

## RESOLUTION NO. 19-149

**Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute (1) The Second Amendment To The Façade Grant Contract With Dy Associates To Assist With The Rehabilitation Of An Existing Commercial Building At 4080 Watts Street, Extending The Term From November 21, 2019 To May 21, 2020, And (2) The Second Amendment To The Façade Grant Contract With Ravin's Fair, Inc. To Assist With The Rehabilitation Of An Existing Commercial Building At 4072 Watts Street, Extending The Term From November 8, 2019 To May 8, 2020**

**WHEREAS**, on May 16, 2017, the City Council passed Resolution No. 17-73, approving the re-establishment of the Façade Improvement Grant Program (Grant Program), including Guidelines for the Grant Program, and appropriated \$200,000 from the Economic Development Fund (Fund 202) to use for the first round of the Grant Program; and

**WHEREAS**, on May 1, 2018 the City Council approved Resolution No. 18-44, which authorized the City Manager to execute Façade Improvement Grant Program Contracts ("Contracts") with five awardees; and

**WHEREAS**, a comprehensive seismic study required prior to implementation of the projects of awardees Dy Associates and Ravin's Fair, Inc. took more time to complete than originally anticipated, thereby delaying the Dy Associates and Ravin's Fair Façade Grant projects; and

**WHEREAS**, on May 21, 2019 the City Manager executed the First Amendment to the Contract with Dy Associates, extending the term to November 21, 2019; and

**WHEREAS**, on May 8, 2019 the City Manager executed the First Amendment to the Contract with Ravin's Fair, Inc., extending the term to November 8, 2019; and

**WHEREAS**, additional time is needed in order to complete the projects associated with the Contracts with Dy Associates and Ravin's Fair, Inc.; now, therefore, be it

**RESOLVED**, by the City Council of the City of Emeryville that the City Manager is authorized to execute the Second Amendment to the Façade Grant Contract with Dy Associates, extending the Contract term to May 21, 2020, in the form attached as Exhibit A to this Resolution; and, be it further

**RESOLVED**, that the City Manager is authorized to execute the Second Amendment to the Façade Grant Contract with Ravin's Fair, Inc., extending the Contract term to May 8, 2020, in the form attached as Exhibit B to this Resolution.

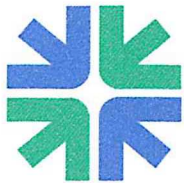
**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, November 5, 2019, by the following vote:

AYES:	<u>5</u>	Mayor Medina, Vice Mayor Patz, and Council Members Bauters, Donahue, and Martinez
NOES:	<u>0</u>	_____
ABSTAIN:	<u>0</u>	_____
ABSENT:	<u>0</u>	_____

*ab Medina*  
\_\_\_\_\_  
MAYOR

ATTEST:  
*Drew*  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:  
*Michael Guindal*  
\_\_\_\_\_  
CITY ATTORNEY



**FAÇADE IMPROVEMENT GRANT PROGRAM CONTRACT  
SECOND AMENDMENT**

**THIS SECOND AMENDMENT TO THE FAÇADE IMPROVEMENT GRANT PROGRAM CONTRACT** ("Amendment") is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **DY ASSOCIATES** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties."

**WITNESSETH THAT**

**WHEREAS**, the City and Contractor entered into a Façade Improvement Grant Program Contract dated November 21, 2018 ("Contract") for the purpose of providing financial assistance for seismic safety upgrades for a change in use associated with a commercial unit that is part of a larger unreinforced masonry building complex; and

**WHEREAS**, the City and Contractor desire to amend the Contract; and

**WHEREAS**, the public interest will be served by this Amendment.

**NOW, THEREFORE**, the Parties hereto do mutually agree as follows:

**1. AMENDMENT**

The Parties agree to amend the Section VI, Schedule of the Contract to extend the deadline to complete the work as described in the Scope of Work to May 21, 2020.

**2. CONTINUING EFFECT OF CONTRACT**

Except as amended by this Amendment, all other provisions of the Contract remain in full force and effect and shall govern the actions of the Parties under this Amendment. From and after the date of this Amendment, whenever the term "Contract" appears in the Contract, it shall mean the Contract as amended by this Amendment.

**3. ADEQUATE CONSIDERATION**

The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment

FOR CITY USE ONLY			
Contract No.		CIP No.	
Resolution No.		Project No.	

**4. SEVERABILITY**

If any portion of this Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect

**5. WAIVER**

The City's failure to enforce any provision of this Amendment or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

*SIGNATURES ON FOLLOWING PAGE*

COPY

**6. SIGNATURE PAGE TO FAÇADE IMPROVEMENT GRANT PROGRAM FIRST AMENDMENT**

**IN WITNESS WHEREOF** the City and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

*ATA.*



City Attorney

Dated:

\_\_\_\_\_, 2019

**CITY OF EMERYVILLE**

\_\_\_\_\_  
Christine S. Daniel, City Manager

Dated:

*10/17/19*, 2019

**DY ASSOCIATES**

\_\_\_\_\_  
Lani Dy, Owner, Dy Associates

*(Signature)*





FAÇADE IMPROVEMENT GRANT PROGRAM CONTRACT  
SECOND AMENDMENT

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WITNESSETH THAT

WHEREAS, the City and Contractor entered into a Façade Improvement Grant Program Contract dated November 8, 2018 ("Contract") for the purpose of providing financial assistance for seismic safety upgrades for a two-story unit that is part of a larger unreinforced masonry building complex; and

WHEREAS, the City and Contractor desire to amend the Contract; and

WHEREAS, the public interest will be served by this Amendment.

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. AMENDMENT

The Parties agree to amend the Section VIII, Schedule of the Contract to extend the deadline to complete the work as described in the Scope of Work to May 8, 2020.

2. CONTINUING EFFECT OF CONTRACT

Except as amended by this Amendment, all other provisions of the Contract remain in full force and effect and shall govern the actions of the Parties under this Amendment. From and after the date of this Amendment, whenever the term "Contract" appears in the Contract, it shall mean the Contract as amended by this Amendment.

3. ADEQUATE CONSIDERATION

The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment

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The City's failure to enforce any provision of this Amendment or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

*SIGNATURES ON FOLLOWING PAGE*

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6. SIGNATURE PAGE TO FAÇADE IMPROVEMENT GRANT PROGRAM FIRST AMENDMENT

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Approved As To Form:

  
\_\_\_\_\_  
City Attorney

Dated:

CITY OF EMERYVILLE

\_\_\_\_\_, 2019

\_\_\_\_\_  
Christine S. Daniel, City Manager

Dated:

RAVIN'S FAIR, INC.

\_\_\_\_\_, 2019

  
\_\_\_\_\_  
Ana Fairley, CEO

(Signature)