



MEMORANDUM

DATE: March 19, 2024
TO: Paul Buddenhagen, City Manager
FROM: Mohamed Alaoui, Public Works Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A First Amendment To The Contract With Zephyr Rail To Extend The Contract Expiration Date To June 30, 2025 And To Increase The Total Compensation Amount By \$249,472.59 For A Total Not To Exceed Amount Of \$1,146,859.84 For Bid Support, Pre-Construction Assistance, Construction Management, And Testing Services For The Quiet Zone Safety Engineering Measures Project, (CIP No. 19475008)**

RECOMMENDATION

Staff recommends that the City Council of Emeryville adopt the above-titled resolution.

BACKGROUND

On December 19, 2017, the City Council unanimously approved the City's application for 2018 SB 1 - Transportation Corridors Enhancement Program ("TCEP") funding for a Quiet Zone in Emeryville. In January 2018, the City of Emeryville submitted a project application for \$4.2 million in construction funding with a required total estimated match of about \$1.8 million (30% funded by ACTC), for a total construction value of \$6 million.

On May 16, 2018, the California Transportation Commission ("CTC") approved the 2018 Trade Corridor Enhancement Program Final Adopted Program of Projects. Included in this list of projects was the City's Project, titled 'Quiet Zone Safety Engineering Measures' ("Project"). The Project was officially approved in Resolution TCEP-P-1819-05B (October 17, 2018) and revised per Waiver 19-33 (June 26, 2019). In June 2020, CTC granted an additional 8-month extension due to COVID-19 impacts.

On July 10, 2018, the City Council approved Resolution 18-104, finding the Project is exempt from the California Environmental Quality Act pursuant to state CEQA Guideline 15301(c) and granting the City Manager signature authority for all agreements necessary to assure completion of the Quiet Zone Safety Engineering Measures Project.

On September 17, 2018, the City Council approved Resolution 18-124, authorizing the City Manager to execute a Professional Services Agreement to initiate design and processing of the Project.

On April 21, 2020, the City Council City approved minor scope of work changes to the Project and approved the permanent street closure of 66th Street 130' east of Shellmound Street at the Union Pacific Railroad ("UPRR") Crossing, effective July 1, 2021.

On January 19, 2021, the City Council approved an amended budget moving funds from various City and ACTC funding sources into the Project. Scope of work changes from the original application were discussed as ready to be brought forward for consideration to the CTC at their March 2021 Meeting.

On March 25, 2021, the City received approval from the CTC for the Project's Construction Funding Allocation Request for \$4,200,000 of TCEP Funding. Additionally, the City had already executed a funding agreement on July 26, 2018 for \$1,800,000 of ACTC Measure BB Funding for the local match requirements of the TCEP program.

On May 18, 2021, the City Council approved the scope of work and authorized the City Engineer to advertise the Project for public bids (Resolution No. 21-44).

DISCUSSION

On September 13, 2021, the City Council approved a Professional Services Contract with Zephyr Rail in the amount of \$897,387.25 (Resolution No. 21-94), for bid support, pre-construction assistance, construction management, and testing services for the TCEP – Quiet Zone Safety Engineering Measures, Project No. EPW-18103 (CIP No. 19475008).

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 \$2,269,819.11 Construction Contract to Bay Cities Paving and Grading, Inc.

The Project broke ground in June 2022, but has faced significant challenges beyond the control of the City of Emeryville, primarily due to persistent delays in collaboration with Union Pacific Railroad (“UPRR”). These delays, stemming from UPRR's labor shortages and emergency works diverting crews away from our site, have extensively hindered the Project's progression. Construction of the Project is now expected to be completed in Spring 2024, and requires more coordination and scheduling of work to be performed by BCPG and UPRR through March 2024.

The City's contract with Zephyr UAS, Inc. provides Construction Management support during construction, and the delays require an amendment to their contract to provide services through 2024 as the City will need continued support for the Quiet Zone implementation. The needed support work is shown in Exhibit A-1 (Scope of Work) attached to the 1st Amendment Professional Services Contract.

Staff recommends approving the 1st Amendment Contract which would add \$249,472.59 for a total contract not to exceed amount of \$1,146,859.84. If approved, Zephyr will continue support work on Construction Management & Testing, Post-Construction Services, and Quiet Zone Implementation. Staff also recommends extending the contract expiration date to June 30, 2025 in order to have support through full Project completion and reimbursement periods for grants funding the Project.

FISCAL IMPACT

Funding for the construction phase of this Project is available under CIP project number 19475008 with the following funds identified:

Project	Fund	Budget
19475008	254 – CMA TIP Reprogramming Grant	\$1,379,886
19475008	254 – ACTC TCEP Match Grant	\$1,800,000
19475008	254 – SB1 TCEP Grant	\$4,200,000
19475008	250 – Traffic Impact Fees	\$500,000
19475008	444 – 1999 Bonds	\$105,910
19475008	471 – Ped Path	\$180,000
19475008	475 – Gen Cap	\$708,870
19475008	242 – Measure BB Local Streets/Roads	\$600,000
TOTAL		\$9,474,666

The following is a summary of costs to the project to date, with the current action item added in bold:

Planning/Design Phase

Planning Phase	\$ 29,000.00
Rio Grande Pacific (Design)	\$ 599,611.49
UPRR (Planning/Design)	\$ 140,000.00

Construction Support

Original Contract (Zephyr Rail UAS, Inc.)	\$ 897,387.25
Zephyr, 1st Amendment Contract	\$ 249,472.59

Non-Railroad Work (Civil Roadway Items)

Original Contract (Bay Cities Paving & Grading)	\$ 2,269,819.11
1 st Amendment Contract	\$ 1,850,000.00

Railroad Portion of the Work

Construction Costs	\$ 2,795,436.00
Contingency (Estimated)	\$ 587,000.00

Total Project Cost **\$ 9,417,726.44**

There is adequate funding encumbered into the Project as shown above to fully fund the 1st Amendment Contract and the construction of the TCEP – Quiet Zone Safety Engineering Measures Project (CIP No. 19475008).

Upon completion of the Project, there will be an expected cost of \$90,000 per year in Railroad Maintenance Fees. The maintenance of the newly installed supplemental safety measures will be the responsibility of the City of Emeryville as these facilities go beyond what is required at a normal railroad crossing. These maintenance fees are expected to first occur in Fiscal Year 2024/2025 and the remaining Project balance will be used until

exhausted. A maintenance budget will need to be incorporated into the City's operating budget for future years.

STAFF COMMUNICATION WITH THE PUBLIC

The Quiet Zone Project has been discussed at various meetings of the Bicycle and Pedestrian Advisory Committee and the Transportation Committee in 2021-2024.

CONFLICT OF INTEREST

None.

CONCLUSION

Staff recommends that the City Council of Emeryville adopt the above-titled resolution.

PREPARED BY: Ryan O'Connell, Senior Civil Engineer

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

A handwritten signature in blue ink, appearing to read "Paul Buddenhagen", written over a horizontal line.

Paul Buddenhagen, City Manager

ATTACHMENTS

- Professional Services Contract (Zephyr Rail) – Original
- Draft Resolution
- Professional Services Contract (Zephyr Rail) – 1st Amendment
 - Exhibit A-1 (Scope of Work)