



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: April 16, 2019
TO: Christine Daniel, City Manager
FROM: Charles S. Bryant, Community Development Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To King Crane Service For 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) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3))**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled resolution granting a waiver from the Noise Ordinance to allow work from 9:00 a.m. to 9:00 p.m. on any single Saturday from April 27, 2019 through May 18, 2019, for the removal and replacement of 18 rooftop air handling units, which requires two cranes at 1400 65th Street.

BACKGROUND

Eighteen existing rooftop air handling units need to be removed and replaced along the 65th Street side of the EmeryTech building located at 1400 65th Street. This work requires two mobile truck cranes to be located along 65th Street, which necessitates the closure of one side of the street and that the building be unoccupied. King Crane Service originally requested Saturday work from 9:00 a.m. to 9:00 p.m. on March 23, 2019; with a back-up request date of Saturday, March 30, 2019 if the first date proved infeasible due to weather or other issues. However, construction delays have necessitated rescheduling the work to Saturday, April 27, 2019.

On Tuesday, March 19, 2019, the City Council held a public hearing on the original request, at which the applicant indicated that the dates of the Noise Waiver request needed to be modified to accommodate the construction delays. 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.

However, 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. Additionally, 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. 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. This will provide some flexibility to allow for potential construction delays and inclement weather. The Resolution requires that the applicant notify all neighbors within 300 feet of the site, and the Emeryville Police, Fire and Public Works departments, prior to commencing weekend work.

DISCUSSION

Noise Ordinance Waiver Procedures

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. Section 5-13.06 sets forth the procedures for a waiver. The applicant must submit a request, accompanied by the required fee, to the Planning Director, stating the hours and days of work requested, type of work to be conducted, type of equipment to be used, location on the property where work will take place, and reason(s) why a waiver is needed. The City Council then holds a noticed public hearing on the request, and may grant the request by resolution and designate such conditions as it deems necessary. After granting the request, the City Council may revoke or modify the waiver if the applicant fails to comply with any of the conditions upon which the waiver was granted, or if complaints are received and not satisfactorily resolved.

Reason for Noise Waiver Request

The existing 18 rooftop air handling units at 1400 65th Street need to be removed and replaced. The rooftop equipment can only be removed and replaced using cranes. Completing the work in one day requires two cranes, both of which would be located along 65th Street, requiring one side of the street to be closed. Per Occupational Safety and Health Administration (OSHA) requirements, a building with crane work overhead cannot be occupied. Due to the length of time required for set-up (two hours), crane work (eight hours), and take-down (2 hours), a noise waiver would be required for this project any day of the week. However, considering that the EmeryTech building cannot be occupied during the crane work and that a travel lane must be closed, conducting the work Monday through Friday would have greater impacts on businesses, neighbors, and traffic.

Staff believes that the request for Saturday work is reasonable given the nature of the work to be performed and the safety measures that must be taken. Staff recommends approval of the requested noise waiver.

FISCAL IMPACT

None.

CEQA STATUS

Staff recommends the City Council find this noise 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, it can be seen with certainty that there is no possibility that the noise waiver will cause a significant effect on the environment. This recommendation is incorporated in the attached resolution.

STAFF COMMUNICATION WITH THE PUBLIC

As required by the Noise Ordinance, staff mailed notices to property owners and site addresses within 300 feet of 1400 65th Street and published a legal advertisement in the Oakland Tribune.

CONCLUSION

Staff recommends approval of the noise waiver request subject to the conditions of approval outlined in the draft resolution.

PREPARED BY: Navarre Oaks, Assistant Planner

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



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution, including Exhibit A, Applicant Request Letter