



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: September 5, 2023
TO: Paul Buddenhagen, City Manager
FROM: Chadrick Smalley, Community Development Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Rescinding Resolution No. 23-94 And Authorizing The City Manager To Accept In-Lieu Funds From BRE-BMR 53rd LP To Contribute Towards Emergency Operations Center Upgrade/Hollis Street Fire Station, In An Amount Of \$1,497,500, And Appropriate Said Sum To Developer Contribution Fund 473, Account 63070, Project Number 16475004 When Received**

RECOMMENDATION

Staff recommends that the City Council approve the above-entitled resolution.

BACKGROUND

On July 18, 2023, the City Council approved Resolution No. 23-94 authorizing the City Manager to accept in-lieu funds from BRE-BMR 53rd LP to contribute towards Emergency Operations Center Upgrade/Hollis Street Fire Station, in an amount of \$1,475,000. However, the negotiated amount is actually \$1,497,500 and due to a typological error, Resolution No. 23-94 stated an incorrect amount of \$1,475,000. This Resolution rectifies that error by rescinding the prior resolution and appropriating the correct amount.

DISCUSSION

On February 25, 2021, the Planning Commission unanimously approved a "Final Development Plan" (FDP) for the BMR "Emeryville Center of Innovation" (since renamed "Emery Yards"), which consists of four new laboratory buildings totaling 911,800 square feet, a 1,991-space parking garage, and approximately 131,507 square feet of publicly accessible open space, on an 8.5 acre site along Hollis, 53rd, and Horton Streets. This project is currently under construction.

One of the Conditions of Approval of the FDP pertains to the establishment of a 1,000 square foot of Emergency Operations Center (EOC) and stems from a condition included in the Preliminary Development Plan (PDP) for the Chiron Emeryville Life Sciences Center that was approved by the City Council on August 15, 1995. The condition states: "An Emergency Operations Center shall be established on the campus for use in the event of a major police matter. The room shall be of suitable size and contain necessary equipment as established by the Emeryville Police Department." The FDP condition of approval adopted by the Planning Commission on February 25, 2021 requires that the

EOC “shall be located in either the Parking Garage, Building B8A or B8B, or within the existing PDU building”, “shall be [at least] 1,000 square feet in size”, “shall be operational prior to issuance of a temporary certificate of occupancy (TCO) for the first tenant improvement to the building in which it is located, or prior to the issuance of the TCO for the first tenant improvement to the first Research and Development Building if the EOC is located in the PDU building”, and “shall be designed and equipped with current standard or recommended best-practice EOC equipment ... with the cost of equipment supplied by Applicant not to exceed \$500,000.”

BMR had intended to locate the EOC within the existing PDU building (adjacent to Horton Landing Park), which is planned to be developed as an amenity space for tenants of the campus and open to the general public. However, an EOC must be built to the highest seismic safety standard, “Risk Category IV”, while the rest of the PDU building would be upgraded to “Risk Category III”. It would be impractical to construct a 1,000 square foot space at Risk Category IV within a larger building that was Risk Category III, and it would be prohibitively expensive to upgrade the entire PDU to Risk Category IV. Furthermore, City staff, including the Police, Fire, Public Works, and Community Development departments and the City Manager, have consulted and have determined that the City has a greater need to upgrade the existing EOC at Fire Station 35 than to have a second EOC at a remote location. In fact, upgrading of the existing EOC has been listed as a project in the Capital Improvement Program (CIP) for a number of years and has not been undertaken to date, partially due to lack of funding.

Therefore, staff and BMR have negotiated a deal by which, in lieu of constructing a new EOC within the PDU building, BMR would make a monetary contribution to the City’s CIP project to upgrade the existing EOC, in an amount of \$1,497,500, which is the estimated cost to provide a new 1,000 square foot EOC at Risk Category IV, inclusive of the cost of equipment supplied by the Applicant. This cost estimate was developed by BMR, was peer reviewed by City staff with the assistance of third-party experts and was determined to be reasonable and acceptable.

On May 23, 2023, the Community Development Director informed the Planning Commission of his intent to modify the FDP Condition of Approval pursuant to Section 9-7.214(a) of the Planning Regulations, which allows the Director to make minor modifications to approved projects. The proposed modification would allow BMR to provide funds to help improve the City’s existing EOC in lieu of construction a new EOC within the BMR project. The Commission was provided 10 business days to express comments or concerns with the proposed modification; no concerns were expressed. As a result, the Director finalized the modification to the Conditions of Approval on June 9, 2023.

As the CIP budget for fiscal years 2023-2024 through 2027-2028 was previously approved by the City Council on June 6, 2023, staff requests that the City Council now authorize the City Manager to accept the negotiated in-lieu funds and appropriate them

to Developer Contributions (Fund 473, Account 63070), Project Number 16475004, which is identified in the CIP as project CF-10 "Emergency Operations Center (EOC)".

FISCAL IMPACT

An amount of \$1,497,500 will be accepted by the City and appropriated to Fund 473, Account 63070, Project Number 16475004, CIP project CF-10, "Emergency Operations Center (EOC)".

STAFF COMMUNICATION WITH THE PUBLIC

There was no communication with the public on this agenda item.

CONFLICT OF INTEREST

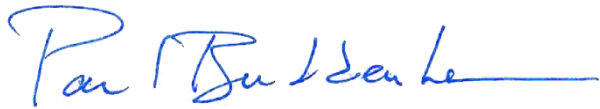
Mayor Bauters owns a residence within 1,000 feet of the BMR project site, so he has recused himself in the past on items related to the project and has indicated that he would be recused on this item as well.

CONCLUSION

Staff recommends that the City Council approve the above-entitled resolution.

PREPARED BY: Miroo Desai, Planning Manager

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

A handwritten signature in blue ink, appearing to read "Paul Buddenhagen", is written over a horizontal line.

Paul Buddenhagen, City Manager

ATTACHMENT

- Draft Resolution