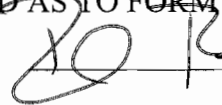


FILED
OFFICE OF THE CITY CLERK
OAKLAND

2013 MAY 30 PM 4: 28

APPROVED AS TO FORM AND LEGALITY


PAUL D. HANCOCK
CITY ATTORNEY

13181

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A REAL PROPERTY AGREEMENT WITH BNSF RAILWAY COMPANY TO RELOCATE AN EXISTING RAIL LINE EASEMENT NEAR ENGINEERS ROAD TO FACILITATE THE DEVELOPMENT OF THE FORMER OAKLAND ARMY BASE

WHEREAS, On July 19, 2012, the City and East Bay Municipal Utility District (“EBMUD”) entered into a Memorandum of Agreement (“EBMUD MOA”) regarding development of the City-owned portions of the former Oakland Army Base to alleviate alleged impacts on EBMUD’s adjacent Main Wastewater Treatment Plant; the EBMUD MOA, among other things, includes the parties’ agreement to construct a realigned Wake Avenue and expanded Engineers Road on the former Oakland Army Base; and

WHEREAS, the EBMUD MOA requires the City to relocate an existing rail line owned by BNSF Rail Company(BNSF) to allow for the expansion of Engineers Road; and

WHEREAS, the City must obtain BNSF’s agreement to relocate its existing rail line easement; and

WHEREAS, relocation of the BNSF rail line easement and corresponding realignment and construction of Wake Avenue will allow the City to move forward with negotiating development agreements to move two recyclers, California Waste Solutions (CWS) and CASS, Inc. (CASS), out of West Oakland residential neighborhoods onto the Army Base; and

WHEREAS, the relocation of CWS and CASS will reduce truck traffic and remove a land use conflict from the community; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. The City Council hereby authorizes the City Administrator, without returning to Council, to negotiate and enter into a real property agreement with BNSF Railway Company (BNSF) or related entity for relocation of its rail road easement to allow the City to implement a requirement of the EBMUD MOA.

Section 3. This action (1) implements actions previously approved by the Oakland City Council; (2) is within the scope of the already approved 2012 Army Base Project; (3) the 2012 Army Base project Initial Study/Addendum adequately describes the current action for purposes of CEQA; and (4) no further CEQA review is required pursuant to CEQA Guidelines 15164.

Section 4. The City Administrator or her designee is hereby authorized to negotiate and execute all agreements and to take whatever other action is necessary with respect to this Ordinance and its basic purposes.

Section 5. The City Attorney shall review and approve all documents and agreements related to the proposed agreement with BNSF as to form and legality, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 2 2013

PASSED BY THE FOLLOWING VOTE:

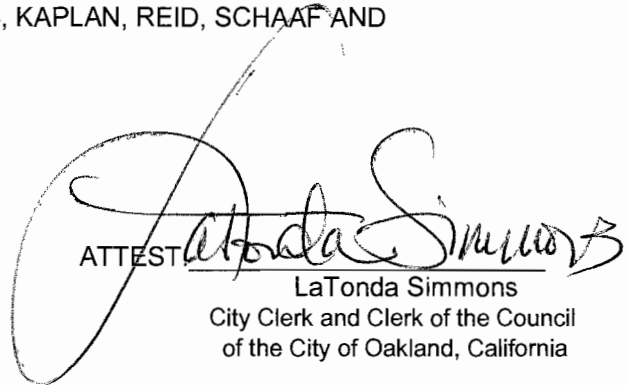
AYES - BROOKS, GALLO, GIBSON-MCELHANEY, KALB, KAPLAN, REID, SCHAAF AND CHAIRPERSON KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST



LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date JUN 18 2013

Date of Attestation July 12, 2013

NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A REAL PROPERTY AGREEMENT WITH BNSF RAILWAY COMPANY TO RELOCATE AN EXISTING RAIL LINE EASEMENT NEAR ENGINEERS ROAD TO FACILITATE THE DEVELOPMENT OF THE FORMER OAKLAND ARMY BASE

This ordinance authorizes the City Administrator to negotiate and enter into a real property agreement with BNSF Railway Company to relocate an existing rail line easement near Engineers Road to facilitate the development of the former Oakland Army Base