

RESOLUTION NO. 20-18

Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A First Amendment Construction Contract With Ghilotti Bros., Inc. In The Amount Of \$3,313.32 For A Total Contract Amount Not To Exceed \$545,313.32 And Accepting The ATP Greenway Crossing Improvements At 65th Street, 66th Street, And 67th Street, Project No. EPW-18106 (CIP No. 19254005), As Complete And Authorizing The City Engineer To File A Notice Of Completion With The Alameda County Clerk

WHEREAS, the Capital Improvement Program (CIP) adopted by the City Council in June 2019 included funding for the Greenway Crossings Safety Enhancement Project, CIP No. 19254005 (“Project”); and

WHEREAS, on July 9, 2019, the City Council adopted a resolution for awarding a contract to Ghilotti Bros., Inc for the construction of the Project in the amount of \$542,000; and

WHEREAS, there were \$50,000 in Construction Contingencies originally encumbered for this project that will be used to cover the additional work items beyond the \$542,000 Construction Contract; and

WHEREAS, the amount of this additional work totals \$3,313.32, and it is necessary to enter into a First Amendment Construction Contract for a total contract value of \$545,313.32; and

WHEREAS, the Project was substantially completed in Winter 2019/2020, other additional work was completed in January/February 2020, and Project costs are within the approved Project budget such that no additional appropriation is required; and

WHEREAS, the Project is complete and ready for acceptance by the City Council and the City Engineer must now file a Notice of Completion with the Alameda County Clerk; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville authorize the City Manager to enter into a First Amendment Maintenance Contract with Ghilotti Bros., Inc., in the form attached hereto as Exhibit A, in the amount of \$3,313.32 for a total contract amount not to exceed \$545,313.32; and be it further

RESOLVED, by the City Council of the City of Emeryville that the ATP Greenway Crossing Improvements at 65th Street, 66th Street, and 67th Street, Project No. EPW-18106 (CIP No. 19254005) is complete; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that the City Engineer is authorized to file a Notice of Completion as it relates to the Project with the Alameda County Clerk.

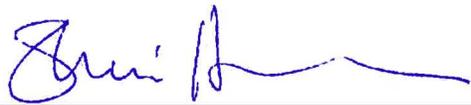
ADOPTED, by the City Council of the City of Emeryville at a special meeting held Thursday, March 19, 2020, by the following vote:

AYES:	<u>5</u>	Mayor Patz, Vice Mayor Martinez, and Council Members Bauters, Donahue, and Medina
NOES:	<u>0</u>	_____
ABSTAIN:	<u>0</u>	_____
ABSENT:	<u>0</u>	_____



MAYOR

ATTEST:

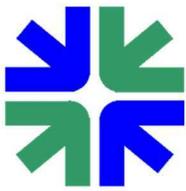


CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



City of Emeryville
CALIFORNIA

CONSTRUCTION CONTRACT
FIRST AMENDMENT

THIS FIRST AMENDMENT TO THE CONSTRUCTION CONTRACT (“Amendment”) is effective as of this _____ day of _____, 2020, by and between **THE CITY OF EMERYVILLE**, a municipal corporation, (“City”) and **GHILOTTI BROS., INC.** (“Contractor”), individually referred to as a “Party” and collectively as the “Parties”.

WITNESSETH THAT

WHEREAS, the City and Contractor entered into a Construction Contract dated July 26, 2019 (“Contract”) for the purpose of retaining the services of Contractor to provide **ATP GREENWAY CROSSING IMPROVEMENTS AT 65TH, 66TH, AND 67TH STREETS, PROJECT No. EPW-18106** (the “Project”); and

WHEREAS, the City and Contractor desire to amend the Contract; and

WHEREAS, the public interest will be served by this Amendment.

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. AMENDMENT

The Parties agree to amend the Contract as checked below:

1.1 Exhibit A

Exhibit A of the Contract is hereby amended in its entirety and replaced with **Exhibit A-Revision Number**;

OR

Exhibit A of the Contract is hereby amended to include the provisions of **Exhibit A-Revision Number**, attached hereto and incorporated herein by this reference.

1.2 Termination Date

The Parties desire to extend the termination date. Section 1.3 of the Contract is hereby amended to extend the termination date to **NEW EXPIRATION DATE**.

FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

1.3 Total Compensation Amount

- The Parties desire to increase the Total Contract Price as set forth in Section 3 of the Contract by **THREE THOUSAND THREE HUNDRED THIRTEEN DOLLARS AND THIRTY-TWO CENTS (\$3,313.32)**. The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **FIVE HUNDRED FORTY-FIVE THOUSAND THREE HUNDRED THIRTEEN DOLLARS AND THIRTY-TWO CENTS (\$545,313.32)**.

2. CONTINUING EFFECT OF CONTRACT

Except as amended by this Amendment, all other provisions of the Contract remain in full force and effect and shall govern the actions of the Parties under this Amendment. From and after the date of this Amendment, whenever the term "Contract" appears in the Contract, it shall mean the Contract as amended by this Amendment.

3. ADEQUATE CONSIDERATION

The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

4. SEVERABILITY

If any portion of this Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

5. WAIVER

The City's failure to enforce any provision of this Amendment or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

SIGNATURES ON FOLLOWING PAGE

6. SIGNATURE PAGE TO CONSTRUCTION CONTRACT
FIRST AMENDMENT

IN WITNESS WHEREOF the City and the Contractor have executed this Contract,
which shall become effective as of the date first written above.

Approved As To Form:



City Attorney

Dated: _____, 2020

CITY OF EMERYVILLE

Christine S. Daniel, City Manager

Dated: 3/4/20, 2020

GHILOTTI BROS., INC.
 for _____ (Signature)
Michael M. Ghilotti, President
Jason Miniello Project Manager - GBE