



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Fred Kelley,
Director, Oakland
Department of
Transportation

SUBJECT: Vacating Utilities Easement 3511 E.
12th St. And Accepting Offer of
Dedication For Public Storm Drain
Purposes

DATE: June 15, 2023

City Administrator Approval


Jestin Johnson (Jun 15, 2023 15:34 PDT)

Date: Jun 15, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

- 1) A Resolution Vacating A Portion Of The Utilities Easement For The Fruitvale Transit Village Phase II-B Project At 3511 East 12th Street And Making Appropriate California Environmental Quality Act Findings; And**
- 2) A Resolution Accepting Irrevocable Offer Of Dedication For Public Storm Drain Purposes From The City Of Oakland As The Property Owner Of 3511 East 12th Street And Making California Environmental Quality Act Findings.**

EXECUTIVE SUMMARY

Approval of the proposed resolutions, Vacation Resolution and Acceptance Resolution, implements the Fruitvale Transit Village Phase II B Project (Project) and will authorize the City Engineer to: (a) issue a vacation permit (Permit Number PPE2100051) vacating a portion of an existing utilities easement at 3511 East 12th Street, referred to as "Utility Easement" (see **Exhibit A** to the Vacation Resolution for the legal description and map of this area); (b) accept the irrevocable offer to dedicate the relocated storm drain, referred to as the "Irrevocable Offer of Dedication" (see **Exhibit A** of the Acceptance Resolution for the legal description and map of this area); and (c) authorize the City Engineer to file certified copies of the Vacation Resolution and Acceptance Resolution with the Alameda County Clerk-Recorder for recordation.

The storm drain and electric utilities have been relocated and/or constructed for the Project and therefore, the portion of the Utilities Easement at 3511 East 12th Street to be vacated by the Vacation Resolution is no longer necessary for any future public purpose, and the Irrevocable Offer of Dedication provides the required public dedication for the relocated storm drain.

PWTC
June 27, 2023

BACKGROUND / LEGISLATIVE HISTORY

On May 6, 2015 the Project was approved by the Planning Commission with minor amendments approved by the Zoning Manager on December 15, 2017, Planning and Zoning Permit Number [PUDF01/ER08-0005](#). The Project includes approximately 181 affordable housing units and is located next to the Fruitvale Bay Area Rapid Transit (BART) Station. The development is consistent with the General Plan.

BRIDGE Housing Corporation (Developer) and the City entered into a long-term ground lease agreement for development of the Project. The ground lease agreement required relocation of the storm drain from the Utility Easement and construction of new Pacific Gas & Electric (PG&E) utilities. The Project is now under construction and the relocation of the storm drain and new PG&E utilities have been constructed. Easements for both the relocated storm drain and new PG&E service were recorded by separate documents.

Specifically, the City reserved a utility easement in East 12th Street when it vacated portions of the Public Street from East 12th Street (formerly Washington Street), between Fruitvale and 27th Avenues per Ordinance Number 12141 C.M.S., recorded August 20, 1999 as Instrument No. 99321345 (Utility Easement), to enable the Project to proceed. As noted above, the City's storm drain facility was within the Utility Easement and was relocated for the Project. A Storm Drain Easement Agreement between the City and BART was recorded on May 16, 2019, as Instrument No. 2019090609, for the portion of the new storm drain that is within BART's property. A PG&E Easement Deed for ten feet (10') in width was also recorded February 26, 2018, series no. 2018039048, by the Alameda County Clerk-Recorder. Although the storm drain was relocated, a segment of the PG&E easement shall remain in the Utility Easement as shown on **Exhibit A** to the Resolution of Acceptance.

On August 9, 2022, an Irrevocable Offer of Dedication signed by the City Administrator's Office and City Attorney's Office, for public storm drain purposes was recorded with the Alameda County Clerk-Recorder's Office, instrument number 2022140090.

On August 18, 2022 a Consent and Subordination Agreement was executed and recorded with the Alameda County Clerk-Recorder's Office, instrument number 2022144870.

The City Engineer has determined that a portion of the prior easement is no longer necessary for any future public purpose.

ANALYSIS AND POLICY ALTERNATIVES

Approval of the proposed resolutions would support the Citywide priorities of 1) **vibrant, sustainable infrastructure** and 2) **responsive, trustworthy government**. Pursuant to the California Streets and Highways Code Chapter 3, General Vacation Procedure [8320 – 8325], the City Council may adopt a resolution vacating a public use easement after the City Council conducts a public hearing by which the legislative body shall hear the evidence offered by persons interested and if the legislative body finds, from all the evidence submitted, that the street, highway or public service easement described in the notice of hearing or petition is unnecessary for present or prospective public use.

Approval of the Vacation Resolution and Acceptance Resolution will advance the Citywide priorities by allowing the owner (City of Oakland) of the property to support the development of a property that includes one hundred and eighty-one affordable housing units. The proposed development also includes upgrades to existing public infrastructure and payment of the Sewer Mitigation Fee which represents the Developer's buy-in for the cost of future City Sewer infrastructure improvements in the sub-basin where the property is located.

FISCAL IMPACT

Staff costs for processing the proposed vacation (PPE2100051) permit are covered by fees set by the Master Fee Schedule and have been paid by the Developer.

PUBLIC OUTREACH / INTEREST

Adjoining property owners were notified of the Project at the time when the Project (PUDF01/ER08-0005) was approved and later during the construction of public improvements.

COORDINATION

This report was coordinated with the Planning and Building Department, Budget Bureau, Economic and Workforce Development Department, and the Office of the City Attorney. The Office of the City Attorney has reviewed the resolutions for form and legality, and the Budget Bureau has reviewed this agenda report.

SUSTAINABLE OPPORTUNITIES

Economic – These resolutions support the development of the Project that includes approximately 181 affordable housing units, providing much-needed housing to Oakland.

Environmental – These resolutions support the Project, which was developed as a sustainable development, minimizing greenhouse gases resulting from the use of cars. The development is adjacent to the Fruitvale BART Station and Alameda County East Bay Greenway Bicycle and Pedestrian project.

Race and Equity – These resolutions support development that was approved by the City and includes approximately 181 affordable housing units.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The vacation of the public utilities easements is categorically exempt from the requirements of CEQA pursuant to Title 14 California Code of Regulations Section 15305 as a minor alteration in land use limitations. The acceptance of the Irrevocable Offer of Dedication for storm drain purposes is exempt under CEQA Guidelines Section 15304 as a minor alteration to land.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt the following pieces of legislation:

- 1) A Resolution Vacating A Portion Of The Utilities Easement For The Fruitvale Transit Village Phase II-B Project At 3511 East 12th Street And Making Appropriate California Environmental Quality Act Findings; And
- 2) A Resolution Accepting Irrevocable Offer Of Dedication For Public Storm Drain Purposes From The City Of Oakland As The Property Owner Of 3511 East 12th Street And Making California Environmental Quality Act Findings.

For questions regarding this report, please contact Ishrat Jahan, Engineering Design and Right-of-Way Supervisor at (510) 238-7116.

Respectfully submitted,

Fred Kelley

Fred Kelley (Jun 14, 2023 10:51 PDT)

FRED KELLEY

Director, Oakland Department of Transportation

Reviewed by:

Emily Ehlers, Division Manager
Department of Transportation

Prepared and reviewed by:

Ishrat Jahan, P.E., Supervising Civil Engineer,
Department of Transportation