

**RESOLUTION NO. 19-\_\_\_\_**

**Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To King Crane Service For Saturday Work On Any Single Saturday From April 27, 2019, Through May 18, 2019, Between The Hours Of 9:00 A.M. And 9:00 P.M. For Two Cranes To Remove And Replace 18 Rooftop Air Handling Units At 1400 65th Street (APN: 49-1510-3-1)**

**WHEREAS**, on February 22, 2019 King Crane Service requested a Noise Waiver for crane work to remove and replace 18 existing rooftop air handling units at 1400 65<sup>th</sup> Street between 9:00 a.m. and 9:00 p.m. on Saturday, March 23, 2019, with a backup date of March 30, 2019; and

**WHEREAS**, on March 19, 2019, the City Council held a duly and properly noticed public hearing to consider the Noise Waiver request, at which the applicant indicated that the dates of the Noise Waiver needed to be modified to accommodate construction delays; and

**WHEREAS**, the City Council directed that the item be continued to the next City Council meeting on April 2, 2019, and that notices of the continued hearing be distributed with the correct dates of the Noise Waiver request; and

**WHEREAS**, the applicant subsequently withdrew their request for an April 2, 2019 hearing in favor of having an April 16, 2019 hearing date for a work day request of April 27, 2019; and

**WHEREAS**, in order to plan for unforeseen circumstances, the applicant is requesting that the earliest available Saturday after April 27, 2019 be approved as an alternative work day, and thus staff is recommending that the City Council approve Saturday work from 9:00 a.m. to 9:00 p.m. on any single Saturday from April 27, 2019 through May 18, 2019; and

**WHEREAS**, the building at 1400 65<sup>th</sup> Street where the air handling units are being removing and replaced cannot be occupied during the crane work; and

**WHEREAS**, one side of 65<sup>th</sup> Street between Hollis Street and Overland Avenue will need to be closed for the staging and use of two cranes; 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. weekdays, but allows a developer or contractor to ask the City Council for a waiver of the construction noise restrictions; and

**WHEREAS**, on April 16, 2019 the City Council held a duly and properly noticed public hearing to consider the application, the staff recommendation, and all public comments received; now therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby finds that the noise waiver for Saturday construction work at 1400 65<sup>th</sup> Street 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 it can be seen with certainty that there is no possibility that the noise waiver will cause a significant effect on the environment; and be it further

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

**RESOLVED**, that the City Council hereby approves the request for a waiver of construction noise hours for Saturday work at 1400 65<sup>th</sup> Street with the following conditions:

1. Work shall be allowed on any single Saturday from April 27, 2019 through May 18, 2019 between 9:00 a.m. and 9:00 p.m. All work shall be limited to that described in the letter from King Crane Service, attached hereto as Exhibit A.
2. Three signs shall be posted indicating the name and telephone number of a person to contact for concerns or complaints. This telephone must be answered by a live person during construction hours (not by voice mail or answering machine). This person must have the authority to stop work. These signs must be clearly legible from 65<sup>th</sup> Street and Hollis Street.
3. The applicant shall mail notices to all neighbors within 300 feet of the site, and the Emeryville Police, Fire and Public Works departments, at least five days prior to commencing weekend work.
4. If residents or local businesses complain, all work on the site and in the vicinity shall cease until the issue is resolved.
5. 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.

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, April 16, 2019 by the following vote:

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

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

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

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

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:



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

\_\_\_\_\_  
CITY ATTORNEY