



MEMORANDUM

DATE: January 18, 2022
TO: Mayor Bauters and City Council Members
FROM: Andrea Visveshwara, Interim City Attorney
SUBJECT: **Resolution of the City Council Of The City of Emeryville Authorizing The City Manager To Execute The Conveyance Agreement Between The City Of Emeryville (“City”) And The City Of Emeryville As The Successor Agency To The Emeryville Redevelopment Agency (“Successor Agency”) (1) To Transfer Platform Parcels 3 (portion of APN 049-1325-002) and 4 (APN 1325-001-04) and 59th Street Extension (portion of APN 049-1325-002) From The Successor Agency To The City And (2) To Assign To The City The Successor Agency's Right To Acquire The Station Parcel (APN 049-1325-001-2) And Authorizing the City Manager To Take Related Actions; CEQA Determination: Exempt Pursuant to CEQA Guideline 15061(b)(3)**

*(In Conjunction with Successor Agency Agenda Item **XX**)*

RECOMMENDATION

Staff recommends that the City Council adopt the above-referenced resolution.

BACKGROUND

The owner of the property on which the Amtrak Station is located (“Station Parcel”) is Wareham Development Corporation (known as “Wareham Development” or “Wareham”). There are four separate parcels underlying the passenger platform adjacent to the Station Parcel. The owner of two of the platform parcels (Platform Parcels One and Two) is the City of Emeryville (“City”), and the owner of the remaining two platform parcels (Platform Parcels Three and Four) is the City of Emeryville as Successor Agency to the Redevelopment Agency (“Successor Agency”). In the early 1990s, numerous real estate transactions were executed to facilitate the construction of the station building by Wareham and the leasing of the property to Amtrak for the operation of passenger rail service.

In March 1993, the former Emeryville Redevelopment Agency (“Redevelopment Agency”) purchased property, consisting of the Station Parcel, 59th Street Extension (subject to City right of way), and Platform Parcels Three and Four from Chevron. The Redevelopment Agency then subdivided the property to create the Station, an air rights parcel¹ above the

¹ On March 26, 1993, a certificate of compliance was recorded as Document No. 93-094213 in the Official Records of Alameda County documenting the creation of an the Air Rights Parcel, which is depicted on Parcel Map 10899, recorded in Book 340, of Maps, at pages 98-99 as Document No. 2018206203 in the Official Records of Alameda County

Station Parcel, and Platform Parcels Three and Four.² The Redevelopment Agency then sold the Station Parcel and air rights parcel back to Wareham for \$1 and retained Platform Parcels Three and Four, and 59th Street Extension.

Wareham then developed the Station Parcel as a facility for rail passenger service to be provided by Amtrak. Wareham then leased the Station Parcel back to the Redevelopment Agency. Pursuant to the lease between Wareham and the Redevelopment Agency ("Wareham Lease"), the Station Parcel was to be conveyed to the Redevelopment Agency at the end of the lease term, in 2018 at no additional cost to the Redevelopment Agency. After the Redevelopment Agency leasing the Station Parcel from Wareham, the *City, rather than the Redevelopment Agency*, executed a lease with Amtrak for the Station Parcel and the four Platform Parcels, despite not having a lease with the property owner, Wareham or a sublease with the Redevelopment Agency. The City's lease with Amtrak requires the City to transfer the Station Parcel and all four Platform Parcels to Amtrak upon expiration of the lease at no cost to Amtrak, which the City believes occurred on October 15, 2018. This transfer has not occurred yet.

The City has a stated goal of maintaining an intermodal transit center within the City as reflected in General Plan Goal T-G-3.

DISCUSSION

As required by the agreement between the City and Amtrak, the City is obligated to transfer the Station Parcel and the four Platform Parcels to Amtrak. To do so, it must obtain title to the Station Parcel and title to Platform Parcels 3 and 4. The City already owns Platform Parcels 1 and 2.

The Successor Agency will need to transfer Platforms 3 and 4, the 59th Street extension to the City, and its right to acquire the Station Parcel to the City, subject to approval by the Oversight Board and Department of Finance.

Assuming the Successor Agency is able to transfer Platforms 3 and 4 and the 59 Street extension to the City, as well as its right to acquire the Station Parcel to the City, the City will then exercise the right to acquire the Station Parcel from Wareham. Once the City has exercised its assigned right to obtain the Station Parcel, the City will then be in a position to fulfill its obligation its lease with Amtrak to transfer the Station Parcel and four platform parcels.

ENVIRONMENTAL REVIEW

The actions taken authorized by the above-referenced resolutions are exempt from environmental review under CEQA Guideline 15061(b)(3), the common sense exemption. The resolutions authorize actions intended to preserve the status of quo of maintaining the subject property as part of an intermodal transit center.

² The *City* acquired Platform Parcels One and Two from other entities later.

FISCAL IMPACT

The transactions described above are to carry out the actions necessary to achieve the end result that the parties anticipated when they first entered into the various agreements relating to the leasing and conveyance of the Station Parcel and four Platform Parcels. There is no new fiscal impact, beyond the staff time and outside legal counsel time to effectuate the parties' original intent.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has communicated with Wareham and Amtrak.

CONFLICT OF INTEREST

None.

CONCLUSION

For the foregoing reasons, staff recommends that the City Council adopt the above-referenced resolution.

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

Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
 - Exhibit A – Conveyance Agreement Between the Successor Agency and City