

RESOLUTION NO. 23-79

Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance For Paving Work On Shellmound Street, 65th Street, 66th Street, 67th Street, And Hollis Street For A Consecutive Fourteen-Day Period On Dates To Be Determined Between June 21, 2023 And November 19, 2023 To The City Of Emeryville, Bay Cities Paving & Grading Inc., And Union Pacific Railroad Corporation For Work Related To Street Improvements As Part Of The TCEP – Quiet Zone Safety Engineering Measures, Project No. EPW-18103 (CIP No. 19475008) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(B)(3))

WHEREAS, on February 15, 2022, the City Council authorized the construction of the TCEP – Quiet Zone Safety Engineering Measures, Project No. EPW-18103 (CIP No. 19475008) by awarding a contract to Bay Cities Paving and Grading, Inc.; and

WHEREAS, on July 19, 2022, the City Council authorized a noise waiver for this same project for the periods between August 1, 2022 and November 17, 2022 (Resolution No. 22-105); 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. on weekdays but allows a developer or contractor to request the City Council for a waiver of the construction noise restrictions (the “Noise Ordinance”); and

WHEREAS, construction of the project is now underway and requires coordination and scheduling of work to be performed by Bay Cities Paving and Grading (BCPG) and Union Pacific Railroad (UPRR); and

WHEREAS, BCPG has requested to perform all of their paving work more than 300 feet from any residence on Shellmound Street, 66th Street, 67th Street, and Hollis Street during the nighttime when trains run less frequently; and

WHEREAS, BCPG has requested to perform paving work within 300 feet of residences on 65th Street on weekend daytime periods as there is less traffic, transit services, and freight deliveries which means less disruption of normal operations to residents and businesses in the North Hollis corridors; and

WHEREAS, it is anticipated that the need for night work will be limited to weeknights (Monday – Friday) for Shellmound Street, 66th Street, 67th Street, and Hollis Street, and the need for weekend work will be limited to daytime periods on 65th Street only; and

WHEREAS, the period for this waiver is extended to November 19, 2023 in case of further delays on the project outside of the City or Contractor’s control; and

WHEREAS, proposed conditions of approval, as requested by the City of Emeryville on behalf of Bay Cities Paving and Grading Inc. and Union Pacific Railroad Corporation are as follows:

- 1) (10) total days of weekday nighttime work between the hours of 6 p.m. and 7 a.m.

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(Monday – Friday) on dates to be determined between June 21, 2023 and November 19, 2023 to perform paving operations more than 300' from any residence on Shellmound Street (65th – Northerly City Limits), 66th Street (UPRR crossing – 200' East of Crossing), 67th Street (Shellmound – 200' East of Hollis Street), and Hollis Street (Northerly City Limits – 200' south of 67th); and

- 2) (4) total days of weekend daytime work between the hours of 7:00am to 6:00pm beginning on dates to be determined between June 21, 2023 and November 19, 2023 to perform paving operations within 300' of residences on 65th Street (Christie Avenue - Hollis Street); and
- 3) The above periods will overlap and take place between the same consecutive fourteen calendar days; and
- 4) The City staff shall notify all neighbors within 300' of the site, and the Emeryville Police, Fire and Public Works departments, 72 hours prior to commencing night or weekend work; and
- 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.

WHEREAS, on June 20, 2023, the City Council held a duly and properly noticed public hearing to consider the request for a waiver, staff recommendation, and public comment; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville that the circumstances related to the Quiet Zone Safety Project are extraordinary and grants a waiver from the Noise Ordinance for paving work on Shellmound Street, 65th Street, 66th Street, 67th Street, and Hollis Street for a consecutive fourteen-day period on dates to be determined between June 21, 2023 and November 19, 2023 to the City of Emeryville, Bay Cities Paving & Grading Inc. and Union Pacific Railroad Corporation, subject to the conditions set forth below; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that the grant of 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 granting the Noise Waiver will not 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

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RESOLVED, that the City Council approval of a Noise Waiver is subject to the following conditions:

- 1) (10) total days of weekday nighttime work between the hours of 6 p.m. and 7 a.m. (Monday – Friday) on dates to be determined between June 21, 2023 and November 19, 2023 to perform paving operations more than 300' from any residence on Shellmound Street (65th – Northerly City Limits), 66th Street (UPRR crossing – 200' East of Crossing), 67th Street (Shellmound – 200' East of Hollis Street), and Hollis Street (Northerly City Limits – 200' south of 67th); and
- 2) (4) total days of weekend daytime work between the hours of 7:00 a.m. to 6:00 p.m. beginning on dates to be determined between June 21, 2023 and November 19, 2023 to perform paving operations within 300 feet of residences on 65th Street (Christie Avenue - Hollis Street); and
- 3) The above periods will overlap and take place between the same consecutive fourteen calendar days; and
- 4) The City staff shall notify all neighbors within 300 feet of the site, and the Emeryville Police, Fire and Public Works departments, 72 hours prior to commencing night or weekend work; and
- 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.

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ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, June 20, 2023, by the following vote:

AYES:	<u>4</u>	Mayor Bauters, Vice Mayor Welch and Council Members Kaur and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
RECUSED:	<u>1</u>	Council Member Mourra

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John Bauters
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MAYOR

ATTEST:

DocuSigned by:
April Richardson
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CITY CLERK

APPROVED AS TO FORM:

DocuSigned by:
Christie Crowl
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SPECIAL COUNSEL