



Office of the City Manager

CONSENT CALENDAR
September 12, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront
Subject: Utility Easement: Bolivar Drive – East Bay Municipal Utility District

RECOMMENDATION

Adopt first reading of an Ordinance authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION

The Aquatic Park Northeast Landscape and Streetscape Improvements Project (Project) between Addison Street and Channing Way cul-de-sac on Bolivar Drive is currently under construction via a Community Benefits Agreement with the Berkeley Commons -- 600 Addison Development Project.

As part of the Project, a new East Bay Municipal Utility District (EBMUD) potable waterline is required to be installed along Bolivar Drive from Addison Street to Bancroft Way to serve the new fire hydrants, to provide domestic water supply to two City-owned buildings and to a new publicly-accessible drinking fountain at the renovated park area.

In order to construct this waterline, a utility easement is required to be granted by the City to EBMUD. This utility easement will also allow for future maintenance, operation and repair or replacement of this waterline by EBMUD.

This new EBMUD waterline will supply domestic water for new fire hydrants that allows access for Fire Department to suppress fire at facilities located between Addison Street and Bancroft Way.

This new waterline will also provide reliable potable water to City-owned buildings at 82 Bolivar Drive & 90 Bolivar Drive, currently operated by Bay Area Outreach and Recreation Program (BORP) and Waterside Workshops. BORP provides sports, recreation and fitness programming for children, youth and adults with physical disabilities and visual impairments and Waterside Workshops provides bicycle education, repair, reuse, and youth internship programs to our community.

BACKGROUND

The Project, including the new EBMUD waterline, is being funded by a Community Benefits Agreement with the Berkeley Commons -- 600 Addison Development Project.

The Project has the following elements:

- Full reconstruction of Bolivar Drive from Addison Street to Channing Way. This will include: a) new asphalt surfacing, striping, and signage to enhance vehicle, bicycle, and pedestrian access and safety; b) conversion of the road from two-way to one-way (southbound); a new pedestrian/bicycle pathway; c) new porous paving at the new parking stalls to absorb stormwater and reduce ponding after storms; and d) new disabled parking stalls to enhance safety and access to the Bay Area Outdoor Recreation Program (BORP) Adaptive Cycling Center, the Waterside Workshops Program, and the general public accessing Aquatic Park.
- Between Bolivar Drive and Aquatic Park, new landscaping will be installed with native plants and over 90 new native trees, and new lawns with plazas will be installed for enhanced nature viewing, picnicking, gatherings, and other passive outdoor recreation.

The Project is anticipated to be completed in early 2024.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE

There are no environmental effects associated with the recommendation contained in this report.

RATIONALE FOR RECOMMENDATION

A utility easement is required by East Bay Municipal Utility District to permit Easy Bay Municipal Utility District to construct, replace, repair, maintain, operate and use of the waterline.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director of Parks, Recreation & Waterfront, 510-981-6700

Nelson Lam, Supervising Civil Engineer, Parks, Recreation & Waterfront, 510-981-6395

Attachment:

1: Ordinance

Exhibit A: Utility Easement

ORDINANCE NO. -N.S.

AUTHORIZING AND DIRECTING CITY MANAGER TO CONVEY UTILITY EASEMENT:
BOLIVAR DRIVE – EAST BAY MUNICIPAL UTILITY DISTRICT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. Conveyance of property authorized.

The City Manager is hereby authorized to convey to the East Bay Municipal Utility District a utility easement for Bolivar Drive, substantially in the form attached hereto as Exhibit A, for the real property described therein.

Section 2. Posting.

Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Exhibits

A: Utility Easement

RECORDING REQUESTED BY

East Bay Municipal Utility District

AND WHEN RECORDED MAIL TO

East Bay Municipal Utility District

P. O. Box 24055 - MS #903

Oakland, CA 94623

Attn: Real Estate Services (RK)

EA 23-001 – RW 5769 - Out of Tract Easement

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 60-2521-3-1

Pursuant to Government Code Section 27383, Grantee is exempt from paying recording fees.

R&T 11911 - Consideration is less than \$100

Certificate of Acceptance Attached

GRANT OF EASEMENT

THIS INDENTURE, made by and between City of Berkeley, a California municipal corporation, hereinafter called the Grantor, and EAST BAY MUNICIPAL UTILITY DISTRICT, a public corporation organized and existing under the laws of the State of California, hereinafter called the Grantee,

WITNESSETH:

THAT the Grantor, for a good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, hereby grants to the Grantee and to its successors and assigns a perpetual easement and right-of-way for the purpose of laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using, as the Grantee may see fit, any facilities necessary for the transmission of utilities, including all necessary braces, connections, fastenings and other appliances and fixtures, in, under, along and across that certain real property described in **Exhibit "A"** and shown on **Exhibit "B"**, attached hereto and made a part hereof.

TOGETHER with the right of ingress to and egress from said right-of-way and the right at all times to enter in, over and upon said right-of-way and every part thereof and also to use said right-of-way for all purposes connected with the laying down, constructing, reconstructing, replacing, removing, repairing, maintaining, operating and using said utilities.

The Grantor and the Grantor's heirs, successors, or assigns shall not place or permit to be placed on said right-of-way any building or structure, including but not limited to houses, garages, outbuildings, swimming pools, tennis courts, retaining walls, decks, and patios nor allow to be done anything which may interfere with the full enjoyment by the Grantee of the rights herein granted.

The above paragraph notwithstanding Grantor reserves the right to landscape the

easement area in a manner consistent with the Grantee's use; however, such use by Grantor shall not include the planting of trees nor a change in the existing surface elevation (grade) of the easement area by more than one (1) foot without first having prior written consent of the Grantee.

The Grantee agrees that said utilities shall be constructed and maintained at a depth of at least eighteen (18) inches below the present surface of the ground.

The Grantee agrees upon the completion of any of its works hereunder to restore as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work.

TO HAVE AND TO HOLD, all and singular, the rights above described unto the Grantee and the Grantee's successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has executed this indenture this _____ day of _____, 20____.

City of Berkeley, a California municipal corporation

By: _____

[AUTHORIZED SIGNER(S), TITLE]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____



EXHIBIT A
LEGAL DESCRIPTION

Real property situate in the City of Berkeley, County of Alameda, State of California, described as follows:

Being a portion of Section 9, Township 1 South, Range 4 West, Lots 1 and 2 as shown on that certain map entitled "Map No. 4 of Salt Marsh and Tide Lands, situate in the County of Alameda, State of California" certified copies of which are on file with the Survey General of the State of California and a portion of Berkeley Aquatic Park (APN 60-2521-3-1), and a portion of that certain Quitclaim Deed recorded September 12, 1936 in Liber 3402 Page 25 in the Office of the County Recorder of Alameda County more particularly described as follows:

BEGINNING at the southwesterly corner of Parcel B as shown on that certain Parcel Map 11067 filed on April 27, 2023 in Book 358 of Parcel Maps at Pages 26 through 27, inclusive, in the Office of the County Recorder of Alameda County being also a point on Allardt's Water line as described and shown on the project report of Ralph A. Beebee, dated September 3, 1936 on file at the City of Berkeley;

Thence along the southerly extension of the southwesterly line of Parcel B, South 19°56'38" East, 30.15 feet to the intersection with the centerline of Bancroft Way;

Thence along the centerline of Bancroft Way, South 75°42'45" West, 20.10 feet;

Thence along a line parallel with and 20 feet westerly from, measured at right angles, the westerly line of Parcel B, as shown and described on said Parcel Map (358 PM 26) North 19°56'38" West, 207.89 feet;

Thence continuing along a line parallel with and 20 feet westerly from, measured at right angles, the westerly line of Parcel A and B, as shown and described on said Parcel Map (358 PM 26) North 22°41'29" West, 860.26 feet;

Thence North 68°17'58" West, 15.61 feet;

Thence North 22°41'29" West, 48.61 feet;

Thence North 24°20'06" West, 60.20 feet;

Thence North 01°14'01" East, 38.74 feet;

Thence North 72°35'23" East, 14.59 feet to a point on said Allardt's Water line;

Thence along said line South 28°56'22" East, 20.41 feet;

Thence leaving said Allardt's Water line South 72°35'23" West, 4.31 feet;

Thence South 01°14'01" West, 19.84 feet;

Thence South 24°20'06" East, 55.95 feet;

Thence South 22°41'29" East, 40.49 feet;



Thence South 68°17'58" East, 15.61 feet to a point on the westerly line of said Parcel A;

Thence along the westerly line of said Parcel A and Parcel B, respectively, also being said Allardt's Water line, South 22°41'29" East, 869.15 feet;

Thence South 19°56'38" East, 180.20 feet along said Parcel B; to the **POINT OF BEGINNING**.

Containing 24,616 square feet or 0.565 acres, more or less.

END OF DESCRIPTION.

Exhibit B attached hereto and by this reference made part hereof.

For: BKF Engineers

Davis Thresh, P.L.S. No. 6868

08/21/2023
Dated

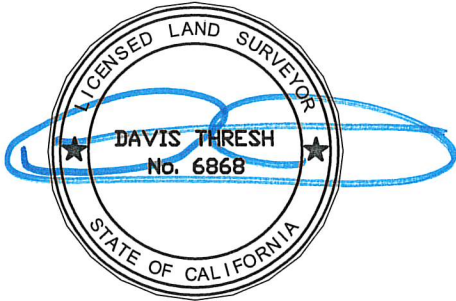


LEGEND

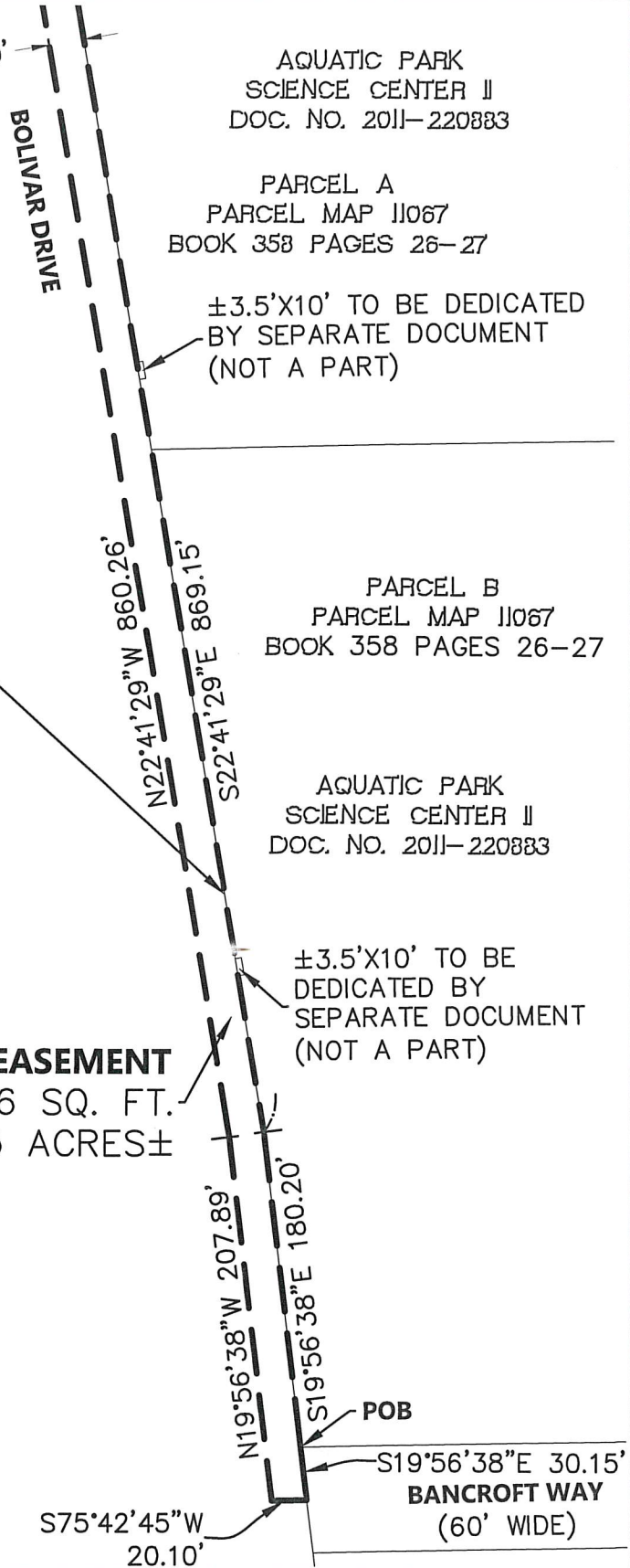
POB = POINT OF BEGINNING

----- = DESCRIBED EASEMENT
 _____ = LOT LINE

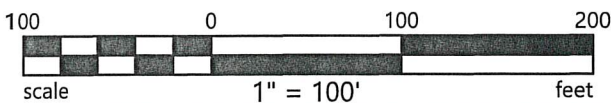
SEE SHEET 2



LOCATION OF ALLARDT'S WATERLINE DETERMINED BY "ADJUSTED COORDINATES OF STATIONS" IN RELATION TO THE COORDINATES LISTED FOR "USEFUL TRANSIT POINTS" AS SHOWN ON THE PROJECT REPORT OF RALPH A. BEEBEE, DATED SEPTEMBER 3, 1936 ON FILE AT THE CITY OF BERKELEY



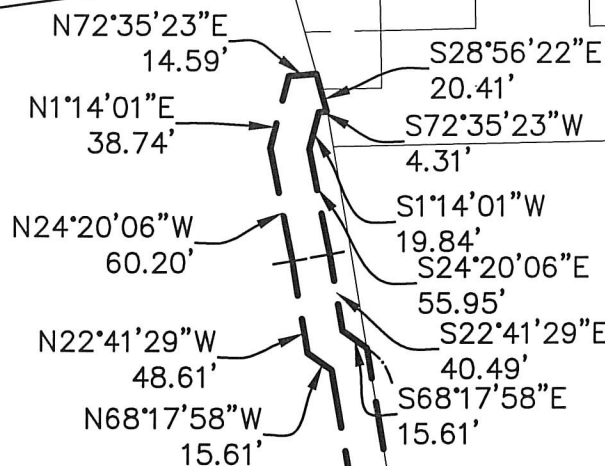
CITY OF BERKELEY
 BERKELEY AQUATIC PARK
 APN: 60-2521-3-1
 T.I.S, R.4W. LOTS 1 AND 2
 SALT MARSH AND TIDE LANDS,
 MAP NO.4
 QUITCLAIM DEED
 LIBER 3402 PAGE 25



BKF ENGINEERS
 4670 WILLOW ROAD
 SUITE 250
 PLEASANTON, CA 94588
 (925) 396-7700
 www.bkf.com

Subject EXHIBIT B
PLAT TO ACCOMPANY LEGAL DESCRIPTION
 Job No. 20191091
 By MO Date 08/21/23 Chkd. MGR
 SHEET 1 OF 2

KRISILAS & GEE
 DOC. NO. 2019-083837
 LOT 11 BLOCK 91
 19 M 79



ADDISON STREET
 (60' WIDE)

EASEMENT
 24,616 SQ. FT. ±
 0.565 ACRES ±

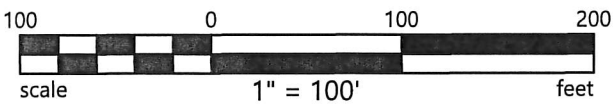
±3.5'X10' TO BE DEDICATED
 BY SEPARATE DOCUMENT
 (NOT A PART)

CITY OF BERKELEY
 BERKELEY AQUATIC PARK
 APN: 60-2521-3-1
 T.S. R.4W. LOTS J AND 2
 SALT MARSH AND TIDE LANDS,
 MAP NO.4
 QUITCLAIM DEED
 LIBER 3402 PAGE 25

AQUATIC PARK
 SCIENCE CENTER II
 DOC. NO. 2011-220883

PARCEL A
 PARCEL MAP 11067
 BOOK 358 PAGES 26-27

±3.5'X10' TO BE DEDICATED
 BY SEPARATE DOCUMENT
 (NOT A PART)



LOCATION OF ALLARDT'S WATERLINE
 DETERMINED BY "ADJUSTED COORDINATES OF
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 POINTS" AS SHOWN ON THE PROJECT
 REPORT OF RALPH A. BEEBEE, DATED
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PARCEL B
 PARCEL MAP 11067
 BOOK 358 PAGES 26-27

AQUATIC PARK
 SCIENCE CENTER II
 DOC. NO. 2011-220883

SEE SHEET 1

BKF ENGINEERS
 4670 WILLOW ROAD
 SUITE 250
 PLEASANTON, CA 94588
 (925) 396-7700
 www.bkf.com

Subject EXHIBIT B
 PLAT TO ACCOMPANY LEGAL DESCRIPTION
 Job No. 20191091
 By MO Date 08/21/23 Chkd. MGR
 SHEET 2 OF 2