

**RESOLUTION NO. \_\_\_\_\_**

**Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To Emery Cove Inc. For Weekend And Night Work Related To Marina Dredging As Part Of The Marina Navigation Channel Maintenance Dredging Program (CIP No. 19495003) 300 Feet After The Breakwater In The Outer Channel Outside The Marina Harbor To Occur On Dates To Be Determined Between June 7, 2023, And November 30, 2023 (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(B)(3))**

**WHEREAS**, the Marina Navigation Channel Maintenance Dredging Program is a Capital Improvement Program project, (CIP #19495003), whose purpose is to maintain and preserve the Navigation Channel shared by Emery Cove Inc. and the City of Emeryville Marina (“Project”); and

**WHEREAS**, the City entered into a reimbursement agreement with Emery Cove Inc. as per Resolution #22-88 whereby Emery Cove will execute a contract with a contractor to conduct dredging operations in the shared navigation channel on behalf of both Emery Cove and the City of Emeryville; and

**WHEREAS**, Chapter 13 of Title 5 of the Emeryville Municipal Code limits construction noise to 7:00 a.m. to 6:00 p.m. on weekdays but allows a developer or contractor to request the City Council for a waiver of the construction noise restrictions (the “Noise Ordinance”); and

**WHEREAS**, construction of the project is anticipated to begin June 7th and the BCDC permit will allow for the dredging work until November 30<sup>th</sup>; and

**WHEREAS**, vessels have been stranded in the channel during low tide as a result of insufficient channel depth; and

**WHEREAS**, weekday work alone is insufficient to dredge the volume of sediment needed to clear the channel; and

**WHEREAS**, the nearest residential structure is more than 1400 feet from the nearest location of dredging activity; and

**WHEREAS**, the proposed conditions of approval, as requested by the City staff on behalf of Emery Cove, Inc. are as follows:

1. Night work between the hours of 6 p.m. and 7 a.m. and 24 hours during weekends beginning on a date to be determined between June 7, 2023 and November 30, 2023 for dredging operations as part of the Marina Navigation Channel Maintenance Dredging Program CIP project 300 feet after the breakwater in the Outer Channel outside the Marina Harbor.

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2. The City Council may revoke or modify this approval if the applicant fails to comply with any of these conditions of approval, or if any complaints are received and not satisfactorily resolved.

**WHEREAS**, on June 6, 2023, the City Council held a public hearing to consider the request for a waiver, staff recommendation and public comment; now, therefore, be it

**RESOLVED**, by the City Council of the City of Emeryville that the grant of a waiver is exempt from the California Environmental Quality Act (CEQA) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, as stated in Section 15061(b)(3) of the State CEQA Guidelines, and in this instance granting the Noise Waiver will not cause a significant effect on the environment; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that the conditions set forth below provide adequate protection for nearby residents and businesses; and, be it, further

**RESOLVED**, that the City Council grant of a waiver from the Noise Ordinance is subject to the following conditions:

1. Night work between the hours of 6 p.m. and 7 a.m. and 24 hours on weekends beginning on a date to be determined between June 7, 2023 and November 30, 2023 to perform dredging operations as part of the Marina Navigation Channel Maintenance Dredging Program CIP project 300 feet after the breakwater in the Outer Channel outside the Marina Harbor.
2. The City Council may revoke or modify this approval if the applicant fails to comply with any of these conditions of approval, or if any complaints are received and not satisfactorily resolved.

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**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held Tuesday, June 6, 2023, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK

DocuSigned by:  
*John Kennedy*  
\_\_\_\_\_  
CITY ATTORNEY