



# COUNCIL REPORT

**DATE:** November 15, 2022

**CATEGORY:** Consent

**DEPT.:** Public Works

**TITLE:** **Shoreline Bus Lane Property Acquisition,  
Project 18-47—Amend Project Budget**

## **RECOMMENDATION**

Acting in its capacity as Board of Directors of the Shoreline Regional Park Community, transfer and appropriate \$886,500 of Shoreline Regional Park Community 2018 Series A Bond Proceeds from Shoreline Boulevard at Highway 101 Bicycle/Pedestrian Bridge, Construction, Project 20-38, into Shoreline Bus Lane Property Acquisition, Project 18-47.

## **BACKGROUND AND ANALYSIS**

Au Energy owns and operates a Shell-branded service station located at 807 North Shoreline Boulevard, at the intersection of North Shoreline Boulevard and Middlefield Road. Au Energy's property is located at the southern end of the Shoreline Boulevard Reversible Bus Lane Project. The Reversible Bus Lane project includes adding protected bikeways and pedestrian improvements along the Shoreline Boulevard frontage of the service station. In order to construct the project, the City needs to acquire 970 square feet of Au Energy's property in fee and a 1,310 square foot temporary construction easement and to close the service station's southern driveway on Shoreline Boulevard.

In a public hearing held on [May 23, 2019](#), the City Council adopted a resolution authorizing the City Attorney to initiate legal proceedings to acquire the Au Energy property by eminent domain. The law requires the City to compensate Au Energy for the property acquisition and temporary construction easement and for severance damages for the loss of one driveway. Au Energy and the City entered into private mediation and reached a settlement in the amount of \$1,156,500, which is within the settlement authority provided by Council in Closed Session on August 16, 2022. Currently, there is \$270,000 on deposit with the State Condemnation Fund, which leaves a remaining balance due of \$866,500. If a settlement agreement had not been reached, the eminent domain proceedings would have gone to jury trial. A jury trial would have taken more time, incurred significant legal fees, and may have resulted in a compensation amount that exceeded the settlement amount.

## **FISCAL IMPACT**

Shoreline Bus Lane Property Acquisition, Project 18-47 (Project 18-47), is funded with \$4,700,000 from Shoreline Community 2018 Series A Bond proceeds and \$140,000 from the Shoreline Regional Park Community Fund. The project's budget has been nearly fully expended to complete the acquisition of right-of-way from eight other parcels. Additional funding is needed to pay the settlement amount to Au Energy.

Staff recommends transferring \$866,500 of Shoreline Regional Park Community 2018 Series A Bond Proceeds (Bond Proceeds) from Shoreline Boulevard at Highway 101 Bicycle/Pedestrian Bridge, Construction, Project 20-38 (Bridge Project), to Project 18-47. The Bond Proceeds have been allocated to a number of Shoreline Community-related projects, including the construction of the Bridge Project. Because the Bond Proceeds need to be expended in a timely manner and the Bridge Project is still in preliminary design with construction several years away, this transfer is recommended. Therefore, although there are sufficient funds in the Shoreline Regional Park Community Fund to provide the additional \$866,500 needed for Project 18-47, staff recommends using the Bond Proceeds to cover the project's additional budget needs.

Staff will propose replacing the Bridge Project funding as part of the Capital Improvement Program (CIP) process when staff has a better sense of the timing and construction costs for the Bridge Project.

## **ALTERNATIVES**

1. Do not authorize the transfer of Bond Proceeds, and direct staff to appropriate \$866,500 from the Shoreline Regional Park Community Fund for Project 18-47.
2. Provide other direction.

**PUBLIC NOTICING**—Agenda posting.

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