



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: June 20, 2023

TO: Paul Buddenhagen, City Manager

FROM: Mohamed Alaoui, Public Works Director

SUBJECT: **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))**

RECOMMENDATION

Staff recommends that the City Council of the City of Emeryville adopt the above-entitled resolution 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 for work related to street improvements as part of the TCEP – Quiet Zone Safety Engineering Measures, Project No. EPW-18103.

BACKGROUND

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. 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).

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). To ensure safe and timely construction of the improvements, 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. Additionally, they have requested to limit paving work to within 300 feet of residences along 65th Street to weekend daytime periods with no nighttime work allowed.

In order to proactively inform local residents of the upcoming nighttime work, staff propose to send 72-hour advance notification to all addresses within a 300-foot radius of the project site prior to the commencement of the fourteen-day period of 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. on weekdays but allows a developer or contractor to request a waiver from the City Council for the construction noise restrictions (the “Noise Ordinance”). 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 or Public Works 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 any conditions 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 of approval, or if complaints are received and not satisfactorily resolved.

Reason for Noise Waiver Request

The Noise Ordinance limits construction noise to 11 hours per day, Monday through Friday. For the general safety of the public, contractor’s employees, and train crossings in project areas, paving operations more than 300 feet from any residence on Shellmound Street, 66th Street, 67th Street, and Hollis Street are requested to be performed at night when trains run less frequently. Additionally for paving operations within 300 feet of residences along 65th Street, there is less traffic, transit services, and freight deliveries on weekend daytime periods which means less disruption of normal operations to residents and businesses in the North Hollis corridors.

Conditions of Approval

The proposed conditions of approval, as requested by the City staff 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. (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 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.

ENVIRONMENTAL REVIEW

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 it can be seen with certainty that there is no possibility that this noise waiver will cause a significant effect on the environment.

FISCAL IMPACT

None.

STAFF COMMUNICATION WITH THE PUBLIC

As required by the Noise Ordinance, staff mailed notices on June 2, 2023, to property owners and site addresses within 300 feet of the project site and published a legal advertisement in the Oakland Tribune.

CONFLICT OF INTEREST

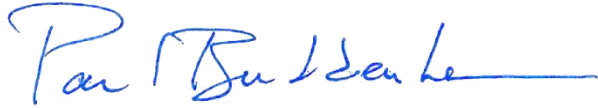
None.

CONCLUSION

Staff recommends that the City Council conduct a public hearing 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 for work related street improvements as part of the TCEP – Quiet Zone Safety Engineering Measures, Project No. EPW-18103

PREPARED BY: Ryan O'Connell, Senior Civil Engineer

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



Paul Buddenhagen, City Manager

ATTACHMENTS

- Draft Resolution