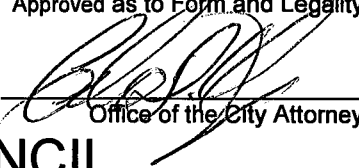


FILED
OFFICE OF THE CITY CLERK
OAKLAND


Office of the City Attorney

OAKLAND CITY COUNCIL
RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION TO SUMMARILY VACATE A PORTION OF PERALTA STREET RIGHT-OF-WAY ALONG PERALTA STREET FROM 20TH STREET TO MANDELA PARKWAY.

WHEREAS, Rentru, LLC ("Owner") is the owner of the fee simple interest of a triangular shaped lot which is bounded by the intersections of Mandela Parkway, Peralta Street, 20th Street, and West Grand Avenue, and which is described in a Grant Deed, recorded March 18, 2016, Series No. 2015072659, by the Alameda County Clerk-Recorder, and which is more particularly described in **Exhibit A** attached hereto, and which is further identified by the Alameda County Assessor as parcel number 005-0421-003-04 and 005-0421-004 and new parcel number 005-0421-004-1 ("Subject Property"); and

WHEREAS, property owner has filed an application (PPE1700057) with the City of Oakland, as required by the California Streets and Highway Code, and paid all fees as required by the Master Fee Schedule, requesting that the Council to formally vacate a portion of the subject property and confirm that said vacation is and was effective as of June 9, 2011 when vacated right-of-way was transferred to private ownership; and

WHEREAS, prior to the transfer of the Subject Property by the City, the City had approved Resolution No. 81956 C.M.S. in which the portion of the Peralta Street right-of-way on the Subject Property as described in **Exhibit B** to Resolution 81956 C.M.S was surplus and not required for current or future public purpose. Summary vacation without valuable consideration to the City was ordered.

WHEREAS, Resolution No. 81956 C.M.C. was recorded by the Alameda County Recorder on August 11, 2016 more than 365 days after approval of the resolution in 2001, invalidating the recordation timeline permitted by the Streets and Highway Code Section 8336; and

WHEREAS, a recent research of record title documentation and a subsequent land survey by a qualified licensed surveyor (Keith S. Bush, Land Surveyor, with the Bay Area Land Surveying, Inc.) re-established the metes and bounds of the subject property as reflected in **Exhibit A** with the legal description plat to accompany the legal description; and

WHEREAS, California Streets and Highways Code section 8330 authorizes the City Council to summarily vacate a street or highway if, for a period of five consecutive years, the street or highway has been impassable for vehicular travel, and no public money was expended for maintenance on the street or highway during such period; and

WHEREAS, the City has determined that there were no in-place public utility facilities that were in use and would be affected by the vacation within the said street portion prior to the transfer of the Subject Property from right-of-way to private ownership; and

WHEREAS, pursuant to California Streets and Highways Code section 8330, the City Engineer has determined that said portion of the subject property proposed for vacation be summarily vacated by this Resolution; and

WHEREAS, in accordance with Government Code section 65402, the Planning Commission considered the proposed vacation and found it to be consistent with the General Plan and the West Oakland Specific Plan; and

WHEREAS, in accordance with Streets and Highways Code section 8313, the City Council has considered the proposed vacation and finds that it conforms to both the General Plan and the West Oakland Specific Plan; and

WHEREAS, the City has determined with reasonable certainty from a thorough examination of the available historical public records that there are no other ownership interests in the area described to be vacated; and

WHEREAS, the Director of Transportation had determined that the proposed vacation of said portion of the subject property will not adversely impact current or future traffic or pedestrian access to the adjoining and surrounding real properties; now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the vacation that is the subject of this Resolution, and finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and be it

FURTHER RESOLVED: That the Council of the City of Oakland finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the Council of the City of Oakland hereby finds that said portion of the subject property proposed for vacation was surplus to the needs of the City and was not required for any current or future public purpose; and be it

FURTHER RESOLVED: That the summary vacation, without valuable consideration to the City for the said portion of the subject property, as described and delineated in the attached **Exhibit A**; and be it

FURTHER RESOLVED: That this resolution shall take effect immediately upon the approval of the City Council and recordation of this Resolution with the Office of the Alameda County Recorder; 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 within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland;

and be it

FURTHER RESOLVED: That the City Engineer is hereby directed to file a certified copy of this Resolution for recordation with the Office of the Alameda County Recorder as an encumbrance of the title of the property identified above

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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

Attachments:

Exhibit A, Legal Description and Map (pages 4 thru 5)

Exhibit B, Resolution 8196 C.M.S. (pages 6 thru 12)

Exhibit A, Legal Description and Map



August 31, 2017
Job. No. 17-3357

EXHIBIT A - AREA TO BE VACATED LEGAL DESCRIPTION

Real property situated in the City of Oakland, County of Alameda, State of California, more particularly described as follows:

Being a portion of Peralta Street as said street is shown on that certain map entitled "Map of Survey of Northern Extension of Oakland" filed on November 6, 1867 in Book 5 of Maps, at Page 34 in the Office of the County Recorder of Alameda County, described as follows:

Commencing at the intersection of the Eastern line of Peralta Street with the Northern line of 20th Street, as said Streets are shown on said map; thence along the Eastern line of Peralta Street, North $33^{\circ} 27' 02''$ East, 18.41 feet to the point of beginning of this description; thence leaving said line, North $56^{\circ} 32' 58''$ West, 28.00 feet; thence parallel with said Eastern line of Peralta Street, North $33^{\circ} 27' 02''$ East, 401.18 feet; thence leaving said line along the arc of a non-tangent curve to the right, from a Radial Bearing of South $81^{\circ} 25' 17''$ West, having a Radius of 1618.95 feet, through a central angle of $02^{\circ} 28' 17''$, an arc distance of 69.83 feet to a point on said Eastern line of Peralta Street thence along said Eastern line of Peralta Street, South $33^{\circ} 27' 02''$ West, 337.21 feet to the point of beginning.

CONTAINING 10,353 SQUARE FEET, MORE OR LESS.

EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART OF THIS DESCRIPTION.

END OF DESCRIPTION.



Exhibit A, Legal Description and Map

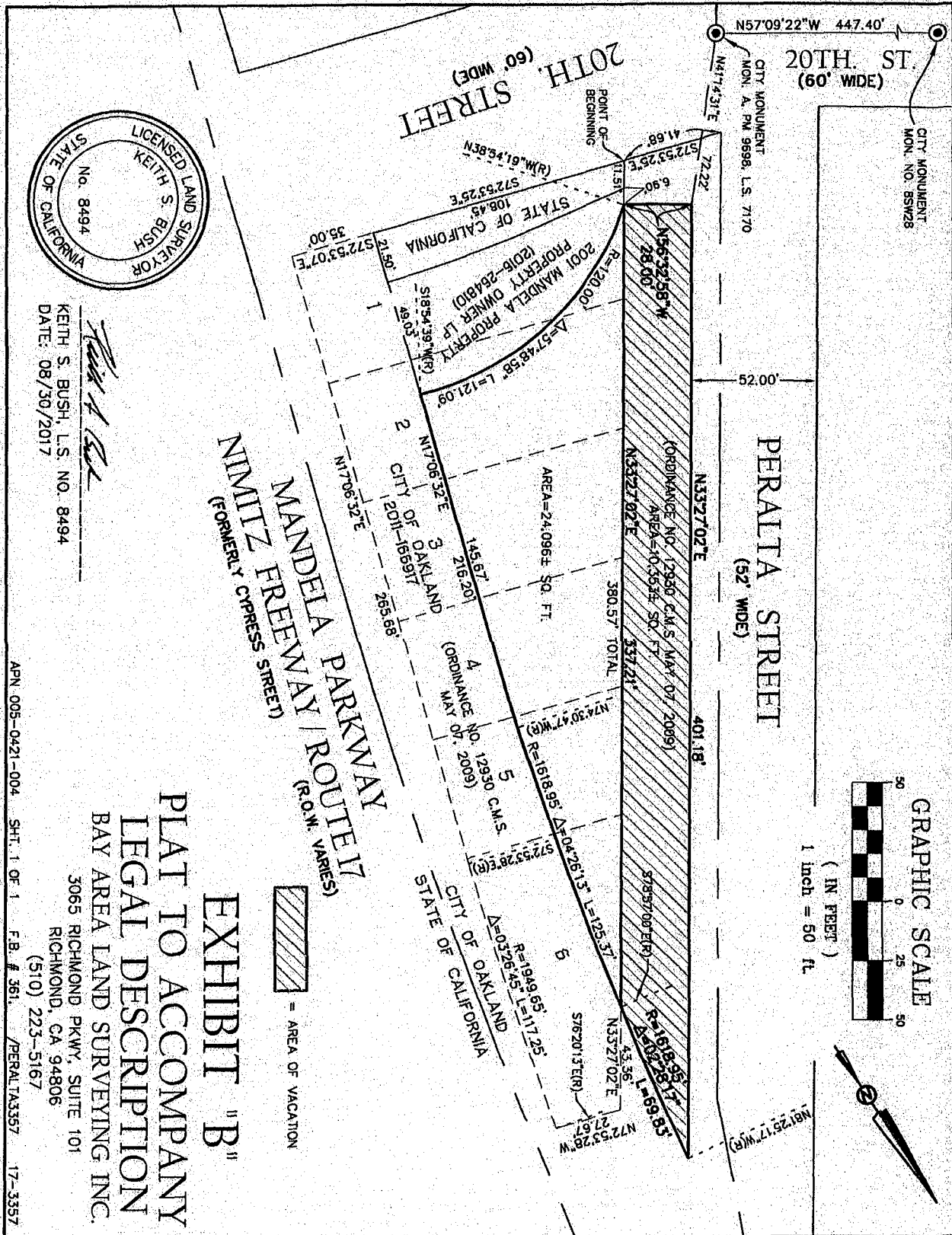


Exhibit B, Resolution 8196 C.M.S.

COPY

This document is exempt from payment
of a recording fee pursuant to California
Government Code section 27383.

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Oakland
Department of Public Works
ATTN: City Engineer
250 Frank Ogawa Plaza
Oakland, CA 94612



2016202951

08/11/2016 03:25 PM

OFFICIAL RECORDS OF ALAMEDA COUNTY
STEVE MANNING
RECORDING FEE: 0.00

Has



6 PGS

COPY of document to be recorded
Has not been compared with Original

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

A handwritten signature or mark, possibly initials, located below the recording information.

OAKLAND CITY COUNCIL
RESOLUTION NO. 81956 C.M.S.

Exhibit B, Resolution 8196 C.M.S.

FILED
OFFICE OF THE CITY CLERK
Introduced by
2009 MAY -7 PM 12:49
Councilmember

CERTIFIED COPY
I certify that this is a true and authentic
Copy of this document.
[Signature]
Office of the City Clerk Date *11/9/10*

COPY

Approved For Form And Legality
[Signature]
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 81956 C.M.S.

A RESOLUTION SUMMARILY VACATING A PORTION OF THE PERALTA STREET RIGHT-OF-WAY BETWEEN THE INTERSECTIONS OF WEST GRAND AVENUE AND 20th STREET TO BRIAN COLLINS AND HEMMAT AND DOKHANCHY ASSOCIATES

WHEREAS, Brian Collins and Hemmat and Dokhanchy Associates are the owners of the fee simple interest of a triangular shaped lot which is bounded by the intersections of Mandela Parkway, Peralta Street, 20th Street, and West Grand Avenue, and which is described in a Grant Deed, recorded March 14, 2006, series no. 2006-094365, by the Alameda County Clerk-Recorder, and which is more particularly described in *Exhibit A* attached hereto, and which is further identified by the Alameda County Assessor as parcel number 005-0421-003-00; and

WHEREAS, said owners have filed an application (PPE 08054) with the City of Oakland, as required by the California Streets and Highways Code, and paid all fees for administrative processing, as required by the City of Oakland Master Fee Schedule, requesting that the Council of the City of Oakland vacate an unimproved portion of the Peralta Street right-of-way adjoining said parcel, without valuable consideration to the City; and

WHEREAS, said owners have filed a companion application with the City Engineer requesting that the City accept a quit claim, without valuable consideration to said owners, of the underlying fee simple interest in a portion of the Mandela Parkway right-of-way adjoining said parcel; and

WHEREAS, said vacation and quit claim have been proposed by said owners as an exchange of lands between said owners and the City which are equivalent in fair market value and in current and future rights to the record title; and

WHEREAS, the City Engineer has determined that said proposed quit claim of said portion of the Mandela Parkway right-of-way will not expand nor diminish the useful and usable surface area of said parcel for said owners and their representatives, heirs, successors, and assigns; and

WHEREAS, the City Engineer has further determined that said proposed vacation of the Peralta Street right-of-way will continue the exclusive occupancy of said land area by said owners, which has been the practice for many years of prior owners; and

WHEREAS, the City of Oakland previously acquired said property rights to said portion of the Peralta Street rights-of-way from a relinquishment by the California Department of Transportation of remnant portions of real properties, the air rights of which were previously occupied by the demolished section of Interstate Highway 880 (Nimitz Freeway) damaged by the Loma Prieta

Exhibit B, Resolution 8196 C.M.S.

COPY

earthquake in 1989, which are described in a deed, recorded November 2, 1961, reel 444, image 880, by the Alameda County Recorder; and

WHEREAS, said proposed vacation of Peralta Street would continue the exclusive use by the owners of said parcel of the unimproved portion of public right-of-way, which has been enclosed by metal fencing for more than twenty (20) years; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the proposed remaining fifty-two (52) feet width of Peralta Street adjacent to said proposed vacated public right-of-way will exceed the minimum required width of forty (40) feet; and

WHEREAS, a recent and thorough research of record title documentation and a subsequent land survey by a qualified licensed surveyor re-establish the metes and bounds of said parcel, with permanent markers of said property corners and public right-of-way monuments installed in the field, and the metes and bounds of said Peralta Street right-of-way previously relinquished by Caltrans and said fenced and unimproved portion of Peralta Street; and

WHEREAS, said land survey further established that said proposed vacation of Peralta Street consists of approximately 10,985 square feet (orthogonal planer projection) of land area; and

WHEREAS, said land survey is delineated on Parcel Map No. 9698, attached hereto as *Exhibit B*, and the limits of said proposed vacation and proposed quit claim are delineated on *Exhibit C* attached hereto; and

WHEREAS, the City Engineer has further determined that said portion of Peralta Street proposed for vacation has been unimproved for pedestrian and public traffic and has been fully enclosed by an erected metal fence and has been wholly unmaintained by the City of Oakland for not less than five (5) years preceding the receipt of said petition for said vacation; and

WHEREAS, pursuant to California Streets and Highways Code section 8330 et seq., the City Engineer has further determined that the said portion of Peralta Street may be summarily vacated by Resolution of the Council of the City of Oakland, at the option of its elected members; and

WHEREAS, said vacation of Peralta Street will add said real property to the equalized roll of the general levy of property taxes and forever relieve the City of Oakland of the responsibility and potential liability for its maintenance; 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

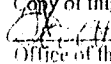
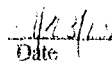
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I certify that this is a true and authentic
Copy of this document.
 
Office of the City Clerk Date

Exhibit B, Resolution 8196 C.M.S.

COPY

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 Peralta Street right-of-way may be vacated summarily by Resolution of the Council of the City of Oakland; 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 Council of the City of Oakland hereby finds that said portion of the Peralta Street right-of-way proposed for vacation is surplus to the needs of the City of Oakland and not required for any current or future public purpose; and be it

FURTHER RESOLVED: That the summary vacation, without valuable consideration to the City of Oakland, of said portion of the Peralta Street right-of-way, as described and delineated in the attached *Exhibits B and C*, is hereby ordered; and be it

FURTHER RESOLVED: That said vacation is hereby conditioned on the acquisition by the City of Oakland, without valuable consideration, from the owners of parcel no. 005-0421-003-00 of said portion of the Mandela Parkway right-of-way, through an instrument acceptable to the City Attorney of the City of Oakland; and be it

certify that this is a true and authentic
copy of this document.
Office of the City Clerk Date

Exhibit B, Resolution 8196 C.M.S.

COPY

FURTHER RESOLVED: That said vacation is hereby further conditioned by the following special requirements:

1. the Permittee, by the acceptance of this vacation, promises to defend, hold harmless, and indemnify the City of Oakland and its officials, officers, employees, agents, representatives, and volunteers from any and all claim, demand, lawsuit and judgment for damages of any kind and nature whatsoever arising out of or caused by the said vacation of the public right-of-way of Peralta Street and that the hereinabove condition shall be binding upon said owners and their beneficiaries, heirs, assigns, and successors in interest and also on the successive owners of said vacated right-of-way; and
2. the Permittee acknowledges that the City of Oakland makes no representations or warranties as to the conditions beneath the public right-of-way area; and that by accepting this vacation, the Permittee agrees that it will use the area in the future at its own risk; and
3. the Permittee acknowledges that the City of Oakland is unaware of the existence of any hazardous substances beneath the public right-of-way area and hereby waives and fully releases and forever discharges the City of Oakland and its officers, directors, employees, agents, and volunteers from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition, or required remediation of the public right-of-way area or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401-1450), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substance Control Act (15 U.S.C. Sections 2601-2629), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.); and
4. the Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR; and
5. the Permittee recognizes that by waiving the provisions of Civil Code Section 1542, it will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to accept this vacation, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause; and be it

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I certify that this is a true and authentic
Copy of this document

Office of the City Clerk Date: 11/1/00

Exhibit B, Resolution 8196 C.M.S.

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 within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland; and be it

FURTHER RESOLVED: That the conditions of this Resolution shall equally bind the representatives of the owner and its heirs, successors, assigns, beneficiaries, and successors in interest.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 5 2009, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, ~~REID~~
AND PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

ATTEST:

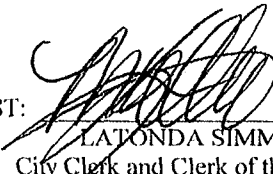

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit B, Resolution 8196 C.M.S.

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 within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland; and be it

FURTHER RESOLVED: That the conditions of this Resolution shall equally bind the representatives of the owner and its heirs, successors, assigns, beneficiaries, and successors in interest.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 5 2009, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, ~~ROSS~~
AND PRESIDENT BRUNNER - 7

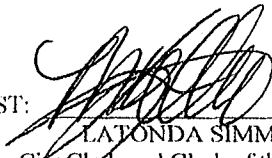
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

ATTEST:


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