Re: An Ordinance Authorizing the City Administrator to Negotiate and Convey Real Property Interests to BART as Required for the Oakland Airport Connector Project without returning to Council; and

A Resolution Authorizing the Agency Administrator to Negotiate and Convey Temporary Real Property Interests to BART as Needed for the Oakland Airport Connector Project without returning to the Agency and setting a Public Hearing Date for July 18, 2006.

SUMMARY

An Ordinance and Resolution have been prepared authorizing the City/Agency Administrator to negotiate and convey real property interests to BART as needed for the Oakland Airport Connector Project (OAC) without returning to the City/Agency.

The proposed OAC will operate primarily within the Hegenberger Road right-of-way median strip on a dual-lane elevated guide way. However, preliminary project maps indicate that there are two (2) Agency owned parcels on 73rd Avenue at San Leandro Blvd. and six (6) City owned parcels interspersed along the right of way corridor that BART will have to access for the construction of the guide way.

The proposed real property interests needed by BART are within the boundaries of the Coliseum Redevelopment Project Area and the City of Oakland. The OAC Project development will contribute to the Agency’s goals and objectives for the Project Area.

FISCAL IMPACTS

The Agency and City parcels are currently unimproved vacant lands and currently do not derive any income, but some parcels could be used in the future for temporary overflow Coliseum event parking. The use of some of those parcels by BART could foreseeably result in a relatively small economic opportunity loss for the Agency or City.

PROJECT BACKGROUND AND DESCRIPTION

The proposed OAC Project is a 3.2-mile Automated Guideway Transit (AGT) connection from the Coliseum BART Station to the Oakland International Airport. The AGT would operate in an
exclusive right-of-way, primarily in the median of Hegenberger Road and over small portions of City and Agency parcels in various locations, on a dual-lane guideway and terminate between the Airports two existing terminals. The Project would be elevated above grade for the majority of its length, except for a short tunnel beneath the Doolittle Drive/Airport Drive interchange and then at-grade upon reaching the Airport roadways looping around the Airport parking lot.

Since the opening of BART over 30 years ago, the connection between the Airport and the Coliseum Station has been a long-discussed transit link. Oakland Airport Connector benefits include:

- A convenient and reliable alternative to increasing traffic congestion
- Support for Oakland International Airport’s growth from over 14 million passengers per year in 2006 to 24.7 million passengers projected in 2020
- Potential for one of the highest airport transit access mode shares in the country with a 20% share of airport passengers by 2020
- Capacity to accommodate peak season airport travel demand of 19,900 daily transit trips
- Flexibility to change transit vehicle frequency according to travel demand
- A fast, reliable ride of less than 10 minutes
- Fares covering all operating and maintenance costs.

Recent tight budgetary cycles have reduced state and federal funding available for the Project and resulted in a funding gap. BART is changing the procurement process to attract private investment to augment public funding. As a result of the funding challenges and the consequent change in procurement, the Project has been delayed. The Project completion date is now 2011.

**Project Funding Partners and Cost Estimate**

The Project is a collaborative partnership between BART, the Alameda County Transportation Improvement Authority (ACTIA), the Alameda County Congestion Management Agency (ACCMA), the California Transportation Commission (CTC), California Department of Transportation (CALTRANS) and the Port and City of Oakland. The state and regional partners provide the public funding for the OAC Project.

BART’s current estimate of the cost for the BART Oakland Airport Connector Project is $377.8 million. Originally, a combination of Alameda County Transportation sales tax revenue (Measure B), Port airport revenues, regional bridge toll funding, and state transportation funds were expected to meet this cost. Total public funding identified thus far is $236.3 million.

To bridge the funding gap and keep the Project moving forward, BART initiated a ridership study as well as a preliminary financial feasibility study to determine whether private sector financing could augment public funding. The market study indicated that a design-build-finance-operate (DBFO) approach to the Airport Connector Project is possible.
In the fall of 2005, the BART Board approved the new DBFO procurement strategy. A new request for qualifications (RFQ) was released in February 2006 and submittals were anticipated in April. BART was expected to select a short-list of potential private partners in May. The request for proposals (RFP) will be released to the short-listed group later this year with the final selection of the DBFO Contractor expected in early 2007. Funding for the Project under this scheme is expected to be:

- Public Funding $236,300,000
- Private Investment $141,500,000
- **Total** $377,800,000

**Schedule**

The current Project schedule is:

- Adoption of Project by BART Board March 2002
- Release of RFQ February 2006
- Release of RFP Mid 2006
- Award of DBFO contract Spring 2007
- Completion of construction Summer 2010
- Testing and start-up 2010/2011
- Begin revenue operations 2011

**KEY ISSUES AND IMPACTS**

Originally, the proposed Agency contribution to the Project was to reimburse BART for certain design and engineering costs for previously proposed intermediate stations stops, which have been deleted because of funding constraints. The Agency is now able to support up to $725,000 in costs for City permits and plan review, construction monitoring, and administration of the Project. Agency participation in the Project preserves the possibility of at least one intermediate station being built.

BART’s project land requirements have not been finalized or fully defined at this time. However, BART’s preliminary plans identify City/Agency property. The sizes and locations of the property to be transferred are not known at this time and will be worked out with CalTrans. The transfer property does not consist of buildable sites but would consist of strips of land adjacent to rights-of-way.

At this time, most of the City-owned land is within the dedicated street rights-of-way. BART has the right to use the City land within the rights-of-way at no cost.

The City land outside of the street rights-of-way will be appraised at market value as determined by an appraisal and conveyed to BART at a negotiated value.
The property rights conveyed to BART vary from temporary rights-of-entry for construction through the outright sale of all property interests.

BART has a legal obligation to pay market value for any real property interests needed to complete the project.

Any conveyance of City/Agency land to BART shall be for such consideration as the City/Agency Administrator or her designee determines is in the best interest of the City/Agency.

It is in the best interest of the City/Agency to work with BART to complete the Project.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** The Airport Connector Project will support the 17,000 jobs forecasted for Oakland International Airport in 2020. In addition the Project construction will provide an economic stimulus to the East Bay area.

**Environmental:** The Project is expected to improve air quality in the region through a reduction in the air pollution from the Air BART buses and automobiles carrying passengers to the Airport. The Project is also expected to ease the Airport's parking demand and allow land that would otherwise be needed for parking lots be put to more environmentally sensitive use. The Project will include energy efficient design, engineering, and construction. It will use recyclable construction materials to the extent feasible, mitigate storm water runoff, and take other environmental measures. Staff has encouraged BART to use sustainable design practices in the preparation of design and engineering plans, specifications and bid documents for the Oakland Airport Connector Project.

**Social Equity:** BART defined the Project stations design as a Disadvantaged Business Enterprise ("DBE") Project under federal Department of Transportation ("DOT") guidelines. At least 10 percent of federal funds authorized for highway or transit financial assistance must be expended with DBEs. Since DOT funds are used, federal regulations apply that prohibit use of policies that include geographic preferences.

**DISABILITY AND SENIOR CITIZEN ACCESS**

The Airport Connector Project is being designed to meet the regulations of the Americans with Disability Act ("ADA") facility requirements and BART will continue to comply with applicable federal, state and local codes and legislation regarding disability and senior access.

**RECOMMENDATION AND RATIONALE**

Staff recommends that the Redevelopment Agency and City Council approve the Resolution and Ordinance. The proposed funding allocation to the Oakland Airport Connector was approved in
2005 as part of the approval of the FY 2005-2007 budget. With scarce resources available to the City and Agency, resources should be used for projects that best support redevelopment plan goals, such as stimulating economic growth in the Coliseum Redevelopment Area. The Oakland Airport Connector would help serve that purpose by improving transportation access, access to regional employment opportunities, and encouraging new development.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council and the Redevelopment Agency approve the Ordinance and Resolution authorizing the City and Agency Administrator or their designee, to negotiate and convey real property interests to BART as needed for the Oakland Airport Connector Project without returning to the City Council or Redevelopment Agency.

Respectfully submitted

DANIEL VANDERPRIEM, Director
Redevelopment, Economic Development and Housing and Community Development

Forwarded by:
Frank Fanelli, Manager, Real Estate Services

Prepared and Reviewed by:
Ron Basarich, Real Estate Agent
Bill Wilkins, Supervising Real Estate Agent

APPROVED AND FORWARDED TO THE
COMMUNITY AND ENCONOMIC DEVELOPMENT COMMITTEE:

Office of the City/Agency Administrator
OAKLAND CITY COUNCIL

ORDINANCE NO. _______ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND CONVEY REAL PROPERTY INTERESTS TO BART AS REQUIRED FOR THE OAKLAND AIRPORT CONNECTOR PROJECT WITHOUT RETURNING TO COUNCIL

WHEREAS, the San Francisco Bay Area Rapid Transit District ("BART") plans to construct the Oakland Airport Connector Project (the "Project"), a 3.2 mile long Automated Guide Way Transit ("AGT") System; and

WHEREAS, development of the Project will require BART to acquire certain real property interests, including real property interests held by the City; and

WHEREAS, on May 2, 2006, Council passed Resolution No. 79874 C.M.S., which authorized the City to enter into a Cooperative Agreement with BART for the Project, which provides for the City and BART to cooperate in development of the Project; and

WHEREAS, it is in the City's best interests to streamline the process for conveying City real property interests to BART for the Project in order to facilitate the Project; and

WHEREAS, Section 219(6) of the Charter requires a Council ordinance in order to convey or lease, or authorize the conveyance or lease for longer than one year, of any real property of the City; and

WHEREAS, City real property conveyance ordinances require competitive bidding for such conveyances, unless certain findings are made; and

WHEREAS, the Council wishes to delegate the power to convey interests in City real property, and negotiate the terms and conditions of such conveyance, as needed for the Project to the City Administrator or delegated staff in order to streamline the process for such transactions; now, therefore,

The Council of the City of Oakland does ordain as follows:

SECTION 1. The City Council, pursuant to Section 219(6) of the City Charter, hereby authorizes the City Administrator or her designee, in her discretion, to convey interests in any real property owned by the City of Oakland, or any real property in which the City of
Oakland holds a property interest, to BART, if the City Administrator determines that such conveyance is needed for the Oakland Airport Connector Project. Such interests may include, without limitation, fee interests, easement interests, leasehold interests, or licenses. Any conveyance shall be for such consideration as the City Administrator or her designee determines is in the best interests of the City. The City Administrator or her designee is further authorized to negotiate the terms and conditions of such conveyances, and enter into agreements, deeds, or other documents of conveyance as needed to effect such transfers.

SECTION 2. The Council finds and determines that, because of the public benefits of the Project to the City and the general public and the need to expedite the process for conveying City real property in order to facilitate timely development of the Project, it is in the best interests of the City not to require competitive bidding for the conveyance of City property for the Project. Therefore, neither Ordinance No. 11602 C.M.S., related to the sale of City surplus real property, Ordinance No. 11603 C.M.S., related to the lease of City real property, nor Ordinance No. 10142 C.M.S., related to the sale and lease of City non-surplus real property, shall be applicable to the conveyance of City real property to BART for the Project. All procedural requirements in said Ordinances and successor ordinances, including but not limited to Planning Commission review and competitive bidding, are hereby superseded in favor of the requirements of this Ordinance.

SECTION 3. All agreements, deeds, and other documents of conveyance entered into pursuant to this Ordinance shall be reviewed and approved by the Office of the City Attorney prior to City execution.

SECTION 4. The City Administrator or her designee is hereby authorized to take whatever action is necessary with respect to the Project consistent with this Ordinance and its basic purposes.

SECTION 5. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

SECTION 6. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, 2006

PASSED BY THE FOLLOWING VOTE:
AYES—BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE
NOES—
ABSENT—
ABSTENTION—

ATTEST: LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California
REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION No. ____________ C.M.S.

RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND CONVEY TEMPORARY REAL PROPERTY INTERESTS TO BART AS REQUIRED FOR THE OAKLAND AIRPORT CONNECTOR PROJECT WITHOUT RETURNING TO THE AGENCY

WHEREAS, the San Francisco Bay Area Rapid Transit District ("BART") plans to construct the Oakland Airport Connector Project (the "Project"), a 3.2 mile long Automated Guide Way Transit ("AGT") System; and

WHEREAS, the proposed Project is within the boundaries of the Coliseum Redevelopment Project Area, and its development will contribute to the Agency’s goals and objectives for the Project Area; and

WHEREAS, development of the Project will require BART to acquire certain real property interests, including temporary interests in real property held by the Agency; and

WHEREAS, it is in the Agency’s best interests to streamline the process for conveying Agency real property interests to BART for the Project in order to facilitate the Project; and

WHEREAS, the California Community Redevelopment Law, Health and Safety Code Sections 33430 and 33431, authorizes a redevelopment agency within a survey (project) area or for purposes of redevelopment to convey interests in real property without public bidding after a noticed public hearing; and

WHEREAS, the Agency wishes to delegate the power to convey temporary interests in Agency real property, and negotiate the terms and conditions of such conveyances, as needed for the Project to the Agency Administrator or delegated staff in order to streamline the process for such transactions; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby authorizes the Agency Administrator or her designee, in her discretion, to convey temporary interests in any real property owned by the Redevelopment Agency, or any real property in which the Redevelopment Agency holds a property interest, to BART, if the Agency Administrator
determines that such conveyance is needed for the Oakland Airport Connector Project; and be it further

RESOLVED: That such interests may include, without limitation, easement interests, leasehold interests, or licenses; and be it further

RESOLVED: That any conveyance shall be for such consideration as the Agency Administrator or her designee determines is in the best interests of the Agency; and be it further

RESOLVED: That the Agency Administrator or her designee is further authorized to negotiate the terms and conditions of such conveyances, and enter into agreements or other documents of conveyance as needed to effect such transfers; and be it further

RESOLVED: That the Agency Administrator or his or her designee is hereby authorized to take whatever other action is necessary with respect to the Oakland Airport Connector Project consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, __________, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: ____________________________
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California
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71 (COORDINATES TO BE DETERMINED PENDING SURVEY)

PERMANENT EASEMENT

AREA SQ. FT. UNLESS NOTED IN ACRES (AC)

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APPROVED: J. TERRY
CHECKED: J. SWANSON
DESIGNED: K. WAGNER

INDUSTRY REVIEW - DRAFT
INDUSTRY REVIEW
SUBMITTAL
SUB
WP,
SAN
AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND CONVEY REAL PROPERTY INTERESTS TO BART AS REQUIRED FOR THE OAKLAND AIRPORT CONNECTOR PROJECT WITHOUT RETURNING TO COUNCIL

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