



Oakland Inner Harbor  
Tidal Canal  
City Council Presentation  
April 7, 2015

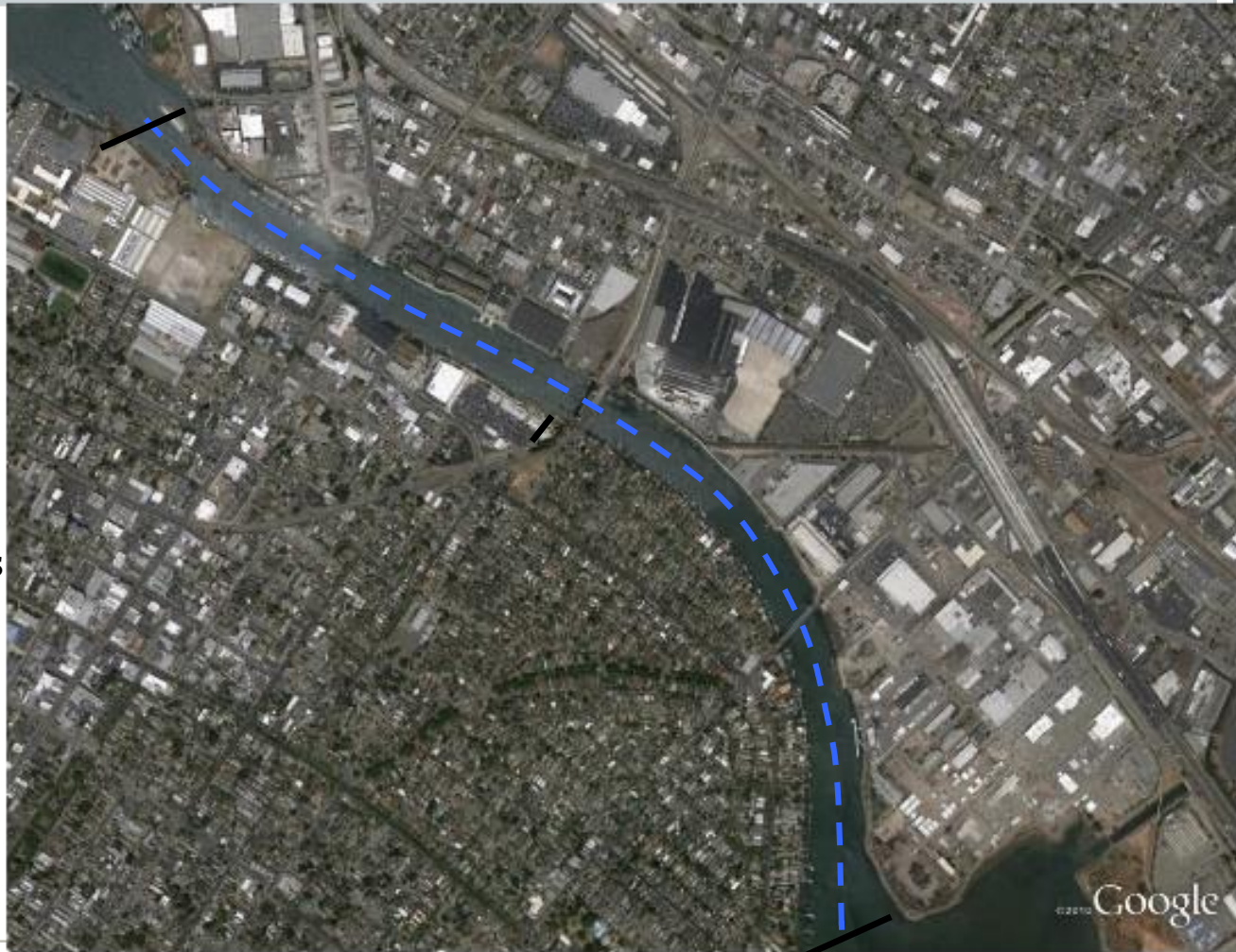
# Oakland Inner Harbor Tidal Canal (OIHTC) Presentation Agenda

- **Goal of Presentation: Status Update Regarding the OIHTC Transfer**
- Provide Overview & History of OIHTC
- Identify the Problem – Health, Safety, Property Concerns
- Existing Constraints
- Overview of Transfer Concept
  - Residential Parcel
  - Commercial Parcel
  - Open Water Parcel
- Consequences of No Action
- Next Steps



# Oakland Inner Harbor Tidal Canal (OIHTC)

- 1882: The US Army Corps of Engineers dredged OIHTC to create tidal canal
- 85 acres, 400 feet wide and 1.8 miles long
- The Corps owns the land within the OIHTC.
- Over time, canal expanded to include uplands
- Currently contains structures/docks/industrial uses
  - ~90 residential and 14 commercial properties affected.



# History of the OIHTC Transaction to Date

- 1990: Water Resources Development Act (WRDA) authorizes Corps to transfer Alameda side to Alameda at no cost (same for Oakland).
- 2000: Corps permitting moratorium for new construction, maintenance or repair. City is unable to enforce zoning/building code requirements (2000-Today).
- 2005-2012: Citizens and realtors in Alameda express concern to City regarding the moratorium and request action.
- 2013: East Bay Regional Park District (EBRPD) Letter of Intent to take Oakland side.
- September 2014: City Council approves letter to Corps stating interest in negotiating transfer.
- February 2015: City Council directs staff to present OIHTC update at an open meeting

# Overview of the Problem

- **Permitting Moratorium:** Corps permitting moratorium prevents any new construction, maintenance or repair of existing structures unless an emergency
- **Health & Safety Issue:** City unable to properly enforce zoning/building code requirements within OIHTC because property owners have no authority to fix adjacent docks/structures
- **Property Issues**
  - No mechanism to clear title issues
  - Alameda realtors previously sued over title confusion

# Constraints on Transfer

- City Cannot Provide a Gift of Public Funds
  - Cal. Const., Art XVI § 6 – Public agency cannot authorize gift of money or value to private individual. Public funds used for a public benefit is not prohibited even if an incidental benefit to individuals.
    - Property Owners Must Pay Transaction Costs
    - Transfer Must Result in a Public Benefit
- City Cannot Take on Environmental or Ownership Liability
  - Potential contamination on commercial side
  - Indemnities for ongoing uses – industrial operators
- Public Trust Questions
  - Research potential restrictions on transfer if public trust claim raised



# Current Transfer Concept

Terms: One transaction,  
three parcels

## Residential:

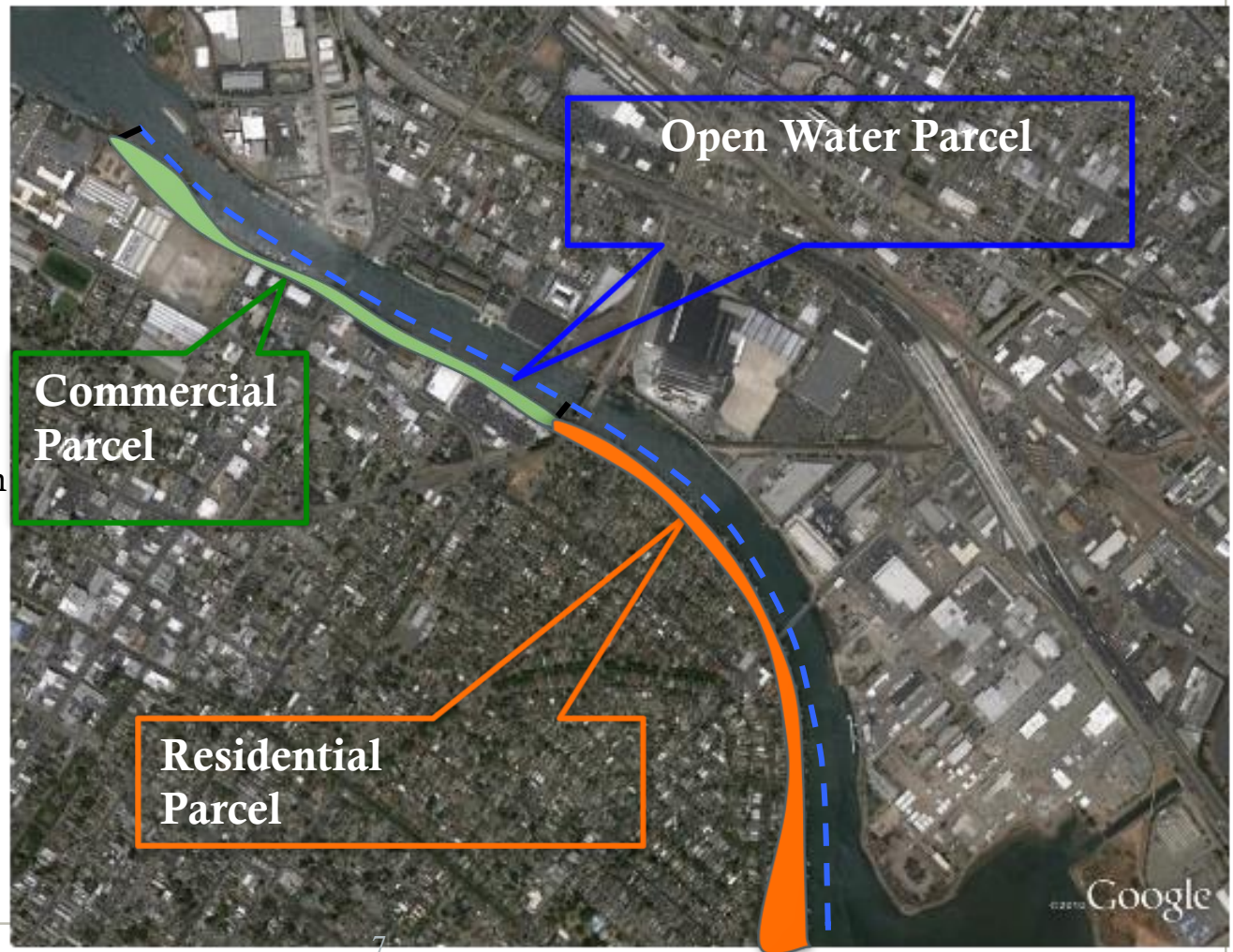
- Corps-City-prop owners
- Residents pay transaction cost

## Commercial:

- Corps to City
- City hold pending disposition

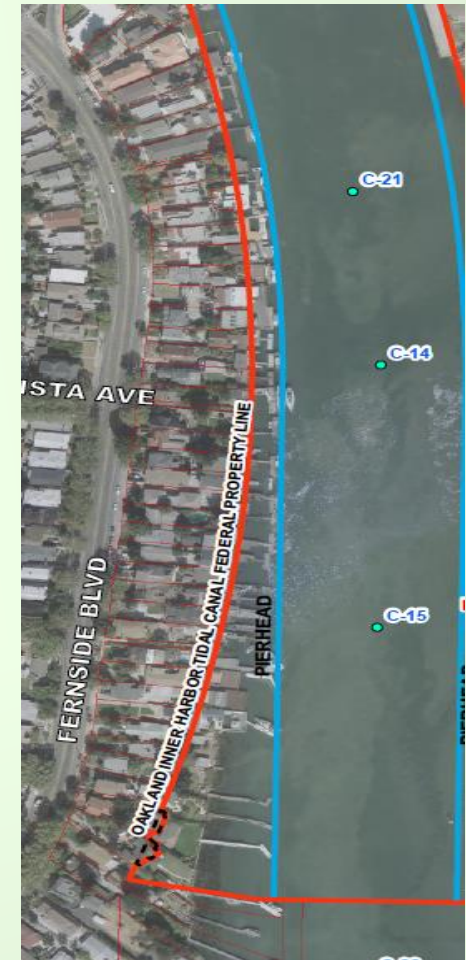
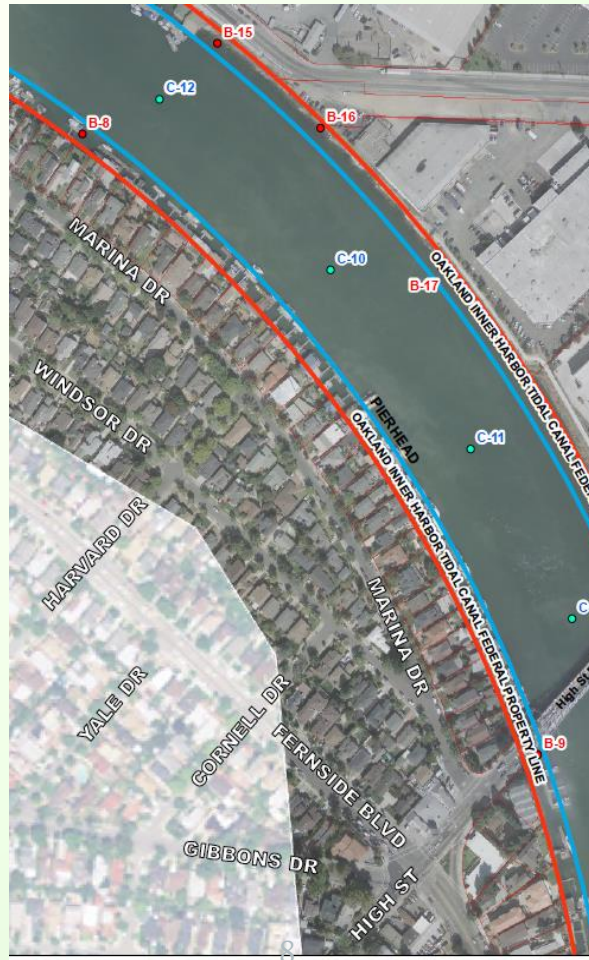
## Open Water:

- EBRPD or City





# Residential Side



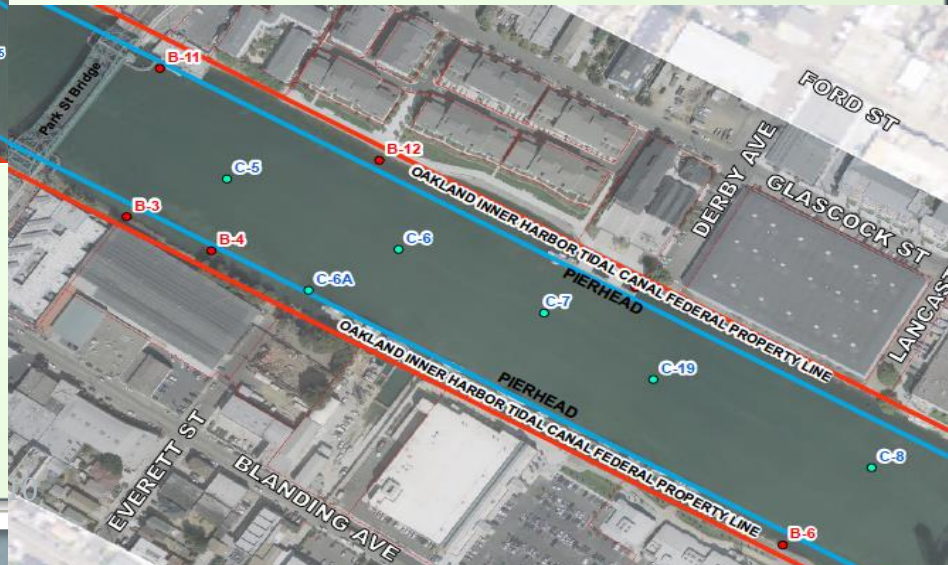
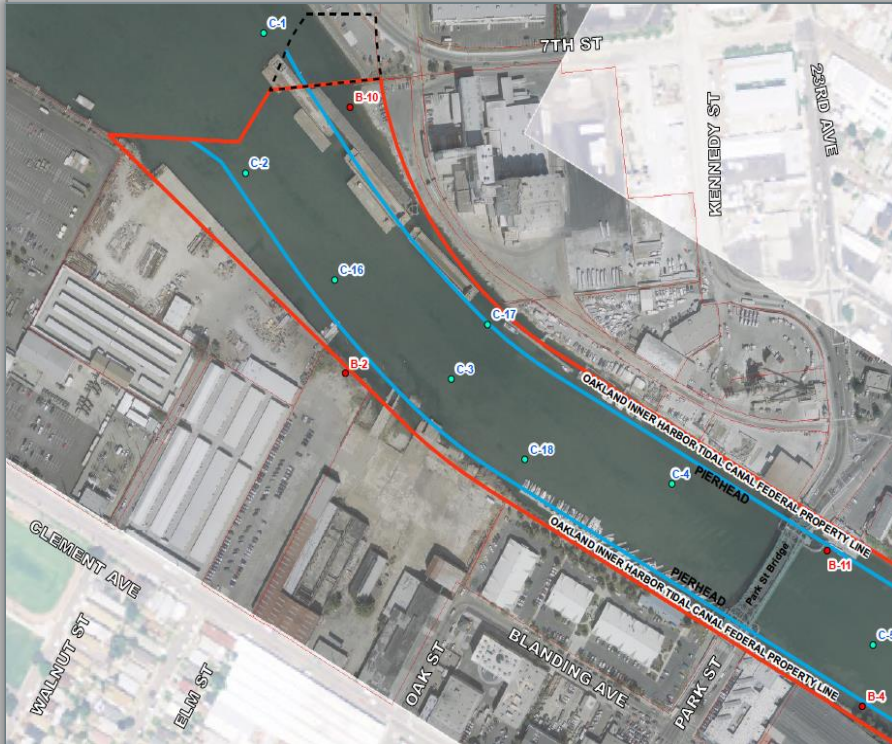


# Residential Parcel

(Southwest of Fruitvale Bridge)

- Simultaneous transfer from Corps to City and then to individual property owners
- Complete survey and legal descriptions for each individual parcel prior to transfer
- **Assessment**
  - Prop 13 may be triggered for OIHTC sliver. Anticipated to be minimal, but **Buyer's to consult third party consultant to confirm actual reassessment**
  - Fair Market Value (25' sliver of submerged lands) = Property owner payment of transaction costs and future costs associated with maintenance and ownership
  - Payment of FMV costs above required to avoid gift of public funds
- **Public Benefit:** Enforcement of code requirements to follow after grace period

# Commercial Side



# Commercial Properties

(Northwest of Fruitvale Bridge)

- Overview: 14 properties, including marinas, industrial uses, redevelopment sites, streets, etc.
- Package Deal with Transfer
- Potential Environmental Contamination
  - Primarily used for industrial purposes for at least the last 80 years – some contaminated sediment and soil
  - Existing Baseline Reports being reviewed by Regional Board
- Researching Options to Limit Liability
  - Leases with existing operators including indemnities
  - Possible transfer to third party (developer/adjacent prop owner)
  - Potential agreements with Regional Board – continued research
- Public Benefit: Code enforcement and potential lease revenue



# Open Water Parcel

(Pierhead Line to Centerline)

- Package deal with transfer
- EBRPD submitted a Notice of Intent on June 3, 2013 for Oakland side
- Discussions with EBRPD to potentially take entire open water parcel
- Waiting for further resolution of public trust issues to refine ownership

# ‘No Project’ Alternative is Not Status Quo

- Property owners, realtors will continue to lobby City
- Corps will continue permitting moratorium
- City will be unable to enforce building code requirements – health & safety concerns
- Docks & other structures in need of repair – potential of falling into the Bay
- Continued illegal construction

# Next Steps

- Continue negotiations with Corps re: terms of the transfer
- Reach out to partners at EBRPD
- Actively engage residential and commercial property owners
  - Legal descriptions/surveys
  - Transfer process
- Continue discussions with Regional Board re: environmental liability issues
- Periodic Updates to City Council/Public re: Status of Transaction



# Discussion

