTION SUMMARILY VACATING A PORTION OF BANCROFT AVENUE FOR THE EXPANSION OF FIRE STATION No. 18 LOCATED AT 1700 50th AVENUE

WHEREAS, the City of Oakland is the owner of the fee simple interest of a trapezoidal shaped lot located on the northeast corner of the intersection of Bancroft Avenue (formerly known as Bond Street) and 50th Avenue (formerly known as Bay Avenue), which is identified by the Alameda County Assessor with parcel number 035-2386-018-00 and by the City of Oakland as 1700 50th Avenue, and is more particularly described in Grant Deed from Henry Root, a single man, for valuable consideration, executed August 30, 1923, and attached hereto as *Exhibit A*; and

WHEREAS, said parcel is currently occupied by City of Oakland Fire Station No. 18; and

WHEREAS, the Council of the City of Oakland has allocated funding from the Capital Improvement Program (C328310) for the remodeling and expansion of said fire station; and

WHEREAS, the existing land area of said parcel (approximately 13,000 square feet – orthogonal planer projection) is insufficient to accommodate said expansion of said fire station; and

WHEREAS, the City Engineer of the City of Oakland has determined that a portion of the Bancroft Avenue right-of-way (approximately 2,400 square feet - orthogonal planer projection) which adjoins said parcel, as identified in *Exhibit D* attached hereto, has been unimproved and impassible to public traffic and unmaintained by the City of Oakland as public right-of-way since it was deeded to the City in 1921; and

WHEREAS, the City Engineer has further determined that said portion of the Bancroft Avenue right-of-way will provide supplemental land area which is sufficient to accommodate said expansion of said fire station; and

WHEREAS, said portion of the Bancroft Avenue right-of-way was granted by Henry Root to the City of Oakland for valuable consideration through a Deed, recorded January 7, 1922, reel OR 146, image no. 10, by the Alameda County Recorder, attached hereto as *Exhibit B*; and

WHEREAS, said grant by Henry Root was accepted by the Council of the City of Oakland on December 27, 1921, through Resolution No. 23215 N.S., attached hereto as *Exhibit C*; and

WHEREAS, said grant by Henry Root contains a power of termination, as said phrase is defined in California Civil Code section 885.010, should said property at time be used for any purpose other than a public street; and

WHEREAS, pursuant to California Civil Code sections 885.030, 885.040, and 885.060 provide that said power of termination

- expired thirty (30) years after said grant by Henry Root was recorded by the Alameda County Recorder, and
- has become obsolete because said restriction has no actual or substantial benefit to the holder, and
- is unenforceable and equivalent for all purposes to a termination of the power due to said expiration.

WHEREAS, the City Engineer has determined that said proposed vacation will not diminish the current and future use and usable land area of the improved roadways of Bancroft Avenue and 50th Avenue; and

WHEREAS, said proposed vacation will continue the exclusive use by the City of Oakland for Fire Station No. 18 of the unimproved portion of public right-of-way, which has been enclosed by metal fencing for more than twenty (20) years; and

WHEREAS, an application (PPE 08057) for said proposed vacation has been filed with the City Engineer, as required by the California Streets and Highways Code, and all fees for administrative processing, as required by the City of Oakland Master Fee Schedule, shall be paid from said Capital Improvement Program funding; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the proposed remaining widths of Bancroft Avenue and 50th Avenue rights-of-way adjacent to said proposed vacated public right-of-way will exceed the minimum required width of forty (40) feet; and

WHEREAS, pursuant to the California Streets and Highways Code, sections 8333, the legislative body of a local agency may summarily vacate public right-of-way when the right-of-way has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation and there are no public utility facilities within the right-of-way proposed for vacation; and

WHEREAS, pursuant to California Streets and Highways Code Section 892, a vacation of public right-of-way may not limit public use of or impede public access for non-motorized transportation; and

WHEREAS, the City Engineer has determined that no subsurface, surface, or above surface publicly maintained utilities are located within the portion of Peralta Street proposed for vacation or the portion of Mandela Parkway proposed for acquisition; and

WHEREAS, pursuant to said sections of the California Streets and Highways Code, the City Engineer has further determined the following:

- the proposed vacation will not limit public use or impede public access for non-motorized transportation; and
- the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
- the proposed vacation does not require a dedication of a public service easement for existing and future publicly maintained utilities; and that
- the proposed vacation does not require a dedication of a public service easement for access by emergency vehicles and personnel; and
- the unimproved right-of-way proposed for vacation has been impassable for vehicular and pedestrian traffic for more than five (5) of the preceding years, and no public money has been expended for maintenance during this period of time; and, therefore,
- said portion of the Bancroft Avenue right-of-way may be vacated summarily by Resolution of the Council of the City of Oakland, at the option of its elected members; and

WHEREAS, pursuant to California Government Code Section 65402, the Secretary of the Planning Commission of the City of Oakland has determined the proposed vacation conforms with the adopted General Plan of the City of Oakland; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities) this project is categorically exempted; now, therefore, be it

RESOLVED: That the summary vacation of a portion of the Peralta Street right-of-way, as described and identified delineated in the attached *Exhibits C and D*, is hereby ordered; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 6 2008 , 2008

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

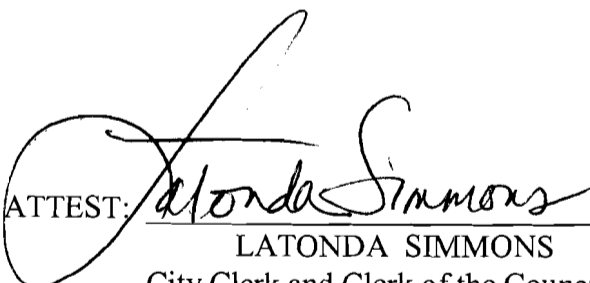
ATTEST: 
 LATONDA SIMMONS
 City Clerk and Clerk of the Council
 of the City of Oakland, California

EXHIBIT A

property boundary of parcel no. 035-2386-018-00, as described in a Grant Deed from Henry Root to the City of Oakland, executed on August 30, 1923

Deed

This Indenture, made this 30th day of August in the year of our Lord the Thousand Nine Hundred and Twenty-three

Between HENRY ROOT, a single man

the party of the first part, and

the CITY OF OAKLAND, a Municipal Corporation, the party of the second part, Whereas that the said party of the first part, for and in consideration of the sum of Five (\$5) Dollars, in Gold Coin of the United States of America, to him in hand paid by the party of the second part at or before the executing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents do as grant, bargain, sell and convey unto the said party of the second part, and to its heirs and assigns forever, All that certain lot, piece or parcel of land, situate, lying and being in the City of Oakland, County of Alameda, State of California, and bounded and particularly described as follows, to-wit: Beginning at a point on the easterly line of 50th Avenue of said City one hundred sixty eight 32/100 (168.32) feet Southerly from the Southerly line of the Foothill Boulevard measured along said line of 50th Avenue. From said starting point Southerly along said Easterly line of said 50th Avenue Sixty-four and four tenths (64.40) feet to the Northerly corner of a tract of land conveyed December 24th, 1921, by Henry Root to the City of Oakland for street purposes. Thence at right angles easterly along the Northerly boundary line of said street tract Seventy-seven and Seventy nine hundredths (77.79) feet to a point on the Northerly line of Bond Street. Thence Easterly along said line of Bond Street nine and nineteen hundredths (9.19) feet to the eastern line of Lot 1, map hereinafter mentioned. Thence Northerly at right angles to said line of Bond Street ninety-five feet. Thence Westerly parallel to the Southerly line of the Foothill Boulevard Forty-three and forty-seven (43.47) feet to the point of beginning and being a portion of Lot 1, Block 17 on Map of the Helms Wrights Tract, filed in the office of the County Recorder of said County of Alameda the 23rd of December, 1907 in Liber 23 of Maps at 52. Subject to the conditions that a building suitable for the purpose of the Fire Department of the City of Oakland shall be constructed by the party of the second part on the aforesaid piece or parcel of land costing not less than \$15000.00 and shall be completed and continuously occupied by said Fire Department within twelve months from August 24, 1923.

Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and the possession and enjoyment, remainder and remainders, rents, issues and profits thereof and also all the estate, right, title, interest, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, or to the above described premises, and every part or parcel thereof, with the appurtenances. As soon and as long, all and singular the above mentioned and described premises, together with the appurtenances unto the said party of the second part, its heirs and assigns forever.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written Signed, Sealed and Delivered in the Presence of Henry Root

EXHIBIT B

property boundary of a portion of the Bancroft Avenue (formerly Bond Street) public right-of-way adjoining parcel no. 035-2386-018-00, as described in a Grant Deed from Henry Root to the City of Oakland, recorded January 7, 1922, O.R.146/10, by the Alameda County Recorder

Dated Dec. 23, 1921.
Rec. Jan. 7, 1922.
O.R. 146/10.
Rep. No. 23215

This Indenture, Made and entered into this 23rd.

day of December A. D. Nineteen Hundred twenty-one (19 21)

by and between HENRY ROOT, a male sole,

of the City of Oakland County of Alameda State of

California the party of the first part, and the CITY OF OAKLAND, a Municipal Corporation, situated in the County of Alameda, State of California, the party of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of Five Dollars (\$5.00), United States Gold Coin, paid by the party of the second part to the party of the first part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, transfer and alien unto the said party of the second part, for the purpose of a public street or highway, all that certain lot, piece or parcel of land situated, lying and being in the City of Oakland, County of Alameda, State of California, and particularly bounded and described as follows, to-wit:

Beginning at the intersection of the northern line of Bond Street with the southeastern line of 50th Avenue, formerly Bay Avenue; thence South 89 degrees, 55 minutes East along said northern line of Bond Street 90.31 feet; thence North 89 degrees, 23 minutes West 77.79 feet to said southeastern line of 50th Avenue; and thence South 30 degrees, 37 minutes West along said southeastern line of 50th Avenue 46.88 feet to the point of beginning; Being a portion of Lot No. 1 of Block No. 17, as said lot and block are shown upon that certain map entitled "Map of Melrose Heights Brooklyn Twp. Alameda County California 1907", filed December 23, 1907 in Book 23 of Maps, page 68, Alameda County Records.

The property hereby conveyed is known as Bond Street until such time as the party of the second part deems it necessary to designate it otherwise.

The State and to hold unto the said party of the second part forever for the sole object and purpose of maintaining therein a public street or highway and for no other purpose; and should said real property herein described be at any time used for any other purpose by said party of the second part than for the purpose herein mentioned, then this grant shall immediately lapse and become null and void and said grant shall immediately revert to said party of the first part, his successors and assigns.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

signed Henry Root

EXHIBIT C

OAKLAND CITY COUNCIL

RESOLUTION No. 23215 N. S.

INTRODUCED BY COMMISSIONER Bacon

RESOLUTION ACCEPTING OFFER OF DEDICATION OF LAND FROM HENRY ROOT, FOR THE WIDENING OF BOND STREET AT 50th AVENUE, AND DIRECTING THE CITY CLERK TO HAVE SAID DEED RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

RESOLVED:-- That the offer of dedication dated December 25d, 1921, from Henry Root, to the City of Oakland, for land for the widening of Bond Street at 50th Avenue, be and is hereby accepted, and the City Clerk is hereby directed to have said deed recorded in the office of the County Recorder of Alameda County.

RECORDED
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CAL.

IN COUNCIL, OAKLAND, CAL. December 27 1921

PASSED BY THE FOLLOWING VOTE:

AYES—COMMISSIONERS, BACCHUS, CARTER, COLBOURN, EDWARDS AND PRESIDENT DAVIE - 4

NOES—None

~~EXCLUDED FROM VOTING~~

ABSENT—Commissioner Carter - 1

ATTEST: John L. Davis
MAYOR OF THE CITY OF OAKLAND, CAL.

ATTEST: Eugene K. Sturgis
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CAL.

EXHIBIT D

Location Map - Bancroft Avenue Vacation

