



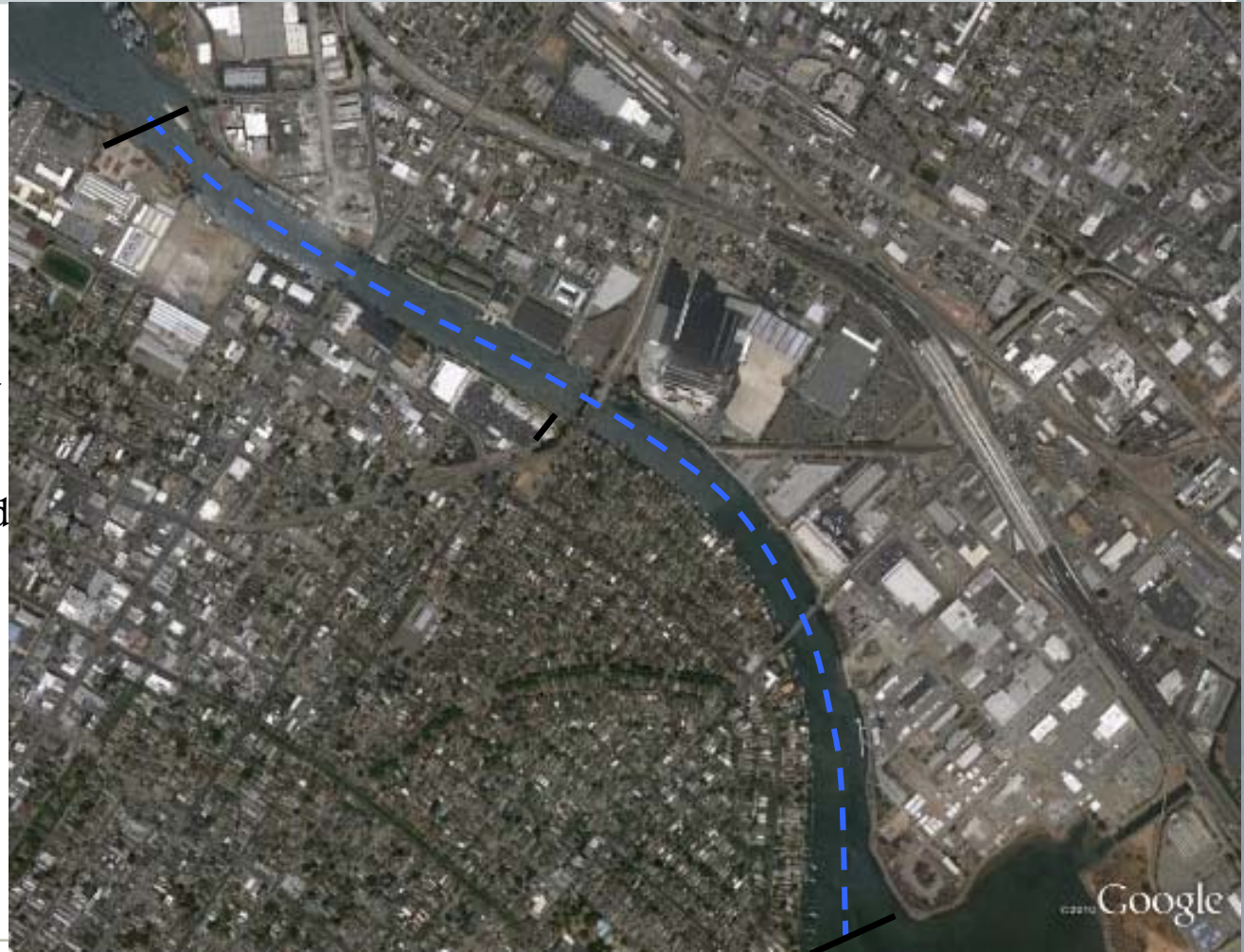
Oakland Inner Harbor
Tidal Canal
City Council Presentation
April 7, 2015

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).
- 2004: 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 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. The use of public funds for a public benefit not prohibited; incidental benefit to individuals allowed.
 - 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:

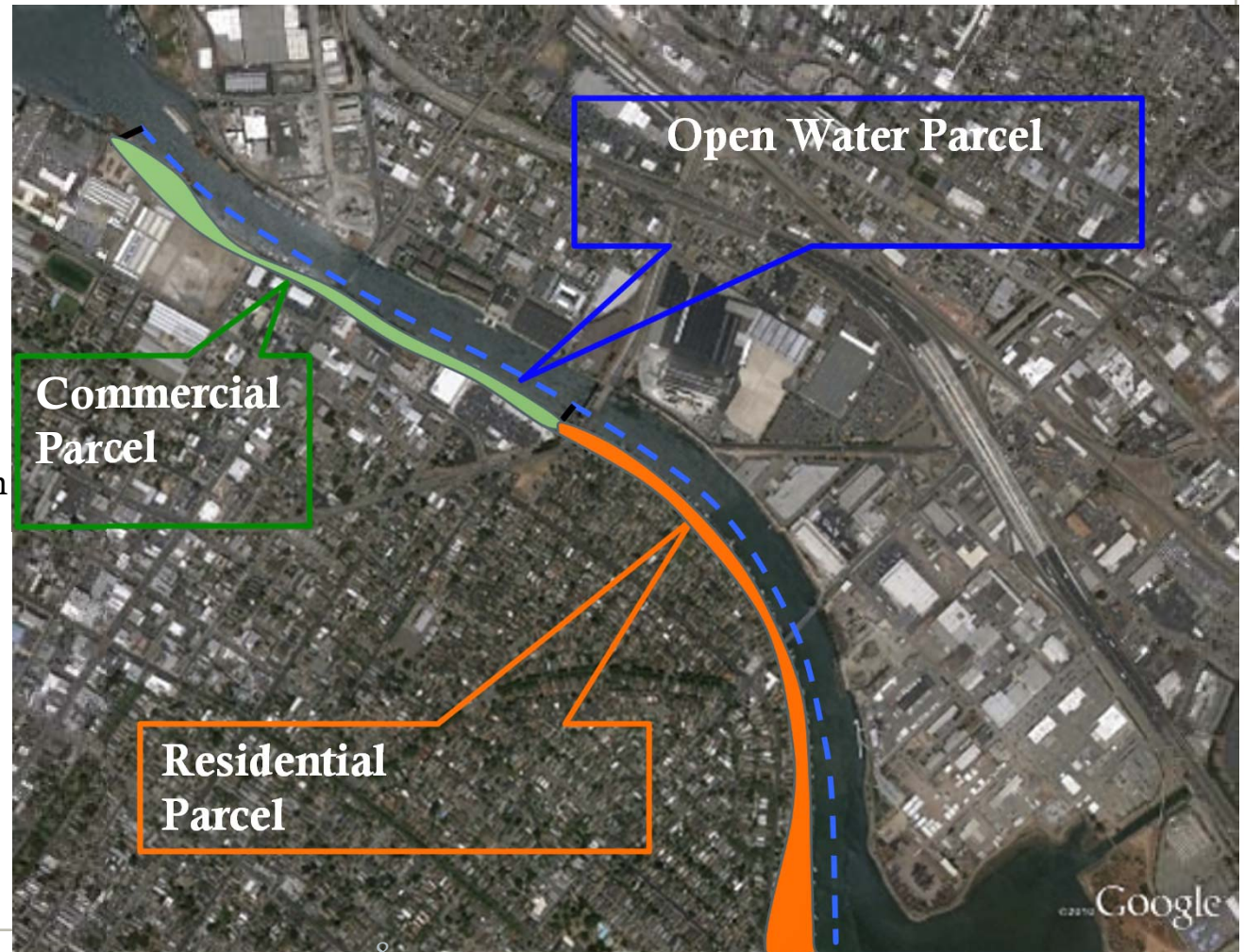
- Corps-City-prop owners
- Residents pay transaction cost

Commercial:

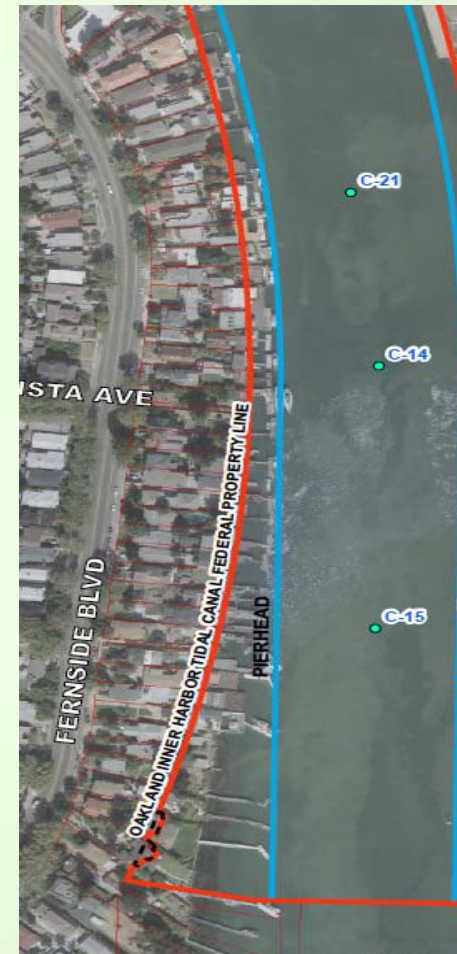
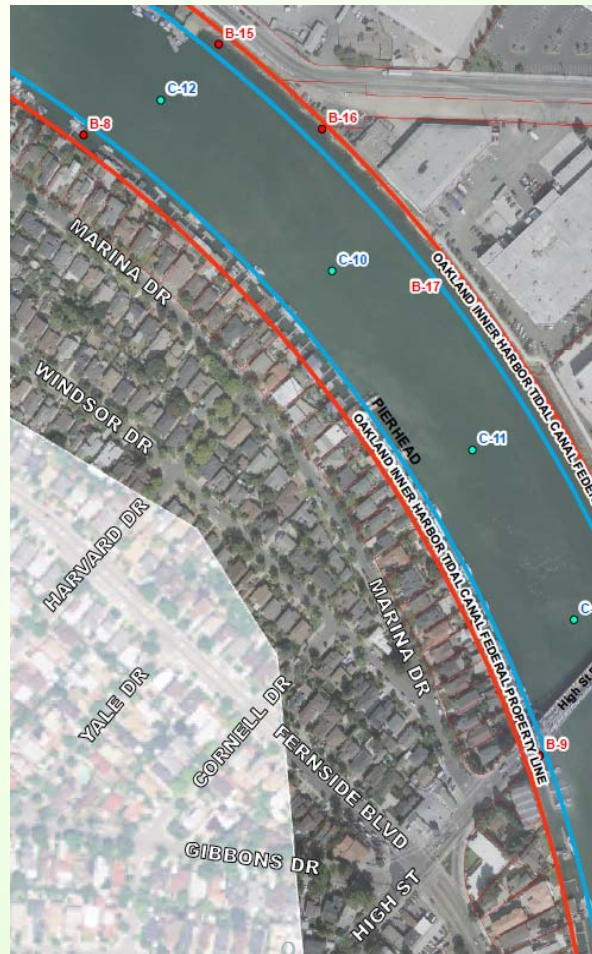
- Corps to City
- City hold pending disposition

Open Water:

- EBRPD or City



Residential Side

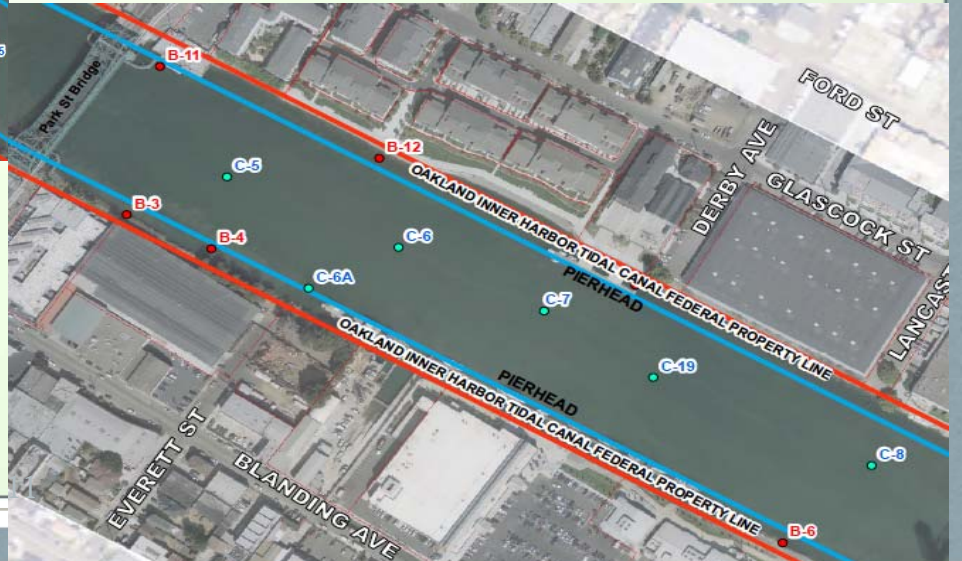
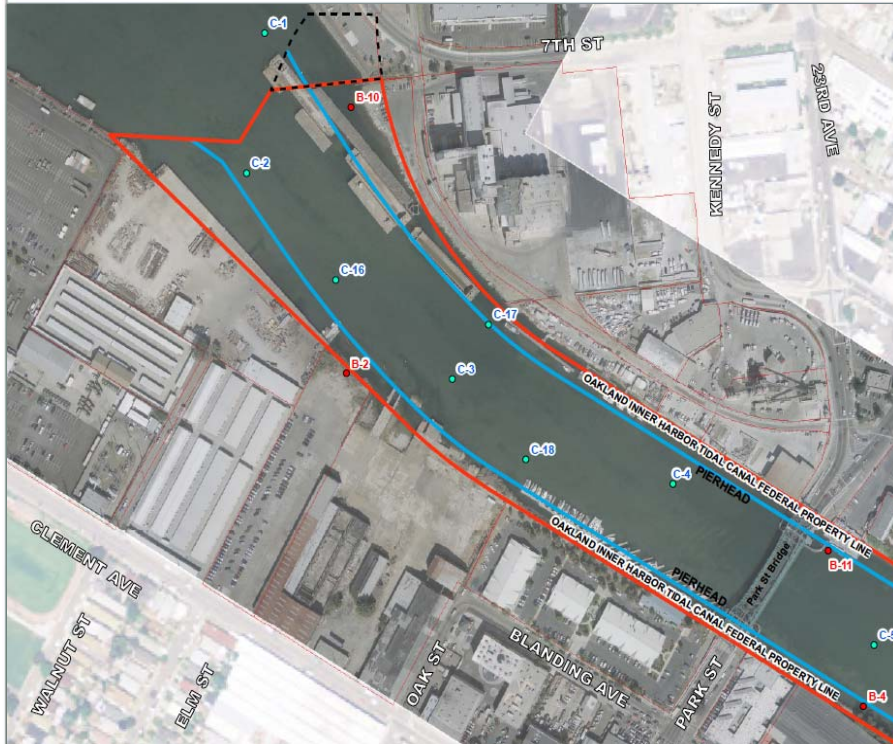


Residential Parcel

(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. **Buyer's must consult third party consultant to confirm actual reassessment**
 - Fair Market Value (20-35' sliver of submerged lands) = Property owners will pay transaction costs and future costs associated with maintenance and ownership
 - Payment of FMV costs as required to avoid a 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 last 80-100 years – areas contain contaminated sediment and soil
 - Existing Baseline Reports under review 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
- EBRPD to potentially take entire open water parcel
- Need to resolve public trust issues to refine transfer strategy and future 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 the transaction

Discussion

