Office of the City Manager

# REVISED
# AGENDA MATERIAL

**Meeting Date:** **March 25, 2014**

**Item Number:** **26.a**

**Item Description:** **Use Permit No. 2014-0005: Youth Musical Theater at 2925-2945 Bolivar Drive, Aquatic Park**

**Submitted by:** **Eric Angstadt, Director, Planning and Development Department**

REVISIONS TO MARCH 25, 2014 STAFF REPORT RECOMMENDATION

The staff report included information regarding the public trust status of Aquatic Park. Due to the determination that Aquatic Park is not subject to the Public Trust Doctrine, the staff recommendation should be revised to ask the Council to:

1. Modify the ZAB findings by deleting the finding that the use complies with the Public Trust (Finding E); and
2. Affirm the findings in all other respects.

The text of Finding E is included below (the finding has a carryover error from the ZAB report which is not relevant at this point as the finding will be removed):

E. State Tidelands Public Trust: The use of the building for bicycle repair and rentals, vocational training for teens and an indoor café will accommodate the public's use of public trust lands.

Attachment: Revised Resolution

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7000 ● TDD: (510) 981-6903 ● Fax: (510) 981-7099
E-Mail: manager@CityofBerkeley.info Website: http://www.CityofBerkeley.info/Manager

RESOLUTION NO. ##,###-N.S.

MODIFY THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT #2014-0005 TO ALLOW TWO VACANT, CITY-OWNED BUILDINGS AT AQUATIC PARK TO BE USED BY A THEATER COMPANY FOR REHEARSAL SPACE, CLASSES AND WORKSHOPS, AND SET DESIGN AND CONSTRUCTION, IN THE UNCLASSIFIED (U) DISTRICT

WHEREAS, on January 28, 2014, the City's Parks. Recreation and Waterfront Department submitted a Use Permit application to allow two vacant, City-owned buildings at Aquatic Park to be used by a theater company for rehearsal space, classes and workshops, and set design and construction, at 2925-2945 Bolivar Drive; and

WHEREAS, on January 30, 2014, staff deemed this application complete; and

WHEREAS, on February 5, 2014, the Planning Commission voted to make the findings of non-detriment in accordance with BMC Section 23E.92.090; and

WHEREAS, on February 27, 2014, the ZAB voted to approve the application in accordance with BMC Section 23E.92.090; and

WHEREAS, on February 28, 2014, staff contacted the State Lands Commission to clarify the status of Berkeley lands under public trust and learned that the upland areas of Aquatic Park, including the subject property, are not subject to public trust restrictions; and

WHEREAS, on March 25, 2014, the Council considered the record of proceedings before the ZAB, and the staff report and correspondence presented to the Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, do not warrant further hearing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby modifies the findings made by the ZAB in Exhibit A by removing Finding E, affirms the decision of the ZAB to approve Use Permit #2014-0005, and adopts the conditions in Exhibit A.

Exhibit
A: Findings and Conditions