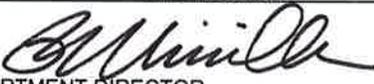


AGENDA ITEM NO.	1	V
COUNCIL MEETING	06-03-10	
APPROVED BY		
		
DEPARTMENT DIRECTOR		
CITY MANAGER		

June 3, 2010

FROM: PATRICK N. WIEMILLER, Director  
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director  
Public Works Department, Engineering Division 

SUBJECT: APPROVE THE PARTIAL ACQUISITION OF TWO EXCESS PROPERTIES FROM THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT THE PEACH AVENUE WIDENING PROJECT BETWEEN BELMONT AND KINGS CANYON ROAD (FRESNO COUNTY)

### RECOMMENDATIONS

1. Staff recommends that the City Council approve the partial acquisition of 2,109 square feet of excess property from APN's 462-082-05 and 462-082-06 which are owned by State of California Department of Transportation for the purchase price of \$500 and \$10,900 respectively.
2. Authorize the Public Works Director or his designee to accept the Directors Deed from property owned by State of California Department of Transportation and to execute the Offer of Purchase Agreement and to execute the Resolution of Use and Acceptance and complete the acquisition through escrow.

### EXECUTIVE SUMMARY

Peach Avenue between Belmont Avenue to Kings Canyon Road is designated as scenic arterial street in the 2025 Fresno General Plan and its Master Environmental Impact Report (MEIR) certified in 2002, is planned to be improved from existing two lane major street to a four-lane divided major street. The project proposes to expand Peach Avenue between Belmont Avenue to Kings Canyon to a four lane road with landscaped median islands, new curbs, gutters and sidewalks. Intersections will be widened to accommodate bus bay/acceleration lanes, turn lanes, new curb returns with ADA curb ramps and bicycle lanes.

The values of the acquisitions were established by an independent, professional appraiser and negotiations to acquire portions of the parcels was initiated on March 9, 2010. The appraised values of the parcels are \$500 and \$10,900 respectively for a total of \$11,400. Exhibit "A" depicts the 2,109 square feet of excess land that is being offered for sale. The signed Offer of Purchase Agreement (Exhibit B) and the Resolution of Public Use and Acceptance (Exhibit C) are required prior to the approval of the sale of this land by the California Transportation Commission (CTC). These documents need to be in the possession of Caltrans by June 28, 2010. With City Council approval the payment of \$11,400 will be made to the State of California; the Offer to Purchase Agreement will executed along with the Resolution of Public Use and Acceptance. The project will necessitate the complete and partial acquisition of approximately 43 parcels.

## BACKGROUND

The improvement of Peach Avenue to a four-lane divided arterial between Belmont Avenue and Kings Canyon Road has long been a goal of the City of Fresno. The 1974 General Plan, 1984 General Plan and 2025 General Plan (year 2002) all have depicted Peach Avenue as a planned four-lane arterial roadway. The proposed project consists of widening Peach Avenue from a two-lane to a four-lane arterial roadway between Kings Canyon Road and Belmont Avenue, including a landscaped median island and traffic signal improvements. The project will necessitate the complete and partial acquisition of approximately 42 parcels.

On July 17, 2001, the Council accepted State Master Agreement No. 06-000060 for State-funded projects, including street improvements along Peach Avenue between Butler and Belmont Avenues as funded by the Governor's Traffic Congestion Relief Program (TCRP). The City, designated as the implementing agency for this project, received a \$10,000,000 TCRP grant, to improve traffic operations and circulation along Peach Avenue between Butler and Belmont Avenues. The City was authorized to proceed with \$600,000 in environmental and engineering design work. The project was initially suspended at the beginning of 2003 in response to the State's fiscal crisis pending future funds becoming available. Project sponsors were advised that the State could not guarantee payment of invoices for any activity on the project and advised local agencies that the TCRP was being suspended. The environmental document was not complete at the time of project suspension. The Public Works Department resumed design and environmental efforts when the State informed local agencies that funding for reimbursement was secure.

On June 1, 2009, the City and the Fresno County Transportation Authority (FCTA) entered into a Measure C Cooperative Project Agreement that authorized \$5,685,000 for right-of-way acquisition for the Peach Avenue Widening Project.

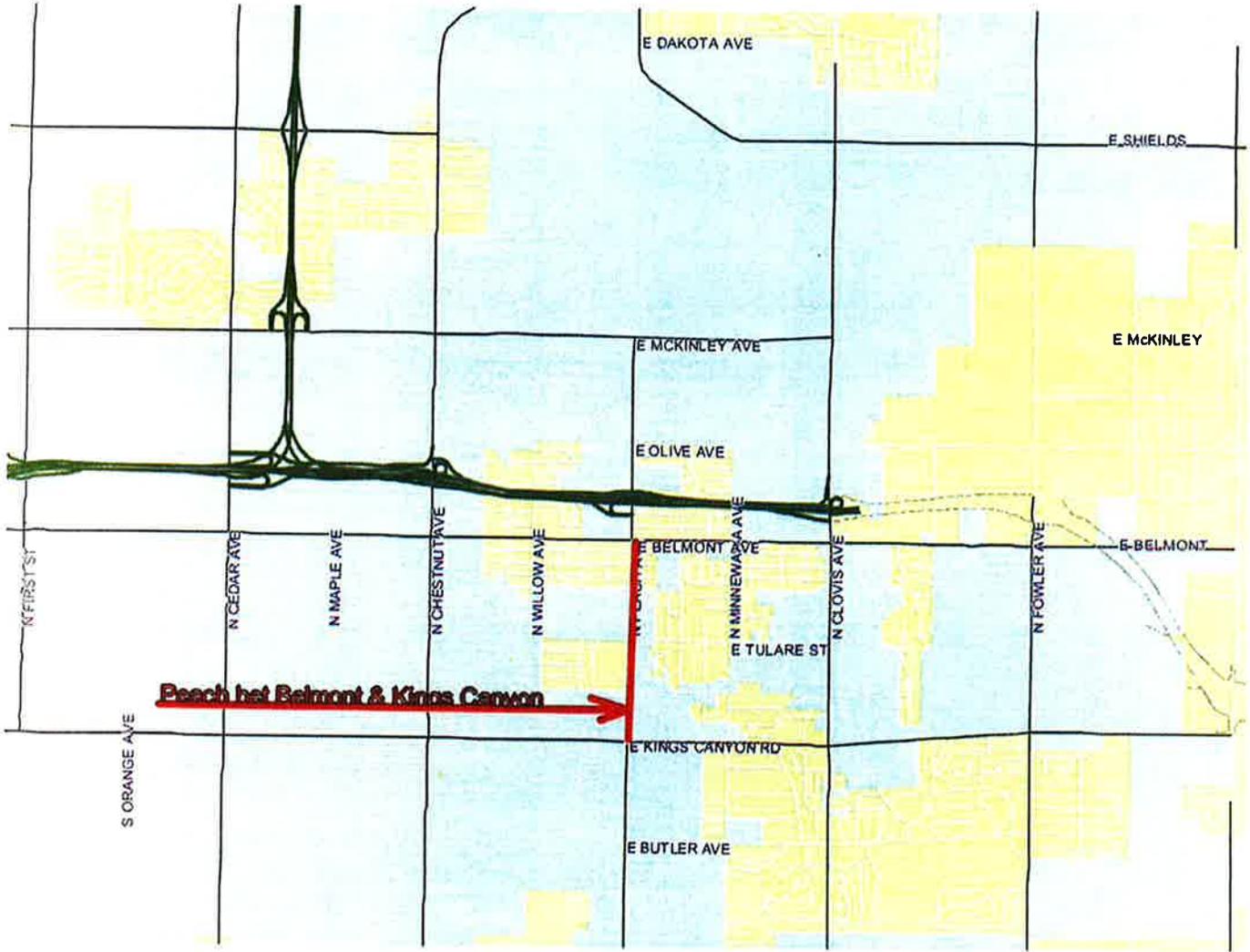
Upon completion of right-of-way acquisition and the associated relocations by summer of 2011, followed by PG&E undergrounding of overhead utilities in late 2012, the City would then be able to proceed to construction in 2013, with the completed four-lane road open to traffic in 2014.

The Caltrans Offer to Purchase documents have been approved as to form by the City Attorney's office. An environmental assessment was completed and a Mitigated Negative Declaration prepared for the Peach Avenue widening project between Belmont and Kings Canyon. The Mitigated Negative Declaration No. E200810000399 ("MND") was adopted by the City Council on December 16, 2008, and a Notice of Determination was subsequently filed with the Fresno County Clerk's Office on January 5, 2009. The acquisition of public street easements, including the easements for this item, was included in the MND Project Description and was environmentally assessed in the initial study resulting in the finding of an MND. Therefore, all necessary environmental review required by CEQA have been completed for the acquisition of this public street easement.

## FISCAL IMPACT

The project is funded by a combination of State TCRP grant funds and Measure "C" Tier 1 funds. There will be no General Fund dollars required to construct the project. Funds for this acquisition for the Peach Avenue widening project are funded by City of Fresno Project No. PW00212, Fund 22049, ORG 189901, Cornerstone CP001.

# PEACH AVENUE VICINITY MAP



# EXHIBIT "A"

DD# 03916-01-04

NORTHEAST CORNER  
OF SECTION 6, 14/21

NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 6, 14/21

EAST BELMONT AVENUE



EASTERBY GARDEN ACRES  
LOT 2

APN 462-082-05T

LOT 1

APN 462-082-04

VOL. 12, PG. 71 OF PLATS, F.C.R.

APN 462-082-06T

LOT 10

NORTH PEACH AVENUE

EAST LINE OF THE NORTHEAST 1/4 OF SECTION 6, 14/21

POINT OF COMMENCEMENT  
NORTHEAST CORNER  
OF LOT 1

NORTH LINE OF LOT 1

S 89°29'36" W 67.37'

S 45°52'31" E, 25.56'

30.00'

S 1°02'49" E 80.00'

N 0°18'29" W 115.17'  
EAST LINE OF LOT 1

TRUE POINT OF  
BEGINNING

R=111.20'  
D=8°54'54"  
L=17.30'

SOUTH LINE OF LOT 1

N 89°29'31" E

N 20°20'41" W, 18.30'

N 89°29'31" E, 41.81'

S 80°02'17" W

RADIAL

R=111.20'  
D=7°11'35"  
L=13.96'

N 89°29'31" E, 4.71'

SOUTHEAST  
CORNER  
OF LOT 1

S 20°20'41" E 47.10'

30.00'



\* = SEGMENT NO. 5 OF THE STATE OF CALIFORNIA  
RELINQUISHMENT NO. 85312, TO THE COUNTY OF  
FRESNO, AS SHOWN ON THAT MAP RECORDED  
9/29/2005 IN STATE HIGHWAY MAP BOOK 5 AT  
PAGES 44-53, F.C.R.



INDICATES AREA TO BE DEDICATED  
44 S.F. ±

REF. & REV.

2009-069

PWF 10343

PLAT 2563

CITY OF FRESNO  
DEPARTMENT OF PUBLIC WORKS

PARCEL TO BE DEDICATED TO THE CITY OF FRESNO  
AS AN EASEMENT AND RIGHT-OF-WAY FOR  
PUBLIC STREET PURPOSES

PROJ. ID. PWD0212 CO# CP001  
FUND NO. 22049 RES TYPE  
ORG. NO. 189901

DR. BY AJ.  
CH. BY H.B.  
DATE AUG. 26, 2009  
SCALE NO SCALE

SHEET NO. 1  
OF 1 SHEETS

15-A-8612

# EXHIBIT "A"

DD# 83917-01-04

EAST BELMONT AVENUE

NORTHEAST CORNER OF SECTION 6, 14/21



EASTERBY GARDEN ACRES  
LOT 9

LOT 1

APN 462-082-05T

APN 462-082-07

APN 462-082-06T

VOL. 12, PG. 71 OF PLATS, F.C.R.

NORTHEAST CORNER OF LOT 10  
30.00'

NORTH PEACH AVENUE

EAST LINE OF THE NORTHEAST 1/4 OF SECTION 6, 14/21  
S 0°18'29" E 300.34'

R=111.20'  
D=8°54'54"  
L=17.30'

S 80°02'17" W  
RADIAL  
R=111.20'  
D=7°11'35"  
L=13.96'

R=104.50'  
D=16°31'23"  
L=30.14'

NORTH LINE OF LOT 10  
N 89°29'31" E

N 1°02'49" W

N 20°20'41" W, 18.30'  
S 89°29'31" W, 4.71'  
S 89°29'31" W 41.81'

N 20°20'41" W 47.10'

S 0°37'55" E 80.23'

N 6°48'14" W 91.41'

S 0°18'29" E 135.17'  
EAST LINE OF LOT 10

S 44°25'45" W, 16.44'

SOUTH LINE OF LOT 10  
N 89°29'25" E

N 89°29'25" E 34.62'

15.33' 30.00'  
S 89°29'25" W

TRUE POINT OF BEGINNING  
POINT OF COMMENCEMENT  
SOUTHEAST CORNER OF LOT 10

EAST MADISON AVENUE



INDICATES AREA TO BE DEDICATED  
2,065 S.F. ±

\* = SEGMENT NO. 5 OF THE STATE OF CALIFORNIA RELINQUISHMENT NO. 85312, TO THE COUNTY OF FRESNO, AS SHOWN ON THAT MAP RECORDED 9/29/2005 IN STATE HIGHWAY MAP BOOK 5 AT PAGES 44-53, F.C.R.

REF. & REV. 2009-070 PWF 10343 PLAT 2563	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PWD0212 CO# CP001 FUND NO. 22049 RES TYPE ORG. NO. 189901
	PARCEL TO BE DEDICATED TO THE CITY OF FRESNO AS AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES	DR. BY A.J. CH. BY H.B. DATE AUG. 26, 2009 SCALE NO SCALE

DATE: 5-18-10

EXHIBIT "B"  
OFFER TO PURCHASE

APN 462-082-05T  
DD # 83916-01-04

I (We), the undersigned (Offeror), hereby offer to purchase the property described in the attached Director's Deed DD # 83916-01-04 as delineated on the map(s) attached for the sum of: Five Hundred Dollars (\$500.00).

The balance of the purchase price Five Hundred Dollars (\$500.00) shall be paid on or before August 26, 2010.

Please execute and return the Offer to Purchase Agreement and Resolution of Public Use and Acceptance on or before June 28, 2010.

Offeror(s) and State agree that if any Offeror fails to complete this purchase for any reason: (1) State shall be released from obligation to sell the property to the remaining Offeror(s), if any; (2) State shall retain, as liquidated damages for breach of contract, the deposit actually paid; (3) State retains the right to proceed against Offeror for specific performance or any other claim or remedy State may have in law or equity, other than breach of contract damages.

The Offeror(s) agree(s) that his offer to purchase vests no right, title interest or equity, including the right of possession, in or to said real property until the sale has been approved in the manner provided by law and a Director's Deed has been executed, recorded and delivered to the undersigned.

This sale is subject to the approval of the California Transportation Commission. If the sale is not approved, the deposit money shall be refunded without interest.

The Department of Transportation reserves the right to reject this offer any time prior to the approval of the sale by the California Transportation Commission. In the event of rejection of this offer, the deposit(s) money shall be refunded without interest.

It is understood that the right, title and interest in the property to be conveyed shall not exceed that vested in the State of California and that no Policy of Title Insurance will be furnished or escrow fees paid by the State in this transaction.

The Offeror(s) agree(s) to pay any and all recording fees and documentary stamp tax chargeable by the County Recorder.

The Offeror(s) acknowledges that title to this property shall be conveyed subject to special assessments, if any, restrictions, reservations and easements of record.

It is understood that if the Offeror(s) desire a survey of the property, this may be accomplished by an independent survey at the Offeror(s) expense. No warranty is made by the State relative to the ground locations of property lines other than monumented highway right of way lines.

The Offeror(s) assumes all responsibility for complying with local development standards, codes, and ordinances for any use or development. All properties are sold in an "as is" condition. The State makes no warranty or representation that any property being offered is developable or that the local jurisdiction will permit development.

This agreement is not assignable in whole or in part, either by operation of law or otherwise, without the prior written consent of the State.

All notices or payments shall be made in writing and addressed as follows:

To Offeror(s), Name: City of Fresno, a municipal corporation

Address: Public Works Department, Engineering Services

2600 Fresno Street, Fresno, CA 93721-3623

\_\_\_\_\_  
Signature of Offeror      Date

\_\_\_\_\_  
Signature of Offeror      Date

Telephone No. \_\_\_\_\_

Telephone No. \_\_\_\_\_

APPROVED AS TO FORM  
CITY ATTORNEYS OFFICE  
BY: [Signature]  
K. BRADLEY DEPUTY

**(COMPLETE THE TITLE VESTING INFORMATION BELOW)**

The undersigned Offeror(s) request that the property vests as follows:

**(PLEASE PRINT NAME/TITLE BELOW)**

\_\_\_\_\_  
\_\_\_\_\_City of Fresno, a municipal corporation\_\_\_\_\_  
\_\_\_\_\_

**(PLEASE INDICATE TYPE OF VESTING BELOW)**

- |  |   |
|--|---|
| <input type="checkbox"/> Husband and Wife          | <input type="checkbox"/> As Joint Tenants                             |
| <input type="checkbox"/> A Single (man) (woman)    | <input type="checkbox"/> As Tenants In Common                         |
| <input type="checkbox"/> A Married (man) (woman)   | <input type="checkbox"/> As (his) (her) Sole<br>and Separate Property |
| <input type="checkbox"/> An Unmarried (man (woman) | <input checked="" type="checkbox"/> Other (specify below)             |
- \_\_\_\_\_ a municipal corporation \_\_\_\_\_
- \_\_\_\_\_

Mail documents and payments to: Department of Transportation  
Attention Autumn Newland-Zetz  
855 M Street, Suite 200  
Fresno, California 93721.

DATE: 5-18-10

EXHIBIT "B"  
OFFER TO PURCHASE

APN 462-082-06T  
DD # 83917-01-04

I (We), the undersigned (Offeror), hereby offer to purchase the property described in the attached Director's Deed DD # 83917-01-04 as delineated on the map(s) attached for the sum of: Ten Thousand Nine Hundred Dollars (\$10,900.00).

The balance of the purchase price Ten Thousand Nine Hundred Dollars (\$10,900.00) shall be paid on or before August 26, 2010.

Please execute and return the Offer to Purchase Agreement and Resolution of Public Use and Acceptance on or before June 28, 2010.

Offeror(s) and State agree that if any Offeror fails to complete this purchase for any reason: (1) State shall be released from obligation to sell the property to the remaining Offeror(s), if any; (2) State shall retain, as liquidated damages for breach of contract, the deposit actually paid; (3) State retains the right to proceed against Offeror for specific performance or any other claim or remedy State may have in law or equity, other than breach of contract damages.

The Offeror(s) agree(s) that his offer to purchase vests no right, title interest or equity, including the right of possession, in or to said real property until the sale has been approved in the manner provided by law and a Director's Deed has been executed, recorded and delivered to the undersigned.

This sale is subject to the approval of the California Transportation Commission. If the sale is not approved, the deposit money shall be refunded without interest.

The Department of Transportation reserves the right to reject this offer any time prior to the approval of the sale by the California Transportation Commission. In the event of rejection of this offer, the deposit(s) money shall be refunded without interest.

It is understood that the right, title and interest in the property to be conveyed shall not exceed that vested in the State of California and that no Policy of Title Insurance will be furnished or escrow fees paid by the State in this transaction.

The Offeror(s) agree(s) to pay any and all recording fees and documentary stamp tax chargeable by the County Recorder.

The Offeror(s) acknowledges that title to this property shall be conveyed subject to special assessments, if any, restrictions, reservations and easements of record.

It is understood that if the Offeror(s) desire a survey of the property, this may be accomplished by an independent survey at the Offeror(s) expense. No warranty is made by the State relative to the ground locations of property lines other than monumented highway right of way lines.

The Offeror(s) assumes all responsibility for complying with local development standards, codes, and ordinances for any use or development. All properties are sold in an "as is" condition. The State makes no warranty or representation that any property being offered is developable or that the local jurisdiction will permit development.

This agreement is not assignable in whole or in part, either by operation of law or otherwise, without the prior written consent of the State.

All notices or payments shall be made in writing and addressed as follows:

To Offeror(s), Name: City of Fresno, a municipal corporation

Address: Public Works Department, Engineering Services

2600 Fresno Street, Fresno, CA 93721-3623

\_\_\_\_\_  
Signature of Offeror      Date

\_\_\_\_\_  
Signature of Offeror      Date

Telephone No. \_\_\_\_\_

Telephone No. \_\_\_\_\_

APPROVED AS TO FORM  
CITY ATTORNEY'S OFFICE  
BY: [Signature]  
K. BRADLEY, DEPUTY

**(COMPLETE THE TITLE VESTING INFORMATION BELOW)**

The undersigned Offeror(s) request that the property vests as follows:

**(PLEASE PRINT NAME/TITLE BELOW)**

\_\_\_\_\_  
City of Fresno, a municipal corporation

**(PLEASE INDICATE TYPE OF VESTING BELOW)**

Husband and Wife

As Joint Tenants

A Single (man) (woman)

As Tenants In Common

A Married (man) (woman)

As (his) (her) Sole  
and Separate Property

An Unmarried (man (woman)

Other (specify below)

a municipal corporation  
\_\_\_\_\_

Mail documents and payments to: Department of Transportation  
Attention Autumn Newland-Zetz  
855 M Street, Suite 200  
Fresno, California 93721.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO  
CALIFORNIA, CERTIFYING PUBLIC USE UPON  
ACCEPTANCE OF SURPLUS CALIFORNIA DEPARTMENT OF  
TRANSPORTATION PROPERTIES**

WHEREAS, the California Department of Transportation (Caltrans) has issued an offer to sell a portion of surplus property to the City of Fresno in reference to two parcels located west of Peach Avenue and south of Belmont Avenue totaling 2,109 square feet of vacant land ("Property"); and

WHEREAS, procedures established by Caltrans require that the City's governing body certify by Resolution City's intended public use of the property upon Council approved acceptance of the Property.

NOW, THERE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRESNO THAT:

1. Upon Council approval of Property acquisitions, the Properties will be used for street easements and rights of way purposes and uses, (the "Public Use") consistent with any and all applicable funding source requirements, subject to constitutional and local law requirements; and
2. City's acceptance of the Property will be for the above Public Use; and
3. Nothing herein binds the City to make any expenditure, incur any indebtedness or proceed with the Property acquisition; and
4. The Director of Public Works or designee(s) thereof and each of them, as agents for the City of Fresno are hereby authorized to execute and submit any and all documents required hereunder, subject to prior approval as to form by the City Attorney's Office.

*Adopted* \_\_\_\_\_  
*Approved* \_\_\_\_\_  
*Effective* \_\_\_\_\_

\* \* \* \* \*

CLERKS CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the forgoing Resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor Approval: \_\_\_\_\_, 2010  
Mayor Approval/No Return: \_\_\_\_\_, 2010  
Mayor Veto: \_\_\_\_\_, 2010  
Council Override Vote: \_\_\_\_\_, 2010

REBECCA E. KILSCH  
City Clerk

By: \_\_\_\_\_

APPROVED AS TO FORM  
JAMES C. SANCHEZ  
City Attorney

BY:  \_\_\_\_\_  
Deputy ~~BRADLEY~~