

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2010 SEP 30 PM 6:12

APPROVED AS TO FORM AND LEGALITY:



Deputy City Attorney

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 13044 -C.M.S.**

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**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OR HIS  
DESIGNEE TO ACQUIRE PROPERTY RIGHTS, INCLUDING FEE  
INTERESTS, PERMANENT EASEMENTS, AND TEMPORARY  
CONSTRUCTION EASEMENTS, FOR TEN PARCELS FOR THE 42ND  
AVENUE AND HIGH STREET ACCESS IMPROVEMENT PROJECT  
WITHOUT RETURNING TO COUNCIL**

**WHEREAS**, the Council approved Resolution 82282 C.M.S. on September 3, 2009, authorizing the right of way acquisition for the 42<sup>nd</sup> Avenue and High Street Access Improvements Project (the "Project"); and

**WHEREAS**, the right of way required to complete the Project involves acquiring property rights for 10 parcels identified in Attachment A to this Ordinance (the "Properties"), including fee interests, permanent easements and temporary construction easements; and

**WHEREAS**, the requirements of the California Environmental Quality Act ("CEQA"), the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been met because this transaction is exempt from CEQA under section 15276 of the CEQA Guidelines (Transportation Improvement and Congestion Management Programs); and

**WHEREAS**, funds are available for right of way acquisition in the Grant Fund State of California Department of Transportation (2140), 42<sup>nd</sup> Avenue High Street Right of Way Project (C98530), Acquisition of Right of Way Account (57111), Capital Improvement Project Transportation Services Organization (92246); and

**WHEREAS**, the California Transportation Commission right of way funding terminates on February 29, 2012; and

**WHEREAS**, the property rights for the Project must be secured by February 29, 2012; now, therefore

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

**Section 1.** The City Administrator or his designee is hereby authorized to acquire property interests, including fee interests, permanent easements and temporary construction easements, in the Properties for the Project, at no more than appraised fair market value and within the budget authorized for this purpose, without returning to Council for further authorization.

**Section 2.** The City Administrator, or his designee, is authorized to negotiate and execute all real estate documents required to acquire the property rights for the Properties.

**Section 3.** 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 Ordinance, that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15276 (Transportation Improvement and Congestion Management Programs) of the CEQA guidelines.

**Section 4.** The City Administrator, or his designee, is hereby authorized to take any and all actions necessary and consistent with this Ordinance, to acquire the property rights to the Properties for the Project consistent with this Ordinance and its basic purposes.

**Section 5.** This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 9 2010

**PASSED BY THE FOLLOWING VOTE:**

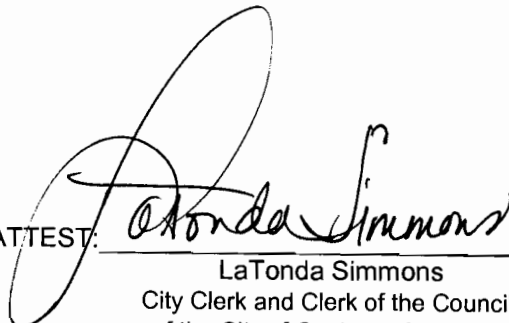
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:

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

Introduction Date **OCT 19 2010**

**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO ACQUIRE PROPERTY RIGHTS, INCLUDING FEE, PERMANENT EASEMENTS, AND TEMPORARY CONSTRUCTION EASEMENTS, FOR TEN PARCELS FOR THE 42ND AVENUE AND HIGH STREET ACCESS IMPROVEMENT PROJECT WITHOUT RETURNING TO COUNCIL**

**ATTACHMENT A**

**PROPERTIES**

	Owner	Assessor's Parcel Number	Site Address	Property Right Requirement
1	Larm's Building Supply	033-2203-008-01	751 High Street	Fee, Temporary Construction Easement
2	Mash Petroleum Inc	034-2290-006-01	720 High Street	Fee, Temporary Construction Easement
3	Equilon Enterprises	034-2295-001-03	600 High Street	Fee, Temporary Construction Easement
4	SBMann5LLC	033-2250-013-01	0 Alameda Ave	Fee, Temporary Construction Easement
5	Clifford & Fredena Asbill	033-2203-002-00	615 High Street	Fee, Temporary Construction Easement
6	Lawrence & Diane Webster	033-2203-006-00	4200 Alameda Ave	Permanent Easement
7	Lawrence & Diane Webster	033-2203-004-02	4200 Alameda Ave	Permanent Easement
8	Bacon, McCombs	034-2293-006-07	750 High Street	Temporary Construction Easement
9	Bacon, McCombs	034-2290-007-00	752 High Street	Temporary Construction Easement
10	3925 Alameda LLC	033-2250-009-02	3925 Alameda Ave	Temporary Construction Easement



**NOTICE AND DIGEST:**

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OR HIS DESIGNEE TO ACQUIRE PROPERTY RIGHTS,  
INCLUDING FEE INTERESTS, PERMANENT EASEMENTS,  
AND TEMPORARY CONSTRUCTION EASEMENTS, FOR  
TEN PARCELS FOR THE 42ND AVENUE AND HIGH STREET  
ACCESS IMPROVEMENT PROJECT WITHOUT  
RETURNING TO COUNCIL**

An Ordinance has been prepared authorizing the City Administrator and his designee to acquire property rights for 10 parcels for the 42<sup>nd</sup> Avenue and High Street Access Improvement Project.

The right of way acquisition funds have been allocated through the Grant Fund State of California Department of Transportation