

RESOLUTION NO. 2223-52

RESOLUTION OF THE GOVERNING BOARD OF THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT DECLARING ITS INTENT TO GRANT AN EASEMENT TO THE CITY OF SAN PABLO AT LAKE ELEMENTARY SCHOOL FOR ACCESS, MAINTENANCE AND REPAIR OF STORMWATER DRAIN LINES

WHEREAS, the West Contra Costa Unified School District (“**District**”) owns real property located at 2700 11th Street, San Pablo, California (A.P.N.: 412-050-001) commonly known as the Lake Elementary School (“**District Property**”); and

WHEREAS, the City of San Pablo, a municipal corporation organized and existing under the laws of the State of California (“**City**”), is the owner of the municipal stormwater drainage system which currently runs, in part, underneath a portion of the District Property and which the District plans to relocate as part of the District’s Lake Elementary School Campus Replacement Project, Project No. 1000003734 (“**Storm Drain**”); and

WHEREAS, the City requires a non-exclusive easement on, over, under and through portions of the District Property and necessary right-of-way for access to the Storm Drain for the purposes of its operation, maintenance and repair of the Storm Drain (“**Easement**”); and

WHEREAS, the proposed description and location of the Easement is set forth in **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the District does not need the Easement area for classroom buildings or educational purposes; and

WHEREAS, the District may grant the Easement if, after adoption of this Resolution of Intent, publication of notice, and public hearing, the District’s Governing Board adopts a resolution by a two-thirds vote of its members, the authorizes and directs the grant of Easement; and

WHEREAS, notice of the Governing Board’s intent to grant the Easement (“**Notice**”) will be given pursuant to Education Code §17558 by posting copies of this Resolution signed by the members of the Governing Board, in three (3) public places in the District not less than ten (10) days before the date of the Public Hearing, and by publishing the Notice once not less than five (5) days before the date of the Public Hearing in a newspaper of general circulation; and

WHEREAS, the Public Hearing will be held on March 15, 2023, at 6:30 p.m., or as soon thereafter as the matter may be heard in the Lovonya DeJean Middle School Multipurpose Room, located at 3400 Macdonald Avenue, Richmond, CA 94805.

NOW THEREFORE, BE IT RESOLVED, that the District’s Governing Board hereby finds, determines, declares, orders and resolves as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The real property upon which the Easement is to be located is not needed for school classroom buildings or educational purposes.

Section 3. The District intends to grant and convey the Easement.

Section 4. The Associate Superintendent, Operations, or designee is hereby authorized to provide public notice as required by Education Code §17588.

Section 5. The District's Governing Board will hold a public hearing on March 15, 2023, at 6:30 p.m. at its regular place of meeting for receipt of public comment and will consider authorizing the grant and conveyance of the Easement from the District to the City of San Pablo in accordance with the Grant of Easement attached hereto as **Exhibit B**.

APPROVED, PASSED AND ADOPTED by the Governing Board of the West Contra Costa Unified School District on this 1st day of March 2023, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

Board of Education Members Signatures:

Demetrio Gonzalez Hoy, President _____

Jamela Smith-Folds, Clerk _____

Otheree Christian, Member _____

Mister Phillips, Member _____

Leslie Reckler, Member _____

ATTEST:

Jamela Smith-Folds
Clerk, Governing Board
West Contra Costa Unified School District

**EXHIBIT A
EASEMENT**

EXHIBIT "A"
LEGAL DESCRIPTION
FOR: STORM DRAINAGE PURPOSES
(AFFECTING APN: 412-050-001)

The following describes a parcel of land situate within the City of San Pablo, County of Contra Costa, State of California, more particularly described as follows:

Beginning at the northeasterly corner of the parcel of land described in the deed from West Contra Costa Unified School District to the City of San Pablo, filed for record on September 6, 2007 as document 2007-0253529, said point also being coincident with the northerly line of Lot 215 as shown on Record of Survey No. 4282, filed on June 16, 2022 in Book 164 of licensed land surveyors maps at page 43 and 44, being more particularly described as follows; thence leaving said northerly line of Lot 215

- a) South 30°33'00" West 13.00 feet, to the TRUE POINT OF BEGINNING of this description; thence
 - 1) South 59°27'00" East 241.89 feet; thence
 - 2) North 30°33'00" East 13.00 feet to said northerly line of Lot 215; thence along said northerly line of Lot 215
 - 3) South 59°27'00" East 10.00'; thence
 - 4) South 30°33'00" West 13.00 feet; thence parallel to said northerly line of Lot 215
 - 5) South 59°27'00" East 28.10 feet; thence
 - 6) North 30°32'58" East 13.00 feet to said northerly line of Lot 215; thence along said northerly line of Lot 215
 - 7) South 59°27'00" East 10.00'; thence
 - 8) South 30°33'00" West 13.00 feet; thence
 - 9) South 71°38'21" East 61.16 feet to said northerly line of Lot 215; thence along said northerly line of Lot 215
 - 10) South 59°27'00" East 37.50 feet; thence
 - 11) South 30° 37.50 feet; thence
 - 12) South 30°33'00" West 10.00 feet; thence
 - 13) North 59°27'00" West 36.80 feet; thence
 - 14) North 71°38'21" West 61.57 feet; thence parallel to said northerly line of Lot 215
 - 15) North 59°27'00" West 453.51 feet to the easterly line of said land described in document 2007-0253529; thence along said easterly line
 - 16) North 30°33'00" East 10.00' to the TRUE POINT OF BEGINNING of this description

Containing 5,779 square feet of land, more or less.

The bearings used are based on aforesaid deed from West Contra Costa Unified School District to the City of San Pablo, filed for record on September 6, 2007, as document 2007-0253529, Contra Costa County Records.

EXHIBIT "B" is attached hereto and made a part hereof.

SURVEYOR'S CERTIFICATE

I hereby certify that this description was prepared by me or under my direct supervision and is accurate to the best of my knowledge and belief.

RYAN A. MIX, P.L.S. 8743

Date

M&N CONSULTING SERVICES, INC.
PROFESSIONAL LAND SURVEYING SERVICES
322 N. 18TH STREET, SAN JOSE, CA 95112
MANDNCINC@GMAIL.COM/(669)222-1911

EXHIBIT B
GRANT OF EASEMENT

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

West Contra Costa Unified School District
1400 Marina Way South
Richmond, CA 94804
Attn: Associate Superintendent of Operations

APN: 412-050-001

**Exempt from recording charges pursuant to
Government Code Section 27383; exempt from
documentary transfer tax pursuant to
California Revenue and Taxation Code
Section 11922.**

**SPACE ABOVE THIS LINE FOR
RECORDER'S USE ONLY**

GRANT OF EASEMENT

THIS EASEMENT is entered into this ____ day of _____, 2023, by and between the WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, a California public school district ("**District**"), and the CITY OF SAN PABLO, a California municipality ("**City**"). District and City may be referred to herein individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. District is the current owner of that certain real property located at 2700 11th Street, City of San Pablo, County of Contra Costa, State of California and commonly known as the Lake Elementary School site ("**District Property**").

B. City is the owner of the municipal storm water drainage system which currently runs, in part, underneath a portion of the District Property and which the District plans to relocate as part of the District's Lake Elementary School Modernization Project ("**Storm Drain**").

C. City requires a non-exclusive easement on, over, under and through those portions of the District Property, as legally described in **Exhibit A** and as depicted in **Exhibit B** ("**Easement**") for access to the Storm Drain for the purpose of its operation, maintenance and repair. Exhibits A and B are incorporated herein and made a part hereof by reference.

D. District is willing to grant City, and City is willing to accept, this Easement on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

AGREEMENT

1. Grant of Easement. District hereby grants and conveys unto City, its successors, assigns and agents, a non-exclusive easement on, over, under and through the District Property as set forth in Exhibits A and B for the purpose of operating, maintaining and repairing the Storm Drain. As used herein, “repairing” the Storm Drain may include removal, modification, reinstallation and/or replacement of Storm Drain components. City shall also have reasonable rights of ingress and egress, consistent with the purpose of this Easement, for the purpose of operation, maintenance and/or repair of the Storm Drain. City acknowledges that the District Property is an operating school site and agrees that City will use all reasonable and practicable efforts to conduct any activity allowed hereunder at times and in a manner that does not unreasonably disrupt the educational programs taking place on the District Property.

1.1. The Parties acknowledge that certain private and public improvements exist in the Easement area as of the Effective Date and are planned to be constructed by the District as part of the District’s Lake Elementary School Campus Replacement project, Project No 1000003734. The Parties further acknowledge that District shall have the right to construct and/or install any and all other improvements within the Easement area, including, without limitation, roadways, paved driveways, parking and/or walkways; and landscaping, lighting and/or similar improvements; provided, however, the construction and maintenance of such improvements shall not adversely affect or otherwise substantially interfere with City’s use of the Easement, including, without limitation, obstructing any clean-outs of the Storm Drain. Any improvements constructed within the Easement area after the Effective Date shall be approved in writing by the City or the City shall have no obligation to repair or replace said improvements in the event the same are damaged or destroyed in connection with City’s use of the Easement.

1.2. This Easement and all covenants and restrictions contained herein shall, to the fullest extent permitted by law and equity and without regard to technical classifications or designations, be deemed to be covenants and restrictions running with the land of the District Property and shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

2. Operation, Maintenance & Repair Activities.

2.1. City shall provide District with thirty (30) calendar days’ prior written notice before commencing any maintenance or repair of the Storm Drain on the District Property; provided however, in the event that any emergency maintenance or repair needs to be performed, City will provide District with twenty-four (24) hours’ verbal notice, if reasonably feasible. City will use all reasonable and practicable efforts to conduct any activity allowed hereunder at times and in a manner that does not unreasonably disrupt the educational programs taking place on the District Property. City will comply with any fingerprinting and background check requirements requested by District if City’s activities hereunder occur at times District pupils are present on the District Property.

2.2. In the performance of any maintenance or repair of the Storm Drain all reasonable efforts shall be taken to avoid damage to the District Property including exploring and giving priority to any reasonable alternatives to perform the maintenance or repair without disturbing or causing damage to the District Property. Except as otherwise set forth in Section 1.1 hereof, in the event the District Property is disturbed or damaged during the performance of maintenance or repair by the City, City shall repair or cause to be repaired the District Property, to its then-existing condition at the time the maintenance or repair of the Storm Drain was performed. City shall coordinate with District, and the Parties shall cooperate in conducting any repairs to the District Property.

3. Term of Easement. This Easement shall commence upon the date of its recording in the Official Records (“**Effective Date**”) and shall perpetually and continuously remain in effect unless sooner terminated or extinguished by mutual written agreement of the Parties. In the event the Parties mutually agree to terminate this Easement, the Parties agree to execute in a recordable form any document requested by either Party acknowledging the partial or complete termination of this Easement. In the event of termination of this Easement, City and its successors and assigns forfeit all right, title and interest in the Easement and such rights, title and interests shall revert back to District.

4. Notices. Any notice, request, demand or other communication required or permitted to be given under this Easement shall be in writing and shall be deemed to have been duly given on the date of delivery if delivered personally to the Party to whom notice is to be given (including messenger or recognized delivery or courier service) or on the second day after mailing, if mailed to the Party to whom notice is to be given, by first-class mail, postage prepaid, and properly addressed as follows:

District

West Contra Costa USD
Associate Superintendent of Operations
1400 Marina Way South
Richmond, CA 94804
(510) 307-4545

City

City of San Pablo
Attention: City Manager
1000 Gateway Avenue
San Pablo, CA 94806
(510) 215-3000

5. Amendment and Termination. This Easement may be amended only by a written agreement signed by the Parties.

6. Binding Effect. Unless terminated pursuant to the terms of this Easement, the provisions of this Easement shall constitute covenants running with the land with respect to the District Property and the Easement, respectively, for the reciprocal burden and benefit of those properties, and shall be binding on each successive owner, during their ownership, of any portion of the District Property and the Easement, respectively, and on each person or entity having any interest in this Easement derived through any owner of the District Property and the Easement, respectively.

7. Governing Law. This Easement, and the Parties' performance under this Easement, will be exclusively governed by the laws of the State of California without regard to its conflict of law provisions.

8. Counterparts. This Easement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

9. Integration. This Easement contains the entire agreement of the Parties with respect to the subject matter described herein, and supersedes all previous communications, representations, understandings, and agreements, whether verbal, written, express, or implied, between the Parties with respect to the subject matter.

10. Authority. Each signatory below represents that signatory has the authority to bind the Party to this Easement on whose behalf the signatory is executing this Easement.

The Parties hereto have executed this Easement for the purpose of agreeing to be bound by the provisions hereof, as of the Effective Date.

**WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT, a California public
school district**

**CITY OF SAN PABLO, a California
municipality**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT “A”

LEGAL DESCRIPTION OF EASEMENT AREA

EXHIBIT "A"
LEGAL DESCRIPTION
FOR: STORM DRAINAGE PURPOSES
(AFFECTING APN: 412-050-001)

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EXHIBIT "B" is attached hereto and made a part hereof.

SURVEYOR'S CERTIFICATE

I hereby certify that this description was prepared by me or under my direct supervision and is accurate to the best of my knowledge and belief.

RYAN A. MIX, P.L.S. 8743

Date

EXHIBIT “B”

DEPICTION OF EASEMENT AREA

M&N CONSULTING SERVICES, INC.
PROFESSIONAL LAND SURVEYING SERVICES
322 N. 18TH STREET, SAN JOSE, CA 95112
MANDNCINC@GMAIL.COM/(669)222-1911

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

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 SOLANO) SS.

On _____, 20__ before me, _____
 _____ (insert name and title of the officer) personally
 appeared _____, 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.

Notary Public

Commission expires _____, 20____