



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: May 4, 2021
TO: Christine Daniel, City Manager
FROM: Mary Grace Houlihan, 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 Foundry31 Owner (DE) LLC to Access And Maintain A Pedestrian Bridge To Access The Property At 3100 San Pablo Avenue**

RECOMMENDATION

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

BACKGROUND

City owns certain property between Folger Avenue and 67th Street within the City's Greenway identified as Alameda County APN 49-1513-010, is more particularly described in **Exhibit A** of the Easement Agreement attached hereto ("City Property").

Foundry31 (DE) LLC owns that certain property adjacent to the City Property in the Cities of Berkeley, Oakland and Emeryville formerly known as 6701 San Pablo Avenue, Oakland, and currently commonly known as 3100 San Pablo Ave., Berkeley, CA 94702, as more particularly described in **Exhibit B** of the Easement Agreement attached hereto ("Grantee Property").

Foundry31 (DE) LLC is successor owner to LBA RIV-Company, LLC (LBA) who acquired the property in July 2011. The Property includes 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 was specifically entered into in order to establish the respective rights and responsibilities of both parties regarding development of the portion of the 3100 San Pablo Avenue property project that lies in the City of Emeryville. At the time the MOU was executed, LBA anticipated that a modification to their plans would be designed and constructed. The MOU includes the following statement:

“Emeryville recognizes that LBA intends to develop a new use of the Property facing the Greenway which includes an opening onto the Greenway that may require an easement and Emeryville agrees to cooperate in granting such an easement without cost, provided it complies with Emeryville ordinances and policies.”

LBA did ultimately design and construct this access onto the Greenway which includes a pedestrian bridge. The improvements were permitted and constructed in compliance with applicable City and City of Berkeley ordinances and policies; LBA obtained requisite permits from City and the City of Berkeley for the construction of a pedestrian bridge across City Property connecting Grantee Property to the Emeryville Greenway (“Pedestrian Bridge”). On October 4, 2016, the City of Berkeley issued LBA Design Review approval DRSL2016-0014 approving construction of the Pedestrian Bridge. On January 31, 2018, City issued Grantee an Encroachment Permit for temporary closure of the Emeryville Greenway to allow for the construction of the Pedestrian Bridge in compliance with the MOU between the Cities of Berkeley, Oakland and Emeryville.

Staff therefore recommends that the City Council authorize execution of a nonexclusive Easement Agreement to allow Foundry31 Owner (DE) LLC, as the successor owner to LBA, for the 3100 San Pablo Property access onto City property for access and maintenance of the Pedestrian Bridge.

Foundry31 Owner (DE) LLC as owner of 3100 San Pablo Avenue Property is responsible for maintaining the Pedestrian Bridge to ensure that it operates as designed and constructed. Foundry31 Owner (DE) LLC as owner of 3100 San Pablo Avenue Property is responsible for all costs to maintain the Pedestrian Bridge, 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 attached Easement Agreement.

PREPARED BY: Mary Grace Houlihan, Public Works Director

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



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
- Easement Agreement
 - a. Exhibit A – City Property
 - b. Exhibit B – Grantee Property
 - c. Exhibit C - Pedestrian Bridge
- MOU between cities of Berkeley, Oakland and Emeryville
- MOU between the City of Emeryville and LBA