



## **COUNCIL REPORT**

**DATE:** June 27, 2023

**CATEGORY:** Consent

**DEPT.:** Public Works

**TITLE:** **Authorization for Administrative Actions for Public Works Projects through August 31, 2023**

### **RECOMMENDATION**

Authorize the City Manager or designee to take the following actions if needed between the dates of June 28, 2023 and August 31, 2023, with ratification by the City Council at its next meeting:

1. Accept the public improvements for the development at 1720 Villa Street for maintenance throughout their useful life.
2. Accept the public improvements for the development at 525, 555, and 769 East Evelyn Avenue for maintenance throughout their useful life.
3. Accept Well Abandonments 10, 17, and 20, Project 19-39, and authorize the final contract payment.
4. Transfer and appropriate up to \$200,000 from the Capital Improvement Program Reserve Fund to Street Lane Line and Legend Repainting, Project 21-12, and award a construction contract for an amount not to exceed \$1,417,000 if the bid from the lowest responsive responsible bidder is higher than the project budget of \$1,217,000. (Five votes required)
5. Transfer and appropriate up to \$200,000 from the Capital Improvement Program Reserve Fund to SB 1 Streets Project, Project 21-30, and award a construction contract for an amount not to exceed \$1,500,000 if the bid from the lowest responsive responsible bidder is higher than the project budget of \$1,300,000. (Five votes required)

### **BACKGROUND AND ANALYSIS**

The City Council's first scheduled meeting for Fiscal Year 2023-24 is on September 12, 2023, which is 11 weeks after the last meeting for Fiscal Year 2022-23 on June 27, 2023. Significant construction activity occurs during the summer, including private developers completing off-site improvements in the right-of-way, City completing construction of capital projects, and the City

awarding new construction contracts for capital projects. As the projects reach these milestones, Public Works must receive Council approval before staff can take the necessary administrative actions for the projects to move forward with close-out or contract award.

Staff has identified five private development and City projects that would be adversely impacted by delays and increased costs if they need to be held until the Council's next meeting on September 12, 2023. Staff requests Council authorize the City Manager or designee to act on behalf of Council for these projects if action is needed prior to the end of August. Staff would bring these items to Council for ratification at its next meeting on or before September 12, 2023.

These five projects and the requested authority are described below.

### **Accept Public Improvements**

Private developments are conditioned to make certain improvements in the right-of-way to support their projects. These improvements include infrastructure along their frontages, such as sidewalks and utilities. Once these off-site improvements have passed the City's final inspection, staff recommends that the City Council accept the public improvements, which signifies that the developer has satisfactorily completed improvements in the City's right-of-way. Once accepted, the City takes ownership of and maintenance responsibility for the improvements.

Developers are responsible for the improvements and their maintenance until Council acceptance. Additionally, developers are required to warranty the improvements, typically via bonds, one year after Council acceptance. Delaying acceptance can increase the developer's maintenance costs and prolong the start of the warranty, also adding to their costs since they typically provide and pay for the bonds and their renewal costs to cover the warranty.

There are two housing developments that are expected to complete their off-site improvements in July and will expect the City to accept the public improvements in a timely manner. These projects are:

- **1720 Villa Street**—This development includes a new 226-unit apartment complex with below-grade parking. The public improvements include utility connections, a raised crosswalk, curb, gutter, sidewalk, speed humps along Villa Street, and a pedestrian/bicycle pathway adjacent to the west side of North Shoreline Boulevard connecting Villa Street to West Evelyn Avenue.
- **525, 555, and 769 East Evelyn Avenue**—This development includes a new 471-unit apartment complex with below-grade parking. The public improvements include utility connections, curb, gutter, sidewalk, and median island modifications.

To avoid delays that may impact the developer's costs, staff requests that Council authorize the City Manager or designee to accept the public improvements on behalf of the City Council.

### **Accept Construction**

On September 28, 2021, Council authorized rebidding Well Abandonments 10, 17, and 20, Project 19-39, and authorized award of the construction contract if the lowest responsive responsible bid was within the project budget. The contract was awarded to Abundant Water Wells, Inc., at the lowest responsive responsible bid price of \$528,256, including a \$60,000 construction contingency. It is expected that final inspection for the project will be completed by mid-July.

Final payment to the contractor and release of the contractor's performance bonds cannot occur until the City accepts the work. "Acceptance" of a construction contract is a legal event recognized by State law when the City verifies the contractor has satisfactorily completed a public project. Additionally, contractors are required to warranty the improvements for one year after City acceptance. Delaying acceptance can increase the contractor's maintenance and bonding costs and prolong the start of the warranty, adding to their costs. For these reasons, if the City does not accept the project in a timely manner, the contractor may submit a claim to recover their increased costs due to the delay on the City's part.

To avoid delays that may increase the project's costs, staff requests that the Council authorize the City Manager or designee to accept the project on behalf of the City Council.

### **Appropriate Funding to Award Construction Contracts**

The City is experiencing price inflation in labor and materials in line with regional and national inflationary trends. Increased demand for infrastructure and an evolving and shrinking labor market, together with supply chain challenges, are having a major impact on bids for the City's capital projects. Staff has seen a handful of City projects that have had significantly higher-than-expected bid prices.

There are six capital projects scheduled for bid openings in July and August. Staff updated the projects' budgets and requested additional appropriations to reflect the increased costs and more contingency when staff requested Council approval to advertise these projects for bidding. However, the bid environment is currently unpredictable, and if a bid comes in higher than the project budget can cover, staff will have to delay awarding the construction contract and starting the project until the Council can consider appropriating additional funding on September 12, 2023.

In reviewing the six projects, staff determined that two of the projects are particularly time-sensitive and should start work as soon as possible. Should the bid from the lowest responsive responsible bidder exceed the project budget, staff requests that Council authorize the City Manager or designee to transfer and appropriate up to \$200,000 from the Capital Improvement Program (CIP) Reserve for each project described below, if needed, to award the construction contract.

- **Street Lane Line and Legend Repainting, Project 21-12**—Council is being requested to approve advertising this project for bids on this same June 27, 2023 Council agenda. The project includes improvements to 108 high-visibility crosswalks and approximately 10,000 linear feet of street lane line improvements in various City locations, primarily focused on school areas. The goal is to complete these improvements as quickly as possible as the new school year begins.
- **SB 1 Streets Project, Project 21-30**—Council is being requested to approve advertising this project for bids on this same June 27, 2023 Council agenda. The project includes repairing localized roadway failures and applying slurry seal to various streets, including the 100 to 300 blocks of Castro Street. The resurfacing of Castro Street needs to occur in late September/early October in preparation for implementation of the new Outdoor Patio areas and other Interim Pedestrian Mall improvements. Should the bids run high, waiting until September 12 for Council approval for additional funding will not give enough time to execute the construction contract and for the contractor to mobilize to meet this resurfacing schedule.

### **FISCAL IMPACT**

The public improvements for 1720 Villa Street and 525, 555, and 769 East Evelyn Avenue were paid for by the developers.

Well Abandonments 10, 17, and 20, Project 19-39, is being delivered within the project budget of \$933,088. The final construction cost and final quantity adjustment change order will be provided when Council is requested to ratify the acceptance of the project.

Up to \$400,000 from CIP Reserve towards Street Lane Line and Legend Repainting, Project 21-12, and SB 1 Streets Project, Project 21-30, may be appropriated. There is sufficient balance in the CIP Reserve for this request. Should these projects not need additional funding to award construction contracts, this funding will remain available for Council to appropriate to other CIP projects.

**ALTERNATIVES**

1. Do not authorize the City Manager or designee to take one or more of the recommended actions.
2. Provide other direction.

**PUBLIC NOTICING**—Agenda posting.

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