

ORDINANCE NO. 7,987-N.S.

AMENDMENT TO THE GROUND LEASE AT 400 GILMAN STREET (TOM BATES REGIONAL SPORTS COMPLEX)

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

Section 1. FINDINGS:

1. City Council adopted Ordinance No. 6,978-N.S. on May 24, 2007, which authorized the City Manager to enter into a Ground Lease with East Bay Regional Park District for real property located at 400 Gilman Street, also known as the Tom Bates Regional Sports Complex.
2. The City and East Bay Regional Park District executed an Amendment to the Ground Lease dated April 20, 2009, and a second Amendment to the Ground Lease dated June 30, 2010. These amendments added 11,027 square feet of land to the Premises and approved additional sports field development.
3. The East Bay Regional Park District adopted Ordinance No. 2023-02-025 on February 7, 2023, which authorized the agency's General Manager to amend the Ground Lease as set forth in Exhibit A.
4. The City will construct improvements on the property, which include a meeting room, bathrooms, plaza, storage room, up to eight pickleball courts, a grass youth soccer field, and associated ramps, stairs, fences, and gates. Construction of these improvements may not commence until the Amendment to the Ground Lease is executed by the City Manager.

Section 2. AUTHORIZATION FOR CITY MANAGER TO EXECUTE AN AMENDMENT TO THE GROUND LEASE AT 400 GILMAN STREET.

The City Manager is hereby authorized to execute an amendment to the Ground Lease with East Bay Regional Park District for real property located at 400 Gilman Street, also known as the Tom Bates Regional Sports Complex. Such amendment shall be on substantially the terms set forth in Exhibit A.

Section 3. 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.

At a regular meeting of the Council of the City of Berkeley held on October 28, 2025, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Blackaby, Humbert, Kesarwani, Lunaparra, O'Keefe, Taplin, Tregub, and Ishii.

Noes: None.

Absent: None.

**AMENDMENT #3 TO GROUND LEASE
Tom Bates Regional Sports Complex**

This Third Amendment to the Ground Lease executed March 20th, 2007 is made by and between the East Bay Regional Park District, a California special district (“District”) and the City of Berkeley, a political subdivision of the State of California, hereinafter called (“Lessee”), together the “PARTIES”.

RECITALS

WHEREAS, District is the owner of that certain 15.73-acre property (hereinafter called “Premises”) in the City of Berkeley, adjacent to Gilman Street and the Interstate 80 Frontage Road, also identified as Alameda County Assessor’s Parcel Number 060 -2529-001-06; and

WHEREAS, the District and Lessee executed a Ground Lease (“Lease”) in 2007, granting to the Lessee the right to develop and operate public sports fields and related facilities upon the Premises through March 19th, 2032. The Lessee opened the Tom Bates Regional Sports Complex in 2008; and

WHEREAS, the District and Lessee entered into a First Amendment to the Ground Lease dated April 20, 2009, and a Second Amendment to the Ground Lease dated June 30, 2010. These amendments added 11,027 square feet of land to the Premises and approved additional sports field development; and

WHEREAS, the Measure T1 bond ordinance passed by Berkeley voters in 2016 requires that the Lessee have in place a formal land tenure agreement for the 30-year length of the bond, necessitating an extension of the Ground Lease term; and

WHEREAS, the Gilman Street / Interstate 80 Interchange Improvement Project, initiated by the Alameda County Transportation Commission, in collaboration with the Lessee and the District, has resulted in the construction of a new segment of the San Francisco Bay Trail upon the northern portion of the Premises; and

WHEREAS, the District is planning to develop its adjacent North Basin Strip property with a variety of recreational amenities including a public restroom, and will therefore require the installation of a sanitary sewer line across the Premises.

Now, therefore, the PARTIES agree as follows:

AMENDMENT

Pursuant to East Bay Regional Park District Board of Directors Resolution No. 2023-02-025, adopted on February 7, 2023, the District and Lessee agree as follows:

1. Section 2.1 of the Lease is replaced in its entirety with the following:
Term. The term of this Lease (“Term”) shall commence on March 20, 2007 (“Commencement Date”) and shall expire on December 31, 2053. The expiration of the Term or the sooner termination of this Agreement shall be referred to as “Lease Termination.”
2. Section 5.1.3 of the Lease is replaced in its entirety with the following:
Subsequent Improvements. The “Phase Two Improvements” include a meeting room, bathrooms, plaza, storage room, six pickleball courts, grass soccer field, and associated ramps, stairs, fences, and gates and are depicted in Exhibit A to this Amendment. Lessee shall bear the sole cost of constructing the Phase Two Improvements. The Lessee’s Phase Two Improvements shall include a gate for a future connection to the North Basin Strip area and a sanitary sewer line extension to an agreed upon point along the boundary between the Premises and the District’s North Basin Strip property. The District and Lessee shall pay for installation costs and service charges of the sanitary sewer line extension on a pro-rata basis as described in 4.4 of the Lease.
3. Section 5.2 of the Lease is replaced in its entirety with the following:
Design Approval; Construction Plans. For any new Improvements to the Premises, Lessee shall submit 30% construction or other plans to the District for review and conceptual approval, which will not be unreasonably withheld, additionally Lessee shall submit 95% plans for review for consistency with Park District standards prior to permit application. Lessee shall be responsible for obtaining all required building inspections and permits as applicable, as well as complying with all applicable laws. Lessee shall submit as-built designs to the District after the Improvements are complete.
4. Section 5.3 of the Lease is replaced in its entirety with the following:
Bids; Awards of Contracts. Lessee shall comply with all applicable requirements regarding competitive bidding for the Project. To the extent that any cost-share between the Lessee and District applies, Lessee shall present estimated costs to the District at least 60 days in advance of the start of work.
5. Section 5.4 of the Lease is replaced in its entirety with the following:
Changes and Alterations to Approved Construction Plans. Lessee shall notify the District of any major changes to the approved plans during construction and shall cloud changes in the as-built drawings.

REAFFIRMATION OF GROUND LEASE

The PARTIES hereby acknowledge and agree that the Lease, as modified by this Third Amendment, is hereby reaffirmed, ratified, and confirmed in its entirety. Except as modified by this Amendment, the terms and provisions of the Lease shall remain unchanged and in full force and effect. If there is any conflict between the terms and provisions of the Lease and this Amendment, the terms and provisions of this Amendment shall control and prevail.

IN WITNESS HEREOF, the PARTIES have fully executed this Amendment as of the date last signed below.

CITY OF BERKELEY

By: _____
Paul Buddenhagen, City Manager

Attest:

By: _____
Mark Numainville, City Clerk

Approved as to Form:

By: _____

EAST BAY REGIONAL PARK DISTRICT

By: _____
Sabrina Landreth, General Manager

Approved as to Form:

By: _____
Jason Rosenberg, Assistant General Counsel

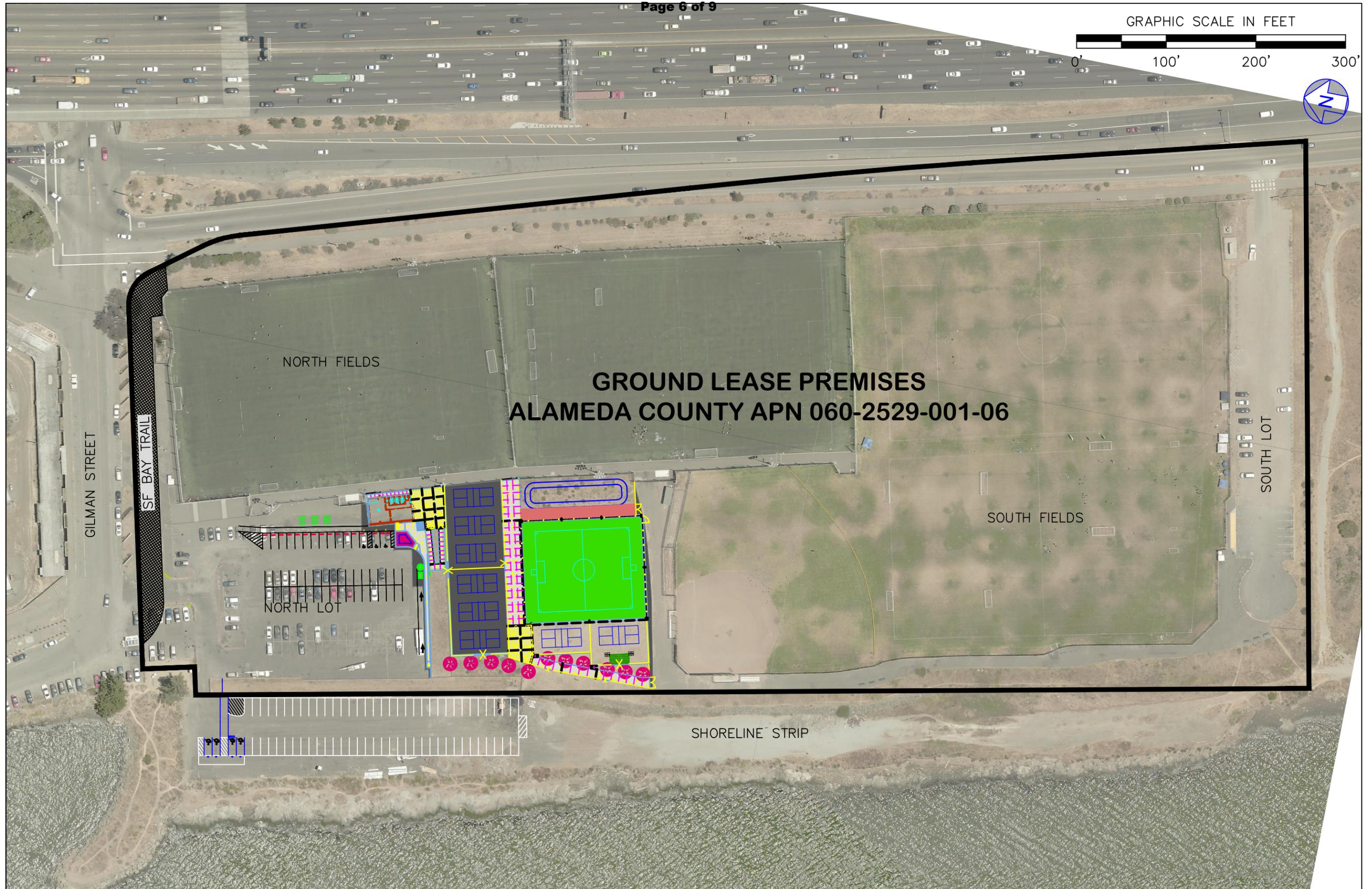


EXHIBIT A: GROUND LEASE PREMISES AND PHASE TWO IMPROVEMENTS

EAST BAY REGIONAL PARK DISTRICT

ORDINANCE NO.: 2023 – 02 – 025

February 7, 2023

AUTHORIZATION TO AMEND THE GROUND LEASE WITH THE CITY OF BERKELEY AT
THE TOM BATES REGIONAL SPORTS COMPLEX SITE TO EXTEND THE TERM OF THE
LEASE THROUGH DECEMBER 31, 2053 AND TO GRANT A LICENSE AGREEMENT FOR
TEMPORARY PARKING:
MCLAUGHLIN EASTSHORE STATE PARK REGIONAL SHORELINE

WHEREAS, in December 2003, the East Bay Regional Park District (Park District) purchased a 15.73-acre property adjacent located south of Gilman Street and west of Interstate 80 from MEC Landholdings, LLC and then entered into a joint powers agreement (JPA) with the cities of Berkeley, Albany, El Cerrito, Emeryville, and Richmond for the development and operation of sports fields on the property; and

WHEREAS, the Park District and City of Berkeley (City) then entered into a Cooperative Funding Agreement which enabled the City to design and construct the sports fields and facilities; and

WHEREAS, in 2007, by No. 2007-03-070, the Park District Board of Directors authorized a 25-year Ground Lease with the City of Berkeley for the City's operation and maintenance of the Tom Bates Regional Sports Complex at the site; and

WHEREAS, Phase I of the project included the design and construction of two artificial turf soccer fields, two grass soccer fields, a grass softball field, and parking for well over one hundred cars; and

WHEREAS, Phase II of the project will include much-needed restroom facilities, a fieldhouse with storage, classroom and office space, a youth soccer field, and pickleball courts; and

WHEREAS, the City plans to fund the Phase II improvements with its local City Measure T1 bond program, passed by Berkeley voters in 2016, and because that bond measure requires that the City have a formal land tenure agreement for the 25- to 30-year length of the bond, the City has requested an early extension of the Ground Lease, which is set to expire on March 19, 2032; and

WHEREAS, the proposed amendment would extend the current term of the Ground Lease through December 31, 2053, to satisfy the land tenure requirement of the bond measure, while the City would retain the option to extend the Ground Lease up to an additional 25 years upon mutual agreement by the Park District and the City; and

WHEREAS, the City is also requesting the use of an approximately one-half acre portion of the adjacent "North Basin Strip" located within McLaughlin Eastshore State Park Regional Shoreline (MESP) to serve as a temporary parking lot for sports complex visitors during the project construction period, and the grant of a license agreement to the City for this purpose is a permissible action under the terms of the 2002 MESP General Plan; and

WHEREAS, the extension of the term of the Ground Lease is categorically exempt from California Environmental Quality Act (CEQA) requirements for preparing and processing environmental documentation pursuant to Section 15301 of State CEQA Guidelines which in part exempts the leasing of existing public facilities, and the City of Berkeley will be the lead agency responsible for compliance under CEQA for the planned Phase II improvements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes the General Manager to amend the City of Berkeley's Ground Lease at the Tom Bates Regional Sports Complex site to extend the term of the lease through December 31, 2053, while retaining the City's option to further extend the Ground Lease up to an additional 25 years upon mutual agreement by the Park District and the City; and

BE IT FURTHER RESOLVED that the General Manager is hereby authorized to grant a license agreement to the City for the use of an approximately one-half acre area, located adjacent to the sports complex and within McLaughlin Eastshore State Park Regional Shoreline, to serve as a temporary parking lot for sports complex visitors during the project construction period; and

BE IT FURTHER RESOLVED that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director Corbett, seconded by Director Echols, and adopted this 7th day of February, 2023 by the following vote:

FOR: Colin Coffey, Ellen Corbett, Elizabeth Echols, Dee Rosario, Dennis Waespi, Olivia Sanwong, John Mercurio.

AGAINST: None.
ABSTAIN: None.
ABSENT: None.


Dennis Waespi
Board President

CERTIFICATION
I, Yolande Barial Knight, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2023-02-025 adopted by the Board of Directors at a regular meeting held on February 7, 2023


Tom Bates Regional Sports Complex Lease Renewal

McLaughlin Eastshore State Park



0 100 Feet



