

LEGISLATIVE FILE

File ID No. 14-2153
Introduction Date **October 22, 2014**
Enactment No. 14-1838
Enactment Date 11/19/14
By OA

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the Board of Education
October 22, 2014

To: Board of Education

From: Antwan Wilson, Superintendent and Secretary, Board of Education
Timothy White, Deputy Chief, Facilities

Subject: **Resolution of Intent to Dedicate an Easement to the San Francisco Bay Area Rapid Transit District at the Ascend Elementary School Site.**

ACTION REQUESTED

Approval by the Board of Education of Resolution No. 1415-0097, A Resolution of the Governing Board of the Oakland Unified School District Declaring Its Intent to Dedicate an Easement to the San Francisco Bay Area Rapid Transit District at the Ascend Elementary School Site.

BACKGROUND

The Oakland Unified School District ("District") owns real property located at 3709 E. 12th Street, Oakland, CA 94601, commonly known as Ascend Elementary School ("School Site"). The San Francisco Bay Area Rapid Transit District, a California rapid transit district ("BART"), intends to retrofit the original BART transit system to withstand major seismic events in the City of Oakland as part of its Earthquake Safety Program, including improving the foundation underlying the piers supporting the aerial structures. The School Site is within BART's Earthquake Safety Program area. BART desires to purchase from the District a temporary construction easement for certain portions over, through and on the School Site for \$14,460. Although the proposed Easement is for a period of fourteen (14) months between June 2015 and August 2016, possession and use of the temporary easement area is anticipated to be required for a period of three (3) months within the said fourteen (14) month period. The District does not need the Easement area for classroom buildings or educational purposes. In order to complete the purchase, the District's Governing Board needs to adopt Resolution No. 1415-0097, by two-thirds of its members, declaring its intent to dedicate the easement.

FISCAL IMPACT

No fiscal impact or implications associated with the approval of these documents.

RECOMMENDATION

Approval by the Board of Education of Resolution No. 1415-0097, A Resolution of the Governing Board of the Oakland Unified School District Declaring Its Intention to Dedicate an Easement to the San Francisco Bay Area Rapid Transit District at the Ascend Elementary School Site.

ATTACHMENTS

Resolution No. 1415-0097, A Resolution of the Governing Board of the Oakland Unified School District Declaring Its Intention to Dedicate an Easement to the San Francisco Bay Area Rapid Transit District at the Ascend Elementary School Site.

**RESOLUTION OF THE
BOARD OF EDUCATION
OF THE OAKLAND UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 1415-0097

**A RESOLUTION OF THE GOVERNING BOARD OF THE OAKLAND UNIFIED
SCHOOL DISTRICT DECLARING ITS INTENTION TO DEDICATE AN EASEMENT
TO THE
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
AT THE ASCEND ELEMENTARY SCHOOL SITE**

WHEREAS, the Oakland Unified School District (“District”) owns real property located at 3709 E. 12th Street, Oakland, CA 94601 (A.P.N.: 033-2159-001 through 004 and 033-2160-001 through 017), commonly known as Ascend Elementary School (“School Site”); and

WHEREAS, the San Francisco Bay Area Rapid Transit District, a California rapid transit district (“BART”), intends to retrofit the original BART transit system to withstand major seismic events in the City of Oakland as part of its Earthquake Safety Program, including improving the foundation underlying the piers supporting the aerial structures, and BART desires to purchase from the District a temporary construction easement for certain portions over, through and on the real property owned by the District, as identified in Exhibit “A” attached hereto, as the School Site is within BART’s Earthquake Safety Program area (“Easement”); and

WHEREAS, the proposed Easement that includes the description and location of the Easement is set forth in Exhibit “A” attached hereto and incorporated herein by this reference; and

WHEREAS, although the proposed Easement is for a period of fourteen (14) months between June 2015 and August 2016, possession and use of the temporary easement area is anticipated to be required for a period of three (3) months within the said fourteen (14) month period; and

WHEREAS, the District does not need the Easement area for classroom buildings or educational purposes; and

WHEREAS, the District may dedicate or convey the Easement if, after adoption of this Resolution of Intent and publication of notice, the District’s Governing Board adopts, in a regular open meeting (“Public Hearing”), by a two-thirds vote of all its members, a resolution authorizing and directing the Superintendent, or Superintendent’s designee, to execute and deliver the Easement; and

WHEREAS, notice of the Governing Board’s intent to dedicate the Easement (“Notice”) shall be given pursuant to Education Code section 17558 by posting copies of this Resolution of Intent signed by the members of the Governing Board, or majority thereof, in three (3) public places in

the District not less than ten (10) days before the date of the Public Hearing, and by publishing the Notice once not less than five (5) days before the date of the Public Hearing in a newspaper of general circulation, published in the District, if there is one, or if there is no such newspaper published in the District, then in an newspaper published in the county in which the District or any part thereof is situated and having a general circulation in the District; and

WHEREAS, the Public Hearing shall be held on December 10, 2014, at 4:00 p.m., or as soon thereafter as the matter may be heard in the Great Room located at the La Escuelita Education Center located at 1050 2nd Avenue, Oakland, CA 94606-2291.

NOW THEREFORE, BE IT RESOLVED, that the District's Governing Board hereby finds, determines, declares, orders and resolves as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The real property upon which the Easement is to be located is not needed for school classroom buildings or educational purposes.

Section 3. The District intends to dedicate or convey the Easement.

Section 4. The Superintendent and Superintendent's designee is hereby authorized to provide public notice as required by Education Code section 17588.

Section 5. The District's Governing Board shall hold a public hearing on December 10, 2014, at 4:00 p.m., at its regular place of meeting for a public hearing, or as soon thereafter as the matter may be heard and shall consider authorizing the dedication and conveyance of the Easement from the District to BART in accordance with the Easement attached hereto as Exhibit "A".

APPROVED, PASSED AND ADOPTED by the Governing Board of the Oakland Unified School District on this 22 day of October, 2014, by the following vote:

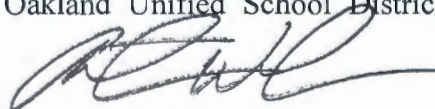
AYES: Jody London, Christopher Dobbins, Roseann Torres, Anne Campbell Washington, Jumoke Hinton Hodge, Vice President James Harris

NOES: None

ABSENT: None

ABSTAIN: President David Kakishiba

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted, at a Regular Meeting of the Governing Board of the Oakland Unified School District held on November 5, 2014.



Antwan Wilson, Superintendent and Secretary, Board of Education

File ID Number: 14-2153
Introduction Date: 10/22/14
Enactment Number: 14-1838
Enactment Date: 11/5/14
By: OA

EXHIBIT "A"

EASEMENT

RECORDING REQUESTED BY
AND
WHEN RECORDED RETURN TO:

SF Bay Area Rapid Transit District
300 Lakeside Drive, 22nd Floor
Oakland, CA 94612

Attention: Real Estate Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantee hereby declares this instrument to be exempt from Recording Fees (Govt. Code §27383) and Documentary Transfer Tax (Revenue and Taxation Code §11922).

O-A288-3A
O-A048-18-3A
O-A048-20-3A

**TEMPORARY
CONSTRUCTION EASEMENT
DEED**

OAKLAND UNIFIED SCHOOL DISTRICT, a California public school district, hereinafter designated “Grantor”, in consideration of value paid, the adequacy and receipt of which are hereby acknowledged, hereby grants to the **SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**, a rapid transit district, hereinafter designated “Grantee”, its successors and assigns, a temporary construction easement in gross for all general and public transit facility construction purposes, including, but not limited to, storage, ingress and egress, and other activities in, on, over and across all that real property in the City of Oakland, County of Alameda, State of California, described as follows:

PARCEL 1: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
PARCEL # O-A288-3A as depicted on Exhibit 1 attached and incorporated by
reference hereto.

PARCEL 2: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
PARCEL # O-A048-18-3A as depicted on Exhibit 1 attached and incorporated
by reference hereto.

PARCEL 3: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
PARCEL # O-A048-20-3A. as depicted on Exhibit 1, attached and incorporated
by reference hereto.

This Temporary Construction Easement is for a period of fourteen (14) months between June 2015 and August 2016. Possession and use of the temporary easement area is anticipated to be required for a period of three (3) months within the said fourteen (14) month period. Construction shall be performed during the off school summer's months of June - August 2015 and June -August 2016 to avoid the regular school schedule. The consideration paid includes, but is not limited to, full payment for such possession and use, including damages, if any, for said three-month period. In the event Grantee occupies the temporary easement area beyond the specified three-month time period, at the request of Grantor, Grantee shall make payment to Grantor for the additional time on the same basis of valuation. Upon expiration of this Temporary Construction Easement after said Fourteen (14) month period, BART's rights shall revert automatically to Grantor.

Grantee shall give Grantor at least 30 days advance written notice prior to entry and shall restore the surface of the easement area if damaged during construction.

Dated this _____ day of _____, 2014

GRANTOR **OAKLAND UNIFIED SCHOOL DISTRICT**
a California public school district

Name: _____

Print Name: _____

Title: _____

State of California

County of _____

On _____ before me, (here insert name and title of the officer), personally
appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

Oakland Unified School District
BART Parcel No. O-A288-3A,
O-AO48-18-3A, O-A48-20-3A

CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SEC. 27281

This is to certify that the interest in real property conveyed by the foregoing deed or grant to the San Francisco Bay Area Rapid Transit District is hereby accepted by the undersigned on behalf of the San Francisco Bay Area Rapid Transit District pursuant to authority conferred by resolution of the Board of Directors of the San Francisco Bay Area Rapid Transit District entitled "In The Matter of Authorizing Acceptance of Deeds and Grants," bearing No. 291, adopted on October 24, 1963, and the grantee consents to recordation thereof.

Dated this _____ day of _____, 2014

Recommended for Acceptance:

By: _____

Name: _____

Accepted:
San Francisco Bay Area Rapid Transit District

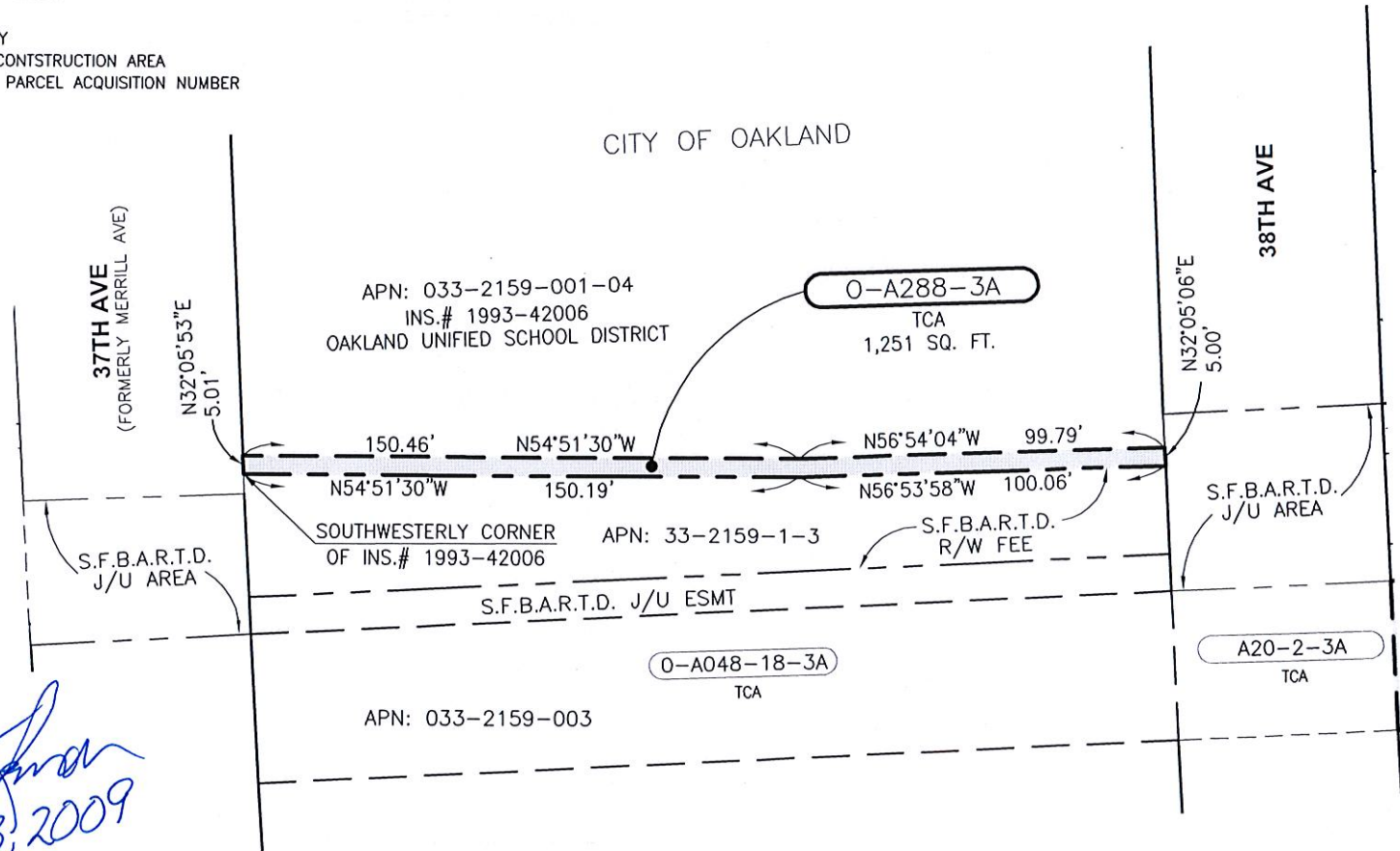
By: _____
Jeffrey P. Ordway
Manager, Real Estate and Property
Development Department

LEGEND:

- EXISTING S.F.B.A.R.T.D. RIGHT OF WAY
- EXISTING S.F.B.A.R.T.D. EASEMENT
- EXISTING PROPERTY LINE
- PROPOSED TEMPORARY CONSTRUCTION AREA
- SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
- S.F.B.A.R.T.D. INSTRUMENT NUMBER
- INS.#
- J/U JOINT USE
- R/W RIGHT OF WAY
- TCA TEMPORARY CONSTRUCTION AREA
- XXXXX S.F.B.A.R.T.D. PARCEL ACQUISITION NUMBER



CITY OF OAKLAND



THIS PLAT WAS PREPARED BY ME OR UNDER MY SUPERVISION, Julie Eckman, PLS #8076

ALL BEARINGS AND DISTANCES SHOWN ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 3 CA-CORS EPOCH 2004.00. ALL DISTANCES ARE BASED ON US SURVEY FEET AND ARE GRID DISTANCES UNLESS OTHERWISE NOTED. TO CONVERT THE GRID DISTANCES TO GROUND LEVEL DISTANCES. MULTIPLY GRID DISTANCE BY 1.0000723.



EXHIBIT " 1 "

CO. ALA RTE. "A" LINE (N) REF. W011

SCALE: 1" = 50' DATE: 24OCT08

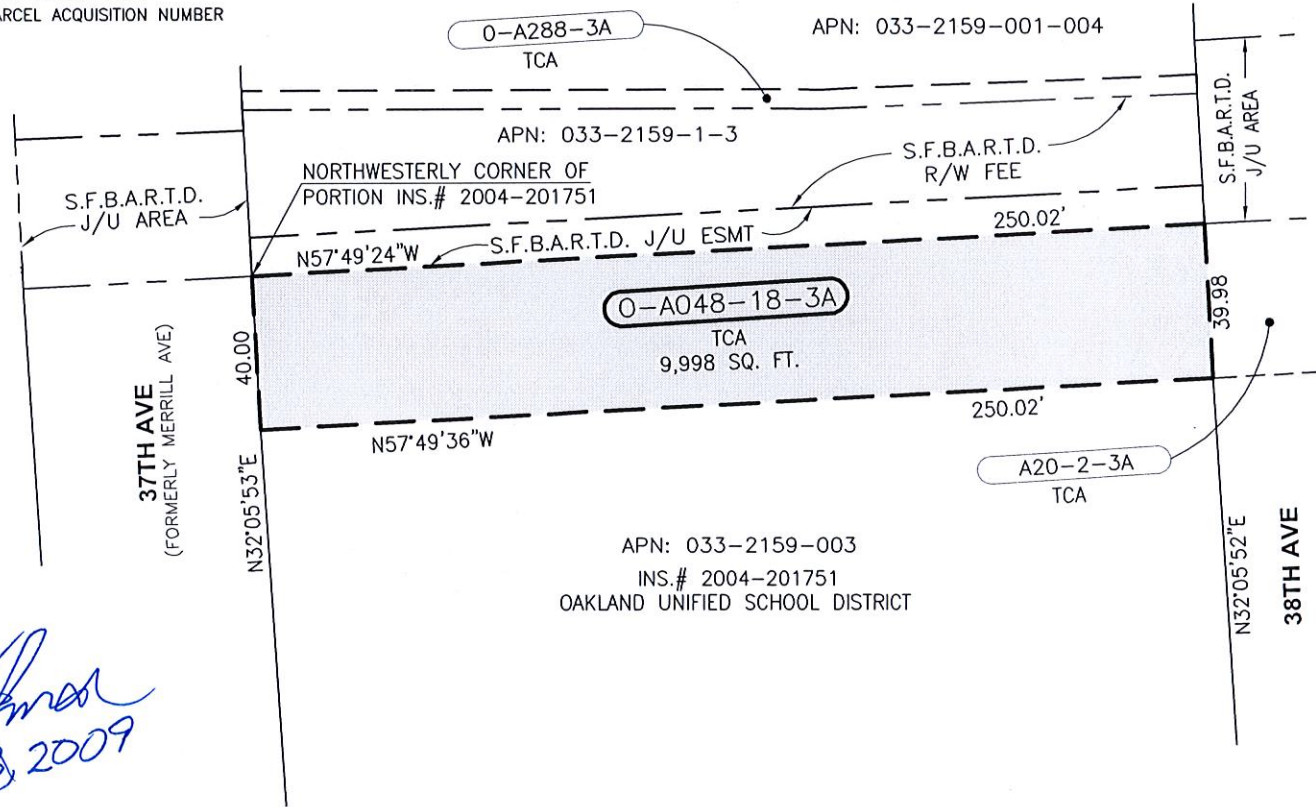
DR. NO. O-A288-3A (SHEET 1 OF 1)

LEGEND:

- EXISTING S.F.B.A.R.T.D. RIGHT OF WAY
- EXISTING S.F.B.A.R.T.D. EASEMENT
- EXISTING PROPERTY LINE
- PROPOSED TEMPORARY CONSTRUCTION AREA
- S.F.B.A.R.T.D. SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
- INS.# INSTRUMENT NUMBER
- J/U JOINT USE
- R/W RIGHT OF WAY
- TCA TEMPORARY CONSTRUCTION AREA
- XXXXX S.F.B.A.R.T.D. PARCEL ACQUISITION NUMBER



CITY OF OAKLAND



Julie Eckman
APR. 23, 2009

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SCALE: 1" = 50' DATE: 17OCT08

EXHIBIT " 2 "

CO. ALA RTE. "A" LINE (N) REF. W011

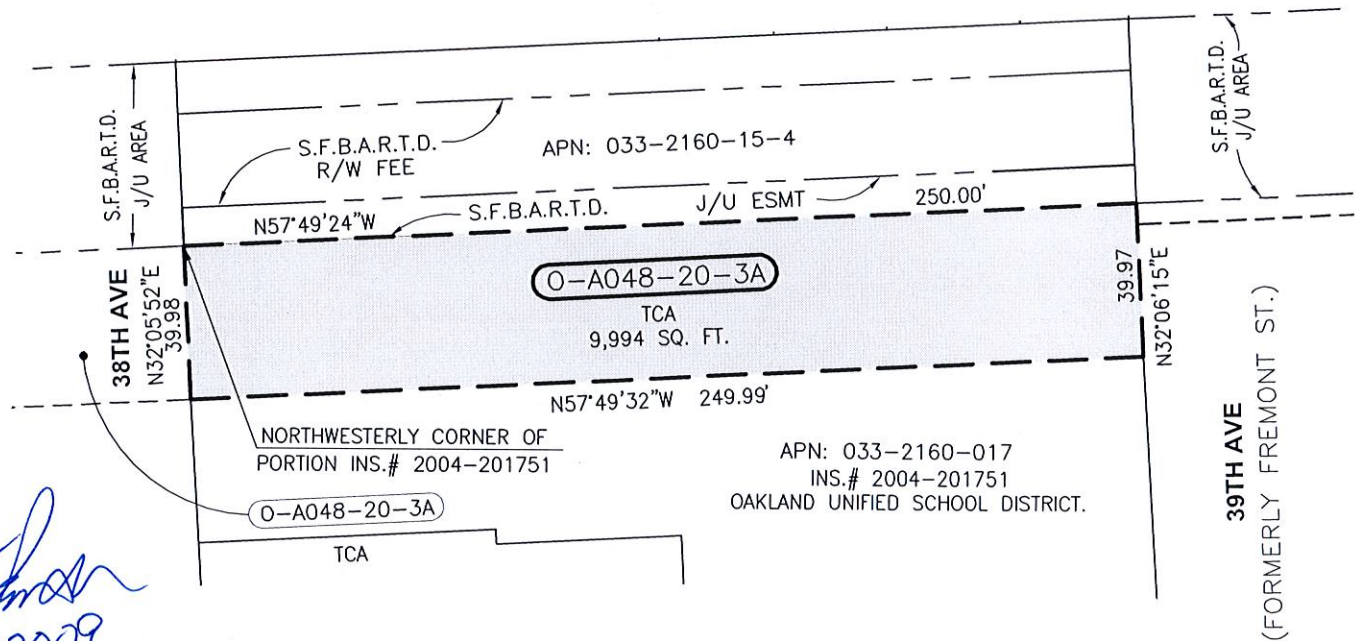
DR. NO. O-A048-18-3A (SHEET 1 OF 1)

LEGEND:

- EXISTING S.F.B.A.R.T.D. RIGHT OF WAY
- EXISTING S.F.B.A.R.T.D. EASEMENT
- EXISTING PROPERTY LINE
- PROPOSED TEMPORARY CONSTRUCTION AREA
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EXHIBIT " 3 "

CO. ALA RTE. "A" LINE (N) REF. W011

SCALE: 1" = 50'

DATE: 24OCT08

DR. NO. O-A048-20-3A (SHEET 1 OF 1)