

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Claudia Cappio
Assistant City Administrator

SUBJECT: Army Base Real Estate Actions

DATE: June 2, 2016

City Administrator Approval

Date:

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Two Resolutions and Two Ordinances:

A Resolution Authorizing the City Administrator to Negotiate and Execute a Second Amendment to an Under-Freeway Easement Agreement with Caltrans to Facilitate Potential Development by Two Recyclers at the Former Oakland Army Base

An Ordinance Authorizing the City Administrator to Negotiate and Execute an Easement Agreement with East Bay Municipal Utility District for a 40 Foot-Wide Roadway on the Former Oakland Army Base

An Ordinance Authorizing the City Administrator to Negotiate and Execute an Amendment to a Lease Disposition and Development Agreement with OMSS, LLC, to Delete the City's Obligation to Clear and Rough Grade a Portion of the OMSS Development Site at the former Oakland Army Base

A Resolution Authorizing the City Administrator to Negotiate and Execute a Utility Services Agreement with the Port of Oakland in an Amount Not To Exceed \$200,000 for Fiscal Year 2016-17 and \$65,000 Annually until December 31, 2026, for the Provision of Certain Utility Services at the former Oakland Army Base

EXECUTIVE SUMMARY

As part of assembling the former Oakland Army Base ("Base") North Gateway Area site for sale to California Waste Solutions (CWS) and CASS, Inc. (the "Recyclers"), and to formalize and revise certain easements and other new infrastructure, staff requests that Council authorize the following:

- 1) An amendment to an existing Under-Freeway Easement Caltrans granted to the City in order to allow for parking of personal vehicles and CWS recycling vehicles under the freeway.

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- 2) An easement with East Bay Municipal Utility District (EBMUD) for a 40-foot wide road. This action would implement the City's obligations in a Memorandum of Agreement (EBMUD MOA) the City executed with EBMUD to settle potential litigation regarding the City's development on the North Gateway.
- 3) An amendment to the Lease Disposition and Development Agreement ("LDDA") between the City and OMSS, LLC, to formalize the impacts of a short term lease entered into between the City and OMSS, LLC.
- 4) Execution of a utility agreement with the Port of Oakland (Port) to continue to provide interim utility services, short term maintenance and Davis Street Substation interconnection at the Army Base Public Improvements Project ("Project") through 2016.

BACKGROUND / LEGISLATIVE HISTORY

Caltrans Under-Freeway Easement Amendment

On April 29, 2005, Caltrans granted the City a perpetual easement for approximately 8.7-acres of Under-Freeway property on the Base. The perpetual easement allowed for truck parking, utilities, roadway and landscaping. To facilitate an arrangement between the City and BNSF Railroad, on May 22, 2015, Caltrans and the City executed a 1st amendment to the Under-Freeway easement to expand the uses to allow limited rail.

EBMUD Easement

The City and EBMUD executed the EBMUD MOA on July 19, 2012, to resolve litigation at the former Oakland Army Base. The MOA obligated the City to lease a 40-foot wide easement to EBMUD.

OMSS LDDA Amendment

On July 30, 2014, the City and OMSS, LLC ("OMSS") entered into a LDDA for approximately 16.7-acres of former Army Base property generally located at the intersection of West Grand Avenue and Maritime Street. As a condition of OMSS ground leasing the property, the LDDA requires the City to clean and rough grade the entire 16.7 acre OMSS LDDA site.

On April 8, 2016, and prior to OMSS taking long-term possession of the OMSS LDDA site pursuant to the LDDA, the City and OMSS entered into a short term lease for an approximately 5-acre portion of the OMSS LDDA site (the "Temporary OMSS Lease Site").

As required by the OMSS LDDA, the City's Public Improvements Project currently being constructed at the Base, planned to clear and rough grade the entire 16.7 acres of the OMSS LDDA site by July 2016. Based on: (1) the request from OMSS to occupy the Temporary OMSS Lease Site prior to completion of the Public Improvements Project, and (2) the subsequent execution by the City and OMSS of the April 8, 2016 lease for the Temporary OMSS Lease Site, the City's Public Improvements Project cannot complete the portion of the Project related to the Temporary OMSS Lease Site. Accordingly, it is necessary to amend the OMSS LDDA to reflect that the City will not be obligated to clear and rough grade the Temporary OMSS Lease Site as was originally required by the OMSS LDDA.

Utility Agreement with Port of Oakland

Since 2000, the City, through its predecessors-in-interest, the Oakland Base Reuse Authority (OBRA) and the Oakland Redevelopment Agency, operated an Interim Leasing Program at the former Oakland Army Base. In order to operate the Interim Leasing Program, the City needed to provide its tenants with utility services since the traditional utility service providers in the area refused to operate and maintain, or take ownership of, the existing Army Base utility systems. To facilitate the Interim Leasing Program and the operation and maintenance of the former Army Base utility systems, the City and Port entered into a Utilities Operations Agreement dated July 26, 2000 ("Original Utilities Operations Agreement") administered by OBRA to provide efficient, and cost effective utility services to the tenants at the Army Base. These utilities included electricity, water, sewer, storm drain and other necessary services.

The City and Port entered into a Resource Management Services Agreement as of January 1, 2005 ("Resource Management Services Agreement") pursuant to which: (1) Port provided electricity to the Army Base and the City and Port pay costs for their respective portions of the Army Base; (2) the Parties agreed on the rights to and allocation of a 20-year Base Resource Contract with Western Area Power Administration (Contract No. 00-SNR-381) to provide wholesale electrical power to the Army Base; and (3) Port provided City and its tenants with a percentage of WAPA's Base Resource power.

The City and Port entered into an Amended and Restated Utilities Program Management Agreement on February 26, 2008, to supplement and replace the Original Utilities Operations Agreement in order to continue to maintain, operate and administer utility services for the Army Base. The City and Port entered into a First Amendment to the Amended and Restated Utilities Program Management Agreement on July 1, 2011 for the continued maintenance, operation and administration of utility services at the Army Base.

ANALYSIS AND POLICY ALTERNATIVES

Caltrans Under-Freeway Easement Amendment

To facilitate the Recyclers' potential relocation from West Oakland to the Army Base property and to complete the Recyclers' requested assembly of 24-acres in the North Gateway Area, staff is requesting authorization to amend the Caltrans Under-Freeway Easement to expand the allowable uses to include parking of personal vehicles and CWS recycling vehicles under the freeway.

EBMUD Easement

The City has completed the conditions precedent to grant an easement to EBMUD. However, the language in the EBMUD MOA states the City will lease a 40-foot wide easement to EBMUD. Staff is requesting authorization to modify this language to meet the intent of the parties and allow the City to grant a 40-foot wide easement to EBMUD.

OMSS LDDA Amendment

Staff is requesting authorization to execute an amendment to the OMSS LDDA to memorialize that: 1) OMSS requested, and received on April 8, 2016, a short term lease to occupy the 5-acre Temporary OMSS Lease Site prior to the City's completion of the Public Improvements Project, 2) OMSS' occupancy prevents the City's Public Improvements Project from clearing and rough grading the 5-acre Temporary OMSS Lease Site as provided for in the OMSS LDDA, 3) the City's obligation to clear and rough grade the Temporary OMSS Lease Site is terminated, and 4) OMSS accepts the Temporary OMSS Lease Site in its as-is physical condition.

Utility Agreement with Port of Oakland

Staff is requesting authorization to execute a utility agreement with the Port to continue to provide interim utility services, short term maintenance and interconnection at a cost not to exceed \$200,000 annually for FY16-17¹ and thereafter at a cost not to exceed \$65,000 annually until December 31, 2026. The Project is nearing completion and new infrastructure will be available to provide utility service at the former Army Base. For now, Caltrans and OMSS rely on utility services from the Port to continue operations during the construction period.

Historically the City and Port spent approximately \$2 million annually to provide for utility service operations and maintenance cost at the Army Base with the City and Port sharing the cost 50/50. Now that the City's portion of the utility system has been greatly reduced, City staff and Port staff have reached agreement to terminate the 50/50 partnership for utility service and to allow the City to transition to a Port utility customer through 2016.

The Army and Port built an electrical substation at the corner of 7th Street and Maritime Street ("Davis Street Substation"). The City, as one of the Army's successors-in-interest to the Army Base, has capacity rights for the Davis Street Substation. These capacity rights require the City to participate in some of the costs of maintaining the substation. The City's pro-rata costs for retaining its capacity rights would be \$62,500 annually. This amount may escalate slightly over time, hence the request for annual authorization of up to \$65,000.

¹ The requested \$200,000 for the first contract year is higher than the annual \$65,000 for subsequent years because of the following. In July 2015 the City formed Community Facilities District No. 2015-1 ("Gateway Industrial District CFD") to maintain, operate, repair and replace the approximately \$250 million in public improvements and public infrastructure being constructed at the former Army Base. The formation of the Gateway Industrial District CFD is the first step in establishing the structure and process to maintain and operate the public infrastructure. The second step to create the administrative functions and contract for services. The second step will be completed within the next 6-8 months. The City's Project continues to be ahead of schedule and some of the public infrastructure will come online in 2016 and will need to receive monthly inspection and routine maintenance prior to the Gateway Industrial District CFD administrative functions and funds being in place. As part of the utility agreement with the Port which staff is hereby seeking approval from the Council, the Port's Harbor Facilities division, for the first year only, will provide interim monthly inspection and routine maintenance for the Army Base public infrastructure at a cost of about \$150,000, until the CFD can take over.

FISCAL IMPACT

Caltrans Easement, EBMUD Easement & OMSS LDDA Amendment

There is no fiscal impact to the City related to the Caltrans Under-Freeway easement amendment or EBMUD easement.

There may be no or a positive fiscal impact to the City related to the OMSS LDDA Amendment. As noted above, the City's Project has removed the clearing and rough grade scope from the Project. This scope is valued at approximately \$290,000. Its removal means the City could reprogram this \$290,000 for use in completing other needed Project scope. OMSS has requested the \$290,000 be credited to OMSS for its use. The City, working with OMSS, submitted and was awarded \$5,000,000 in Alameda County Transportation Commission (ACTC) funds for use by OMSS in its development. Based on this award of a significant amount of money to OMSS by ACTC, and the fact that the City's overall Public Improvements Project is under-funded, staff recommends the Project reprogram and use the \$290,000 for additional scope needed for the entire Public Improvements Project.

Utility Agreement with Port of Oakland

Execution of the proposed utility agreement with the Port to provide continued interim utility services, short term maintenance and Davis Street Substation interconnection will cost up to \$200,000 annually for fiscal year 2016/2017 and approximately \$65,000 annually for every fiscal year thereafter until December 31, 2026. The \$65,000 annually is a cost associated with the City's capacity rights to, and interconnection agreement for, the Davis Street Substation. The \$65,000 annual cost will continue as long as the City, in its discretion, elects to retain its Davis Street Substation capacity and interconnection rights. The additional \$150,000 of short term utility maintenance costs for FY2016/2017 will be replaced in FY 2017/2018 and moved forward by the Gateway Industrial District CFD which was created to maintain and operate the public infrastructure at the Army Base (see footnote 1). The Gateway Industrial District CFD is funded by taxes levied on Army Base developers. The process for levying, collecting and using taxes relies on Army Base developers executing leases at the Army Base and there is an approximately one year lag time between lease execution and tax collection. The \$150,000 for FY2016/2017 is a stop gap measure until the CFD tax monies are available.

Funding for the \$200,000 annually for fiscal year 2016/2017 and approximately \$65,000 annually for every fiscal year thereafter shall be appropriated, allocated and expended from OBRA Leasing & Utility Fund (5671) Oakland Army Base Redevelopment Organization (85244) OBRA Leasing & Utility – City Project (P294110).

PUBLIC OUTREACH / INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

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COORDINATION

This item has been coordinated with Caltrans, Port of Oakland, City Budget Office, City Attorney's Office and City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: The development and private operation of the OAB site will lead to substantial revenue generation for the City. In addition, the private development has the potential to create thousands of construction and permanent jobs for Oakland residents and multi-million dollar contracting opportunities for local businesses.

The project will also generate millions of dollars in new tax revenue to the City's General Purpose Fund. Additionally, the relocation of CWS and CASS out of West Oakland would potentially open up large areas of West Oakland for more community acceptable and physically compatible uses. These uses include retail, research and development, and flex offices, which would generate additional tax revenue, and create career path jobs for Oakland residents.

Environmental: The Project will use, to the greatest extent possible, best management practices that not only reduce health and safety impacts to local residents, but also aim towards improving air quality, safe pedestrian and bike access, reducing water usage, and using alternative energy options to the extent they are commercially viable to reduce green-house gas emissions. The scope of Public Improvements also replaces 70-year old obsolete and failing infrastructure with modern code compliant infrastructure. Parallel efforts to relocate both CWS and CASS onto the former OAB onto the North Gateway Development Area adjacent to EBMUD and the creation of the long-term, 55-year truck parking and truck services facility will assist efforts to significantly reduce the current impact of truck traffic on West Oakland residents.

Social Equity: The development and operation of the Project are subject to Jobs Policies, which address the City's commitment to social equity by way of jobs for local residents, contracts for local businesses, and quality of life improvements for West Oakland residents. Implementation of the Project's Community Benefits package have led to the establishment of the West Oakland Job Resource Center as a place for residents to learn and prepare for careers in the building and construction trades, as well as a resource for Army Base contractors and other employers as it relates to the Construction Jobs Policy hiring process.

Completion of the Improvement Project will allow the City to meet BCDC's 15-acre truck parking requirement to reduce trucks trips through the West Oakland community. The requirement will be enhanced with OMSS as operator by also providing on-site trucking services. Completion of the Public Improvements will also allow for the relocation of CWS and CASS from West Oakland to the North Gateway area. Under the West Oakland Specific Plan, the existing CWS and CASS sites would be available for re-use purposes such as technology, clean and green tech manufacturing, specialty building trades, retail, and other similar types of uses within consolidated sites.

CEQA

These Council actions are exempt from CEQA pursuant to Section 15262 (feasibility and planning studies), Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA Guidelines.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council adopt the following two resolutions and two ordinances:

A resolution authorizing the City Administrator to negotiate and execute a second amendment to an Under-Freeway Easement Agreement with Caltrans to facilitate potential development by the two Recyclers at the former Oakland Army Base;

An ordinance authorizing the City Administrator to negotiate and execute an easement agreement with EBMUD for a 40 foot-wide Roadway at the former Oakland Army Base;

An ordinance authorizing the City Administrator to negotiate and execute an amendment to the OMSS LDDA to delete the City's obligation to clear and rough grade a portion of the OMSS Development Site; and

A resolution authorizing the City Administrator to negotiate and execute a utility services agreement with the Port of Oakland in amount not to exceed \$200,000 for fiscal year 2016-17 and \$65,000 annually until December 31, 2026 for provision of utility services at the former Oakland Army Base.

For questions regarding this report, please contact John Monetta, Project Manager I, at (510) 238-7125.

Respectfully submitted,



CLAUDIA CAPPIO
Assistant City Administrator,
Office of the City Administrator


Reviewed by:
Doug Cole, Project Manager III
Office of the City Administrator
Oakland Army Base Project

Prepared by:
John Monetta, Project Manager I
Office of the City Administrator
Oakland Army Base Project

Item: _____
CED Committee
June 28, 2016

2016 JUN 17 AM 9:29

Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A SECOND AMENDMENT TO AN UNDER-FREEWAY EASEMENT WITH CALTRANS TO FACILITATE POTENTIAL DEVELOPMENT BY TWO RECYCLERS AT THE FORMER OAKLAND ARMY BASE

WHEREAS, on April 29, 2005, the California Department of Transportation (Caltrans) granted the City a perpetual easement for approximately 8.7-acres of Under-Freeway property on the former Oakland Army Base ("Base") so that the City and its chosen developers for adjacent City-owned land on the Base could use the easement for the purposes of truck parking, utilities, roadway and landscaping (the "Under-Freeway Easement"); and

WHEREAS, to facilitate an arrangement between the City and BNSF Railroad, on May 22, 2015, the City and Caltrans recorded a 1st amendment to the Under-Freeway Easement to expand the uses to allow limited rail uses; and

WHEREAS, the City currently is planning to execute an exclusive negotiating agreement with California Waste Solutions and CASS, Inc. (the "Recyclers"), with the intent to relocate their existing recycling operations out of West Oakland residential neighborhoods to the Base; and

WHEREAS, in anticipation of negotiations with the Recyclers, use of a portion of the Under-Freeway easement area is needed for the purposes of parking personal vehicles and recycling fleet vehicles, which is not currently allowed by the Under-Freeway Easement; and

WHEREAS, the City and Caltrans wish to amend the Under-Freeway Easement to expand the uses to allow the parking of personal vehicles and recycling fleet vehicles; now, therefore be it

RESOLVED, that the City Administrator is authorized to negotiate and execute a second amendment to the Under-Freeway Easement with Caltrans to expand the uses to allow the parking of personal vehicles and recycling fleet vehicles to facilitate potential development by the Recyclers at the former Base; and be it

FURTHER RESOLVED, that the City has independently reviewed and considered the environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it

FURTHER RESOLVED, that the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

FURTHER RESOLVED, that the second amendment to the Under-Freeway Easement shall be reviewed and approved as to form and legality by the City Attorney prior to execution; and be it

FURTHER RESOLVED, that the City Administrator is further authorized to take whatever action is necessary with respect to the second amendment to the Under-Freeway Easement consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2016

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,
AND PRESIDENT GIBSON McELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

2016 JUN 17 AM **OAKLAND CITY COUNCIL**

ORDINANCE NO. _____ C.M.S.

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT (LDDA) WITH OMSS, LLC, TO DELETE THE CITY'S OBLIGATION TO CLEAR AND ROUGH GRADE A PORTION OF THE OMSS DEVELOPMENT SITE AT THE FORMER OAKLAND ARMY BASE

WHEREAS, on July 31, 2013, the City and OMSS, LLC executed a Lease Disposition and Development Agreement ("LDDA") regarding approximately 16.7-acres of City-owned land located at the former Oakland Army Base ("Base"); and

WHEREAS, as a condition of OMSS ground leasing the property, the LDDA requires the City to clear and rough grade the entire 16.7 acre OMSS LDDA site as a part of the City's construction of public improvements at the Base (the "Public Improvements Project"); and

WHEREAS, based on a request from OMSS to occupy on a short-term basis a portion of its OMSS LDDA Premises prior to the City's completion of the Public Improvements Project, and before OMSS exercises its long-term ground lease rights under the OMSS LDDA, the City and OMSS entered into a short term lease for an approximately 5-acre portion of the OMSS LDDA Premises ("Temporary OMSS Lease Site"); and

WHEREAS, the City anticipated completing that portion of the Public Improvements Project that included clearing and rough grading the entire OMSS LDDA Premises in July 2016; and

WHEREAS, because OMSS has elected to occupy the 5-acre Temporary OMSS Lease Site, the City cannot complete the clearing and rough grading of the Temporary OMSS Lease Site, and needs to amend the OMSS LDDA to delete the City's obligation to clear and rough grade that portion of the OMSS LDDA site;

NOW, THEREFORE THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Administrator is authorized to negotiate and execute an amendment to the OMSS LDDA to memorialize: 1) OMSS requested, and received on April 8, 2016, a short term lease to occupy the 5-acre Temporary OMSS Lease Site prior to the City's completion of the Public Improvements Project, 2) OMSS' occupancy prevents the City's Public Improvements Project from clearing and rough grading the Temporary OMSS Lease Site as previously required by the OMSS LDDA, 3) the City's obligation to clear and rough grade the Temporary OMSS Lease Site is terminated, and 4) OMSS accepts the Temporary OMSS Lease Site in its as-is physical condition.

Section 2. The City has independently reviewed and considered the environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines.

Section 3. The City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

Section 4. The amendment to the OMSS LDDA shall be reviewed and approved as to form and legality by the City Attorney prior to execution.

Section 5. The City Administrator is further authorized to take whatever action is necessary with the respect to the amendment to the OMSS LDDA consistent with this Ordinance and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND
PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the

of the City of Oakland, California

Council

DATE OF ATTESTATION: _____

NOTICE AND DIGEST

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH OMSS, LLC, TO DELETE THE CITY'S OBLIGATION TO CLEAR AND ROUGH GRADE A PORTION OF THE OMSS DEVELOPMENT SITE AT THE FORMER OAKLAND ARMY BASE

This ordinance authorizes the City Administrator to negotiate and execute an amendment to the OMSS, LLC Lease Disposition and Development Agreement (LDDA) to delete the City's obligation to clear and rough grade a portion of the OMSS Development Site at the former Oakland Army Base.

2016 JUN 17 AM 9:02 OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN EASEMENT AGREEMENT WITH EAST BAY MUNICIPAL UTILITY DISTRICT FOR A 40 FOOT-WIDE ROADWAY ON THE FORMER OAKLAND ARMY BASE

WHEREAS, on July 19, 2012, the City and the East Bay Municipal Utility District (“EBMUD”) executed a Memorandum of Agreement (EBMUD MOA) to resolve litigation regarding the City’s development of City-owned property at the former Oakland Army Base; and

WHEREAS, the EBMUD MOA obligates the City to lease a 40-foot wide easement to EBMUD; and

WHEREAS, the intent of the parties was to obligate the City to grant, not lease, a 40-foot wide easement to EBMUD; and

WHEREAS, the parties have agreed to the terms and conditions by which the City will grant EBMUD the rights it needs pursuant to the EBMUD MOA;

NOW, THEREFORE THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Administrator is authorized to negotiate, acknowledge, execute, and grant to EBMUD a 40-foot wide easement area for a road on the former Oakland Army Base.

Section 2. The City has independently reviewed and considered the environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines.

Section 3. The City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

Section 4. The EBMUD easement shall be reviewed and approved as to form and legality by the City Attorney prior to execution.

Section 5. The City Administrator is further authorized to take whatever action is necessary with respect to the EBMUD easement consistent with this Ordinance and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND
PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the

of the City of Oakland, California

Council

DATE OF ATTESTATION: _____

NOTICE AND DIGEST


ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN EASEMENT AGREEMENT WITH EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) FOR A 40 FOOT-WIDE ROADWAY ON THE FORMER OAKLAND ARMY BASE

This ordinance authorizes the City Administrator to negotiate and execute an easement agreement with East Bay Municipal Utility District for a 40 foot-wide roadway on the former Oakland Army Base

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 JUN 17 AM 9:29

Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A UTILITY AGREEMENT WITH THE PORT OF OAKLAND IN AN AMOUNT NOT TO EXCEED \$200,000 FOR FISCAL YEAR 2016-17 AND \$65,000 ANNUALLY UNTIL DECEMBER 31, 2026 FOR THE PROVISION OF CERTAIN UTILITY SERVICES AT THE FORMER OAKLAND ARMY BASE

WHEREAS, on July 26, 2000, the City and the Port of Oakland ("Port") entered into a Utilities Operations Agreement administered by the Oakland Base Reuse Authority (OBRA) to provide efficient, cost effective utility services to the tenants at the former Oakland Army Base ("Base"); the utilities included electricity, water, sewer, storm drain and other necessary services; and

WHEREAS, on January 1, 2005, The City (successor to OBRA) and Port entered into a Resource Management Services Agreement in which: (1) Port provided electricity to the Army Base and the City and Port paid costs for their respective portions of the Army Base; (2) the Parties agreed on the rights to and allocation of a 20-year Base Resource Contract with Western Area Power Administration (Contract No. 00-SNR-381) to provide wholesale electrical power to the Army Base; and (3) Port provided City and its tenants with a percentage of WAPA's Base Resource power; and

WHEREAS, on February 26, 2008, the City and Port entered into an Amended and Restated Utilities Program Management Agreement to supplement and replace the original Utilities Operations Agreement in order to continue to maintain, operate and administer utility services for the Army Base; and

WHEREAS, on July 1, 2011, the City and Port entered into a First Amendment to the Amended and Restated Utilities Program Management Agreement for the continued maintenance, operation and administration of utility services at the Army Base; and

WHEREAS, the City and Port have negotiated a further utility agreement to continue to provide interim utility services at the Oakland Army Base, and to provide short term maintenance and interconnection at a cost not to exceed \$200,000 annually for fiscal year 2016-2017, and thereafter at a cost not to exceed \$65,000 annually; now, therefore be it

RESOLVED, that the City Administrator is authorized to negotiate and execute a utility agreement with the Port to continue to provide interim utility services,

short term maintenance and interconnection at the Army Base at a cost not to exceed \$200,000 annually for fiscal year 2016-2017, and thereafter at a cost not to exceed \$65,000 annually through December 31, 2026; and be it

FURTHER RESOLVED, that funding is available and shall be expended from OBRA Leasing & Utility Fund (5671) Oakland Army Base Redevelopment Organization (85244) OBRA Leasing & Utility – City Project (P294110); and be it

FURTHER RESOLVED, that the City has independently reviewed and considered the environmental determination, and the City finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines; and be it

FURTHER RESOLVED, that the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

FURTHER RESOLVED, that the utility agreement with the Port shall be reviewed and approved as to form and legality by the City Attorney prior to execution; and be it

FURTHER RESOLVED, that the City Administrator is further authorized to take whatever action is necessary with respect to the utility agreement with the Port consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2016

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,
AND PRESIDENT GIBSON McELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California