



MEMORANDUM

DATE: July 23, 2019
TO: Christine Daniel, City Manager
FROM: Andrew Clough, Public Works Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into An Easement Agreement With LBA RIV-Company XII, LLC To Construct, Operate, And Maintain A Stormwater Treatment Facility Relating To Improvements To The Property At 3100 San Pablo Avenue**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled Resolution.

BACKGROUND

In July 2011, LBA RIV-Company XII, LLC (“LBA”) acquired a 192,830 square foot industrial building located on the block bounded by San Pablo Avenue, 67th Street, Folger Avenue and the Emeryville Greenway (“Greenway”). This building, also known as the “Marchant Building,” and located at 3100 San Pablo Avenue, straddles three city boundaries, with 55 percent lying within the City of Berkeley, 44 percent within the City of Oakland and one percent within the City of Emeryville. The building was formerly owned and used by the University of California, Berkeley, who initially sold the property in April 2007 to Signature Properties. At that time, staff from the three cities met and tentatively agreed that the City of Berkeley would take the lead in processing all land use entitlements and building permits for the reuse of the building.

On April 16, 2013, the City Council of the City of Emeryville approved a Memorandum of Understanding (“MOU”) between the cities of Berkeley, Oakland and Emeryville regarding reuse of the Marchant Building and an associated MOU between the City of Emeryville and LBA regarding improvements to the adjacent Greenway (Resolution No. 13-63)

DISCUSSION

The MOU between LBA and the City of Emeryville outlines obligations assigned to LBA that deal primarily with enhancement of the Greenway connection to the Ninth Street Bike Boulevard in Berkeley, i.e. the segment between 67th Street and Folger Avenue. The MOU requires LBA to install and maintain certain public improvements, including a Storm Water Treatment Facility (“SWTF”) that will treat urban water runoff to control pollutants from the roof of 3100 San Pablo Avenue, as well as pollutants from a portion of Folger Avenue and the existing paved bike path within the Greenway.

In order to access and maintain the SWTF, LBA must access an approximately 2,200 square foot portion of City property on the Greenway, as depicted in Exhibit C of the proposed Easement Agreement. Staff therefore recommends that the City Council authorize execution of a nonexclusive Easement Agreement to allow LBA access onto City property for operation and maintenance of the SWTF.

The parties will administratively enter into a separate Operations and Maintenance Agreement that details the tasks and responsibilities for maintaining the SWTF. LBA is responsible for maintaining the SWTF to ensure that it operates as designed and constructed. LBA is responsible for all costs to maintain the SWTF, and with no cost to the City.

FISCAL IMPACT

No fiscal impact.

STAFF COMMUNICATION WITH THE PUBLIC

No staff communication with the public.

CONCLUSION

In order to implement the MOU previously approved by the City Council, staff recommends that the City Council adopt the above referenced Resolution authorizing the City Manager to execute the Easement Agreement.

PREPARED BY: Andrew Clough, Public Works Director

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
- Exhibit A – Easement Agreement