



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** November 1, 2016

**TO:** Mayor Martinez and Members of the City Council

**FROM:** Michael Guina, City Attorney

**SUBJECT:** **Discussion and Consideration of the Operation of Private Ferry Service at the Emeryville Marina**

### **RECOMMENDATION**

Staff recommends that the City Council receive an informational report regarding a new private ferry service at the Emeryville Marina operated by PROP SF ("Prop"), and discuss and consider this new private ferry service.

### **BACKGROUND**

Pursuant to the Planning Regulations in place at the time, in 2003, the City's Planning Commission approved use permit UP03-07 for the Marina's Master Plan, which is currently in place. The Master Plan allows for eating/drinking establishments, recreation, such as the sport fishing private charters, and retail.

In 2008, the City entered into a Second Amended and Restated Agreement of Ground Lease with Emeryville Marina LLC ("Tenant") for the operating and maintenance of the Emeryville Marina ("Lease"). The Tenant had contracted with Marinas International to manage the Marina, but recently, Emeryville Marina LLC has replaced Marinas International with Safe Harbor Marinas. Safe Harbors Marinas has a stronger approach to management compared with its predecessor, and has undertaken addressing some issues down at the Marina. Communication with City staff also has improved under Safe Harbors Marinas.

Section 19.01 of the Lease allows the Tenant to use, operate and manage the Marina for the purposes of *"(i) berthing, fueling, and selling boats; (ii) providing berthing spaces for owners of boats who wish to reside on their boats, (iii) other uses that are generally consistent with waterfront recreation areas; and (iv) providing services related to any of the activities described in subsections (i)-(iii), or any other commercially reasonable services arising in connection with operation of the Marina. Other uses, activities and programs must receive the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed."*

If a proposed activity falls within the sub-sections (i)-(iii), then the proposed activity is considered consistent both with the Marina Master Plan, as well as the Lease, and no further City approval is required. As discussed in further detail below, based on the

information staff has received, the proposed private charter ferry service by Prop is similar to the sports fishing charter service, given that they operate under similar permits and licenses, and therefore, is an allowed use under the Marina Master Plan and Lease. Of relevance for this item, Prop has obtained two separate permits from the California Public Utilities Commission ("CPUC"), one for private charter service, and one for public ferry service. In addition, the size of the boat is similar to that of a sport fishing charter. Prop rents a slip in the same area of the Marina as the sport fishing charters. Prop's boat can seat 36 passengers, and can accommodate on board 5 traditional bicycles, potentially more bicycles if they can fold down.

In 2015, under its CPUC permit for private charter service, Prop rented a commercial slip from Safe Harbors Marinas, and began operating a trial one-year private ferry service from the Emeryville Marina to Redwood City for a major employer located in the South Bay. The ferry ride between Marina and Redwood City is approximately 40 minutes. Prop operated the service on weekdays only, making two runs each morning, and two runs each evening, with an average of 7-10 passengers per run. Based on data collected during this trial period, only half of those passengers drove and parked at the Marina. Passengers used alternative modes of transportation, such as Emery Go-Around, bicycling, or carpooling. The City received no complaints regarding Prop's service during this trial period.

## **DISCUSSION**

Now that the trial period has concluded, Prop is looking to expand its *private charter service* to the general public. A private charter service expanded to the general public ("Private Ferry Service") is substantially different than a public ferry service. With the Private Ferry Service, Prop continues to operate under the same CPUC permit as it operated the large employer charter service. It would *not* be operating under its public ferry CPUC permit. A public ferry service requires the publishing of a schedule, and requires accepting walk-ups. The boat must make the run at the published time, has no notice if a large group arrives to take the ferry, and knows very little information about its passengers.

In contrast to the public ferry service, the Private Ferry Service offers Prop more control over their operation because Private Ferry Service requires passengers to book their trips at least 40 minutes in advance of departure; no walk-ups or last minute purchases are accepted. In addition, by requiring advanced purchase of tickets, Prop collects information on passengers, which allows it to communicate with its passengers. For example, Prop could advise passengers whether parking may be limited because of an event at the Marina and to encourage alternative methods of transportation. Collecting information also allows for Prop to facilitate other modes of transportation to improve the commute experience for its passenger by facilitating carpools, coordinating with Emery Go-Around, and potentially partnering with other companies seeking to improve transit options, such as Chariot, and Lyft. The City also is looking into the feasibility of placing a Bike Share pod at the Marina, to facilitate passengers reaching the last mile in Emeryville.

Prop's mission is to offer "an innovative ferry service" which provides a shorter and more consistent commute from more affordable communities to job centers. Under the same CPUC permit it has operated under, for the past year, on October 24, 2016, began operating a private charter service from Emeryville to San Francisco. The ferry time is approximately 12 minutes. Based on the information available at the time of this staff report, one of the first runs had 8 passengers, and only two passengers drove and parked their cars at the Marina. Although Prop is looking to partner with other transit companies to assist with getting passengers to and from the Marina, it has considered options in the event that parking demand increases. Safe Harbors Marinas has indicated it could raise the price of parking to discourage driving. In addition, the Towers has underutilized parking, and may be able to provide some parking relief if necessary.

Prop has indicated it wants to be strategic as it introduces this new, privately-funded, transit option. Prop chose the Emeryville to San Francisco route as its initial route. This means, as Prop approaches other bay front cities about its new service, other cities will be looking towards how the Emeryville/San Francisco route operated. Therefore, Prop has the incentive to ensure that the Emeryville/San Francisco route operates smoothly. Although Prop can ferry 36 passengers with each one-way run, it is limiting booking to 20 passengers during this initial roll out, so it can address any issues that arise quickly and effectively.

Prop also is an environmental-friendly business in two respects. First, Prop's target audience are those commuters seeking to put their commute time to a more productive use. Prop's boat offers Wi-Fi. Prop's service helps to reduce carbon emissions by encouraging individuals to leave their vehicles at home by offering a way to make their commute time more productive. Second, Prop's boat is made from 90% recycled materials. Thus, this new mode of transit is consistent with the goals set forth in both the City's Climate Action Plan, and General Plan, which encourage the development and use of alternate forms of transportation.

The prospect of private charter ferry service between San Francisco and Emeryville represents an innovative transportation option with potential economic development benefits for the City. Emeryville's central location at the nexus of major freeways is a significant asset for attracting business, however congestion on these freeways has increasingly become problematic and real estate professionals have cited the need for transit improvements in order for Emeryville to maintain its competitive advantage. Prop's proposed service addresses a transportation need and is consistent with Emeryville's culture of innovation.

## **PUBLIC WORKS COMMITTEE**

In July 2016, Prop made a presentation to the Public Works and Transportation Committee about its proposed "public" ferry service. At the time, Prop's application to offer a public ferry service was still pending before the CPUC, and Prop anticipated expanding its service under the CPUC public ferry service. The Committee thought the idea was interesting and recommended taking the proposal to the City Council prior to undertaking the public ferry service. Although Prop has received its CPUC permit for

public ferry service, it has opted, instead, to offer its private charter ferry service to the public for the reasons stated above under the CPUC permit that is operated under for over a year now.

### **FISCAL IMPACT**

There is no adverse fiscal impact to Prop beginning operation of the Private Ferry Service. To the extent the service is viewed as an amenity for Emeryville businesses, the service can be expected to result in long term indirect fiscal benefits to the City as businesses view Emeryville locations more favorably due to viable transportation options.

### **CONCLUSION**

Staff recommends that the City Council receive staff's informational report regarding the new Private Ferry Service, and take public comment on the item. No action is requested because based on the information staff has received, the proposed Private Ferry Service is consistent with allowed uses under both the CUP and Lease. James Jaber, CEO of Prop, and Michelle Shadows, from Safe Harbors Marinas will be present at the November 1, 2016, City Council meeting to answer any further questions.

**PREPARED BY:** Andrea Visveshwara, Assistant City Attorney

**REVIEWED BY:** Maurice Kaufman, Public Works Director  
Chadrick Smalley, Economic Development Manager

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



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Michael Guina, City Attorney