



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: April 16, 2019
TO: Christine Daniel, City Manager
FROM: Andrew Clough, Public Works Director
SUBJECT: Resolution of the City Council of the City of Emeryville Authorizing the City Manager to Execute a Parking and Construction License with LMV II Emeryville Holdings, LP for APN 049-1557-003

RECOMMENDATION

Staff recommends that the City Council adopt the above-referenced resolution authorizing the City Manager to execute the proposed Parking and Construction License.

BACKGROUND

On November 1, 2016, the City Council unanimously adopted Ordinance No. 16-006, which approved the Sherwin Williams Planned Unit Development (PUD 13-001) ("**Project**"), and which became effective December 1, 2016. The Project will redevelop the former Sherwin Williams paint factory site and an adjacent City-owned parcel, APN 049-1557-003 ("**City Property**"), including reuse of an existing 74,000 square foot significant structure for office use, construction of five new buildings that will accommodate approximately 500 dwelling units and a minimum of 2,000 square feet and a maximum of 8,000 square feet of commercial/retail space. The ground floor commercial space may include retail, restaurant, office, professional service, and other commercial uses allowed by the Planning Regulations. It also will include a public art gallery and community room. The project will also create two new streets: Hubbard Street extension and 46th Street and approximately 3.53 acres of public park/open space area (which includes greenway) on the City-owned property and in four "Park Open Space" parcels on the property owned by the Developer.

On May 25, 2017, the Planning Commission for the City of Emeryville adopted Resolution CPC No. SUBDIV16-002 approving a major subdivision permit for Vesting Tentative Map 8357, subject to certain Conditions of Approval ("**Vesting Tentative Map** or **VTM**"). On December 14, 2017, the Planning Commission of the City of Emeryville approved Resolution CPC No. FDP 17-002 approving the Final Development Plan for the Public Park and Open Space ("**Final Development Plan 2** or **FDP2**"), and on February 22, 2018, approved Resolution CPC No. FDP 17-001 approving the Architecture Final Development Plan for the buildings ("**Final Development Plan 1** or **FDP1**"). The PDP, VTM, FDP1 and FDP2 are referred to as "**Project Approvals**". On June 28, 2018, the Planning Commission adopted Resolution CPC No. UP18-005 approving a temporary surface parking lot on the City Property ("**Parking Use Permit**"), which expires on May 24, 2021.

DISCUSSION

The Project Approvals provide that the parking for the tenants and employees of the existing building, Building 1-31, will be in Building B2, which has yet to be built. Originally, the Developer anticipated that Building 1-31 would be occupied prior to the garage of Building B-2 being completed. Accordingly, the Developer sought, and obtained the Parking Use Permit from the Planning Commission to construct a temporary surface parking lot across the City Parcel to accommodate the parking for the occupants of B 1-31. However, the Developer now plans to construct Building B-2 first and is seeking to use the City property for temporary construction staging for the Project, and for the parking of the workers of the Developer's contractors.

The attached proposed Parking and Construction License would allow the Developer to use the City Property for a temporary surface parking lot, consistent with the Parking Use Permit, and for temporary construction staging. Key highlights of the Parking and Construction License include:

- The Developer will pave Halleck Street between Sherwin Avenue and Park Avenue as consideration for use of the City Property. (Section 14¹.)
- The Developer's use of the City Property must be consistent with the approved Construction Management Plan. (Section 8.c.) The Construction Management Plan requires that the truck haul route enter and exit the Project site from Halleck and Hubbard, alleviating construction traffic issues on Horton. The Construction Management Plan also requires that the Developer install three security cameras facing outward towards Halleck, Hubbard and 45th. There will be a security guard patrolling the Project site 24 hours per day, seven days per week. The security guard will check in with Emeryville Police Department's dispatch prior to shift changes. If the Developer fails to comply with the Construction Management Plan, the City may issue an administrative citation, following the process as set forth in Chapter 7 of Title 1 of the Emeryville Municipal Code. (Section 11.c.)
- The Developer will install and maintain fencing along the perimeter of the Project site promptly after execution of the proposed Parking and Construction License. (Section 8.k.)
- The Developer will abate graffiti within 72 hours of notice of the graffiti. (Section 8.f.)

The proposed parking license will run through March 24, 2021, unless the Planning Commission amends the Parking Use Permit to extend the expiration date, in which case the parking license will be extended to coincide with the amended expiration date for the Parking Use Permit. The Construction License will run through March 6, 2023, which coincides with the expiration of the temporary construction easement that the Developer reserved for itself across Parcel B when it offered to dedicate an easement across Parcel

¹ All section references are to a section in the proposed Parking and Construction License unless otherwise stated.

B for park and open space purposes. The City Manager may extend the expiration date for the construction license if the temporary construction easement is also extended.

FISCAL IMPACT

There is no fiscal impact to the City for entering into the Parking and Construction License. Currently, the City Property is vacant and is scheduled to be developed as a park as part of the Project. In addition, the paving of Halleck, the additional security measures offered by the Developer through the Construction Management Plan, and the maintenance of the City's vacant property provide added benefits to the community without any cost to the City.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has communicated primarily with the Developer on this agenda item.

CONFLICT OF INTEREST

Council member Bauters has a conflict of interest because of the proximity of his residence to the Project site.

CONCLUSION

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

PREPARED BY: Andrea Visveshwara, Assistant City Attorney

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



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
- Proposed Parking and Construction License