



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2020 JAN 15 AM 10:47 **AGENDA REPORT**

TO: Sabrina B. Landreth
City Administrator

FROM: Ryan Russo
Director, DOT

SUBJECT: Summarily Vacating Utilities
Easement 3611 E. 12th St.

DATE: December 9, 2019

City Administrator Approval

Date:

1/14/2020

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Summarily Vacating a Portion Of The Utilities Easement For The Fruitvale Transit Village Phase II-A Project At 3611 East 12th Street.

EXECUTIVE SUMMARY

Approval of this Resolution will authorize the City Engineer to issue a vacation permit (Permit Number PPE1700056) summarily vacating a portion of an existing Utilities Easement at 3611 East 12th Street **Exhibit A** (Legal Description and Map) to the Resolution.

BACKGROUND / LEGISLATIVE HISTORY

On May 6 2015, the Fruitvale Transit Village Phase II A and B 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 275 affordable housing units and is located next to the Fruitvale BART Station. The development is consistent with the General Plan.

The City of Oakland is the property owner of Parcel B (APN 033-2177-021-02) located at 3611 East 12th Street, Grant Deed recorded April 28, 2017, as Instrument No. 2017-095164 Alameda County Records. East Bay Asian Local Development Corporation (EBALDC) ("Developer") and the Oakland Department of Economic and Workforce Development entered into a long term lease agreement. The Developer completed the new building construction and the relocation of the storm drain for their development of the Fruitvale Transit Village Phase II-A on Parcel B. The Developer also constructed the new Pacific Gas and Electric (PG&E) services for the project. Easements for both the relocated storm drain and new PG&E service were recorded by separate documents.

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ANALYSIS AND POLICY ALTERNATIVES

Portions of the Public Street from East 12th Street (Washington Street) between Fruitvale and 27th Avenue were previously vacated by Ordinance Number 12141 C.M.S. and recorded August 20, 1999, as Instrument No. 99321345. Reserved from the Public Street vacation was the Utilities Easement.

The City's storm drain facility was within the Utilities Easement and was relocated for the Fruitvale Transit Village Phase II-A 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 Alameda County Clerk-Recorder. Identified on the Exhibit A map is the segment of the PG&E easement that shall remain.

The portion of the Utilities Easement at 3611 East 12th Street is no longer necessary for any future public purpose.

Pursuant to the California Streets and Highways Code, sections 8333, the legislative body of a local agency may summarily vacate public right-of-way when the easement has been superseded by relocation and there are no other public facilities located within the easement that do not have a separately recorded dedicated easement deed.

Per Streets and Highways Code, in order to summarily vacate a street right- of- way, the City Council is required to pass a Resolution. In accordance with the Streets and Highway Code Section 8336, the Resolution approving a vacation must be recorded no later than 365 days after the approval.

FISCAL IMPACT

Staff costs for processing the proposed summary vacation (PPE1700056) permit are covered by fees set by the Master Fee Schedule and have been paid by the Applicant.

PUBLIC OUTREACH / INTEREST

Adjoining property owners were notified of the project at the time when the Fruitvale Transit Village Phase II-A (PUDF01/ER08-0005) was approved and later during the construction of public improvements.

COORDINATION

The permit application was coordinated with Planning and Building Department, Budget Bureau, Economic and Workforce Development, and the Office of the City Attorney. The Office of the City Attorney has reviewed the resolution for form and legality, and the Controller's Bureau has reviewed this agenda report.

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SUSTAINABLE OPPORTUNITIES

Economic – The Fruitvale Transit Village Phase II-A project includes approximately 275 affordable housing units. The development is next to the Fruitvale BART Station and County East Bay Greenway Bicycle and Pedestrian project.

Environmental – No significant impact on the environment is identified.

Race and Equity – The development was approved by Planning Department and includes affordable housing.

CEQA (California Environmental Quality Act)

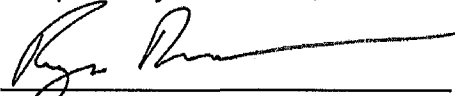
The summary vacation of the public utilities easements is categorically exempt from the requirements of CEQA pursuant to Title 14 California Code of Regulations Section 15305 as a minor alteration in land use limitations.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Approve A Resolution Summarily Vacating a Portion Of The Utilities Easement For The Fruitvale Transit Village Phase II-A Project At 3611 East 12th Street.

For questions regarding this report, please contact Chong Hong, Acting Supervising Civil Engineer at (510) 238-3892.

Respectfully submitted,



RYAN RUSSO
Director, Department of Transportation

Reviewed by:
Wladimir Wlassowsky, P.E., Assistant Director,
Department of Transportation

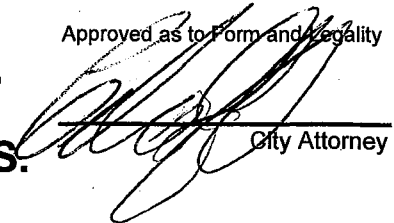
Reviewed by:
Ariel Espiritu Santo,
Strategic Planning and Administration Manager,
Department of Transportation

Prepared and reviewed by:
Chong Hong, Acting Supervising Civil Engineer,
Department of Transportation

OAKLAND CITY COUNCIL

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RESOLUTION No. _____ C.M.S.



City Attorney

Introduced by Councilmember _____

RESOLUTION SUMMARILY VACATING A PORTION OF THE UTILITIES EASEMENT FOR THE FRUITVALE TRANSIT VILLAGE PHASE II-A PROJECT AT 3611 EAST 12TH STREET

WHEREAS, the City of Oakland ("Owner") is the owner of Parcel B and which is described in a Grant Deed, recorded April 28, 2017, series no. 2017095164, by the Alameda County Clerk-Recorder, and which is further identified by the Alameda County Assessor as parcel number 033-2177-021-02 ("Subject Property"); and

WHEREAS, the existing Utilities Easement on the Subject Property is located at 3611 East 12th Street and more particularly described in **Exhibit A** attached hereto; and

WHEREAS, the East Bay Asian Local Development Corporation (EBALDC) ("Developer") and the Oakland Department of Economic and Workforce Development entered into a long-term lease agreement; and

WHEREAS, the Developer completed the relocation of the storm drain when constructing the new building for the Fruitvale Transit Village Phase II-A on the Subject Property; and

WHEREAS, the Developer completed construction for PG&E service on the subject property and a PG&E Easement Deed for ten feet (10') in width was recorded February 26, 2018, series no. 2018039048, by Alameda County Clerk-Recorder; and

WHEREAS, the segment of the PG&E easement shall remain, is approximately twelve feet (12') in length within the public utilities easement, is identified on **Exhibit A**, Map attached hereto; and

WHEREAS, the Developer has filed an application (PPE1700056) with the City of Oakland, as required by the California Streets and Highway Code, and paid all fees as required by the Master Fee Schedule, requesting that the Council to formally summarily vacate a portion of the Utilities Easement no longer needed for public purposes; and

WHEREAS, the California Streets and Highways Code, sections 8333, the legislative body of a local agency may summarily vacate a public utilities easement that has been superseded by relocation and there are no other public facilities located within the easement that do not have a separately recorded dedicated easement deed; and

WHEREAS, pursuant to California Streets and Highways Code section 8330, the City Engineer has determined that said portion of the utilities easement proposed for vacation be summarily vacated by this Resolution; and

WHEREAS, in accordance with Government Code section 65402, the Planning Commission considered the proposed vacation and found it to be consistent with the General Plan; and

WHEREAS, in accordance with Streets and Highways Code section 8313, the City Council has considered the proposed vacation and finds that it conforms to the General Plan; and

WHEREAS, the Director of Transportation had determined that the proposed vacation of said utilities easement of the subject property is no longer necessary for any future public purpose; and be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the utilities easement vacation that is the subject of this Resolution, and finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and be it

FURTHER RESOLVED: That the Council of the City of Oakland finds and determines that the decision made hereby is made in conformance with the requirements of CEQA; and be it

FURTHER RESOLVED: That the summary vacation of the utilities easement, without valuable consideration to the City, as described and delineated in the attached **Exhibit A**; and be it

FURTHER RESOLVED: That this resolution shall take effect immediately upon the approval of the City Council and recordation of this Resolution with the Office of the Alameda County Recorder; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland; and be it

FURTHER RESOLVED: That the Director of Transportation is hereby directed to file a certified copy of this Resolution for recordation with the Office of the Alameda County Recorder as an encumbrance of the title of the property identified above.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

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PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO
AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A: Legal Description and Map

EXHIBIT A
Legal Description

EXHIBIT "A"

LEGAL DESCRIPTION

**UTILITIES EASEMENT ABANDONMENT
OVER PARCEL B
FRUITVALE TRANSIT VILLAGE II-A**

Real Property in the City of Oakland, County of Alameda, State of California, described as follows:

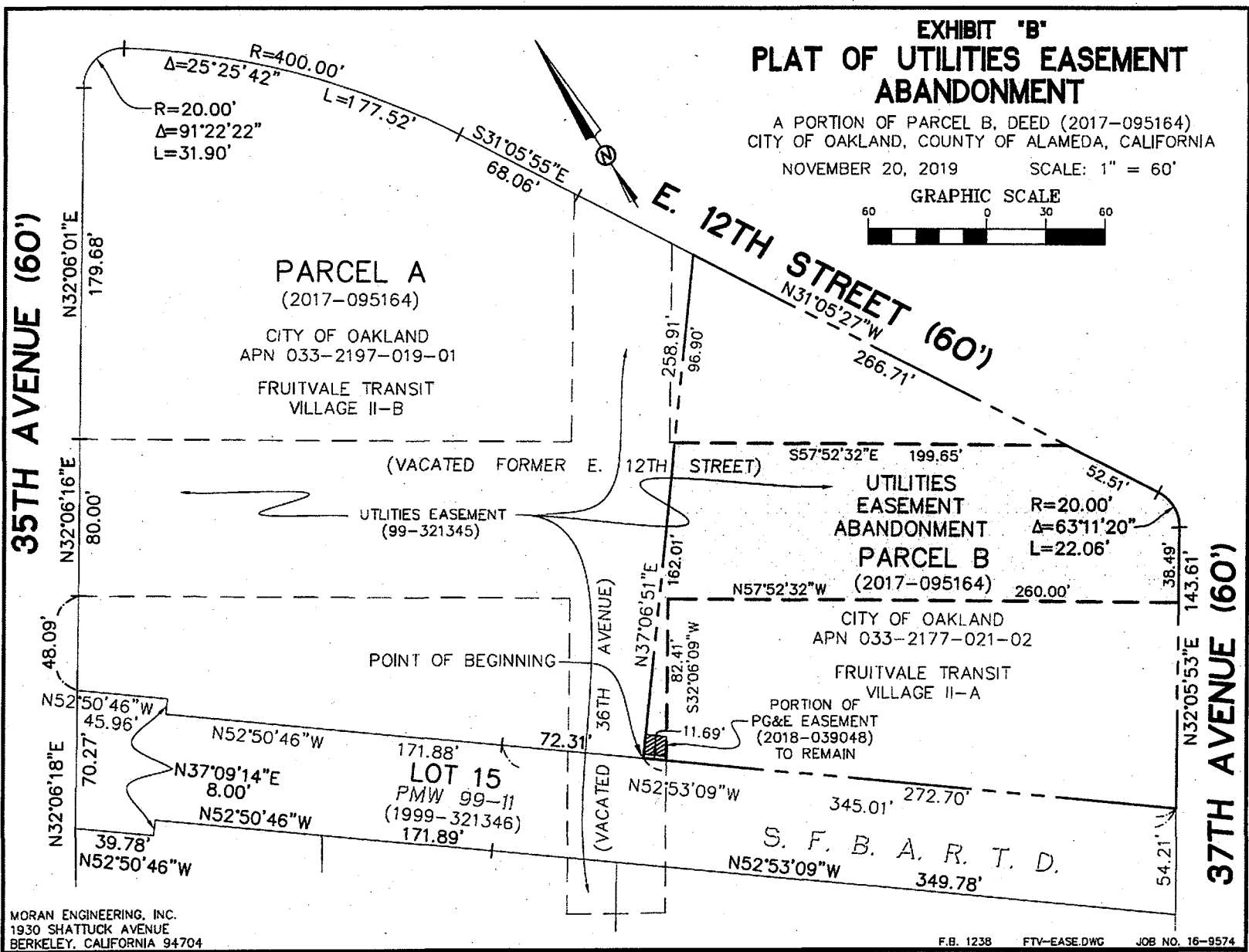
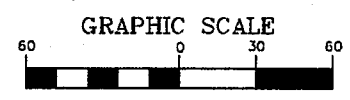
All that portion of Parcel B, as said parcel is described in the deed from and to the City of Oakland, a municipal corporation, recorded April 28, 2017 as Instrument No. 2017-095164, Alameda County Records, lying within the following described area:

Beginning at the western corner of said Parcel B; thence along the northwestern line of said parcel North 37° 06' 51" East, 162.01 feet to the northeastern line of former East 12th Street, previously Washington Street, as said Street is shown on the "Map of the Fruitvale Terminal Tract" filed December 7, 1895 in Book 15 of Maps, Page 41, Alameda County Records, now vacated by City Ordinance 12141, recorded August 20, 1999 as Instrument No. 99321345, Alameda County Records; thence along said line South 57° 52' 32" East, 199.65 feet to the northeastern line of said Parcel B, said line also being the southwestern line of East 12th Street, as it now exists; thence along said line South 31° 05' 27" East, 52.51 feet; thence southerly along the arc of a tangent curve to the right, having a radius of 20.00 feet, through a central angle of 63° 11' 20", a length of 22.06 feet to the northwestern line of 37th Avenue, formerly Merrill Street, as said Street is shown on said map; thence along said line South 32° 05' 53" West, 38.49 feet to the southwestern line of said vacated former East 12th Street; thence along said line North 57° 52' 32" West, 260.00 feet to the southeastern line of 36th Avenue, as shown on said map and vacated by said Ordinance; thence along said line South 32° 06' 09" West, 82.41 feet to the southwestern line of said parcel; thence along said line North 52° 53' 09" West, 11.69 feet to the Point of Beginning.

The above described area is shown on Exhibit "B", attached hereto and made a part hereof.

EXHIBIT 'B'
PLAT OF UTILITIES EASEMENT
ABANDONMENT

A PORTION OF PARCEL B, DEED (2017-095164)
 CITY OF OAKLAND, COUNTY OF ALAMEDA, CALIFORNIA
 NOVEMBER 20, 2019 SCALE: 1" = 60'



MORAN ENGINEERING, INC.
 1930 SHATTUCK AVENUE
 BERKELEY, CALIFORNIA 94704

F.B. 1238 FTV-EASE.DWG JOB NO. 16-9574

EXHIBIT A (continued)
 Map

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