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Title: Action to Authorize the City Manager to Negotiate, Execute, and Administer an Agreement with Capitol Corridor Joint Powers Authority to Reimburse Design Related Costs for the Protection or Relocation of City-Owned or Maintained Utilities in connection with the Union Pacific Railroad Agnew Siding Project and Related Budget Amendment

Sponsors:

Indexes:

Code sections:

Attachments: 1. Project Location Map

Date	Ver.	Action By	Action	Result
12/6/2022	1	City Council and Authorities Concurrent	Approved	Pass

REPORT TO COUNCIL

SUBJECT

Action to Authorize the City Manager to Negotiate, Execute, and Administer an Agreement with Capitol Corridor Joint Powers Authority to Reimburse Design Related Costs for the Protection or Relocation of City-Owned or Maintained Utilities in connection with the Union Pacific Railroad Agnew Siding Project and Related Budget Amendment

COUNCIL PILLAR

Deliver and Enhance High-Quality Efficient Services and Infrastructure

BACKGROUND

The Union Pacific Railroad (UPRR) has proposed constructing a new secondary track within UPRR's right-of-way between Tasman Drive and Agnew Road, the UPRR Agnew Siding Project (Project). A location map showing the project limits is included as Attachment 1. UPRR and the Capitol Corridor Joint Powers Authority (CCJPA) have been working together to design and implement the Project. Construction of the Project will require protection or relocation of seven City-owned or maintained utilities crossing UPRR's right-of-way. The seven utilities affected consist of one water line, one recycled water line (owned by South Bay Water Recycling and operated and maintained by the City), one Silicon Valley Power 12 kV transmission line, one storm drain line, and three sanitary sewer lines.

Utilities crossing UPRR's right-of-way are subject to UPRR's requirements and standards. It has been determined that the length of the existing protective casings around the City-owned or maintained utilities (if present) are not sufficient to meet UPRR's requirements. Per the agreements in place allowing City utilities in UPRR's right-of-way, the design and construction required to protect or relocate these existing utilities are at the City's expense. Staff from the Department of Public Works,

Water and Sewer Utilities, Silicon Valley Power, and the City Attorney's Office met on this issue multiple times regarding the City's responsibility.

DISCUSSION

At the Project location, UPRR's right-of-way is situated between the City's public right-of-way of Lafayette Street to the east and Stars and Stripes Drive, Wilcox Avenue, and Bassett Street to the west. Due to the tight timeline for the Project identified by CCJPA, the City and CCJPA are working on a funding agreement for CCJPA to perform the field investigation, engineering design, and construction for the protection or relocation of these seven City-owned or maintained utility crossings with their Project.

CCJPA leveraged their existing design contracts to receive competitive bid proposals for the field investigation and engineering design services and City staff reviewed the consultant qualifications and proposals submitted. The scope of work generally includes field investigation, conceptual design, UPRR crossing applications, final design, bid phase services, and construction phase services. If necessary, geotechnical reports and plat and legal descriptions are included as optional services.

The proposal submitted to the City for design related services is \$426,620, which includes a 10 percent contingency. Additionally, City staff requested a rough order of magnitude estimate for the construction of these utility protections or relocations. Based on the information provided by CCJPA and their consultants, it is estimated that construction costs, including contingencies, could be up to \$5,000,000.

The total aggregate cost for design and construction work is estimated at \$5,426,620.

The key provisions of the Agreement will likely include:

- CCJPA will be the lead agency
- CCJPA will apply to the City and other agencies for any permits, rights-of-entry, easements, or other permissions necessary to construct the Project
- Reimbursement will be completed based on actual cost for design and construction of the protection or relocation of City-owned or maintained utility crossings
- A not-to-exceed amount of \$426,620 for field investigation and design services

CCJPA anticipates that the Project will begin in early 2024 so utility protection or relocation will need to be completed prior to that. Staff recommends authorizing the City Manager to negotiate, execute, and administer an agreement with CCJPA to reimburse them for design related costs for the protection or relocation of City-owned or maintained utilities for a not-to-exceed amount of \$426,620.

Due to the timeframe for the Project construction and compliance with UPRR agreements, City staff is also requesting authorization for the City Manager to amend the contract with CCJPA for up to an additional \$5,000,000 to cover construction related work. It should be noted that if costs come in under this amount, the amendment will be executed for the lesser amount. Also, if costs are higher, then staff would need to come back to Council for the additional approval.

Staff is requesting a budget amendment for the design costs only at this time. The construction budget will be considered during the Fiscal Year 2023-24 biennial budget process.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment. Should a project move forward to construction it would be reviewed in accordance with CEQA as part of the approval process.

FISCAL IMPACT

Design related cost allocations between utilities (shown below in Table 1) were determined using the design cost proposal which separated estimated design costs per utility.

Table 1 - Design and Construction (estimate) Cost Allocations by Utility

	Public Works	Water & Sewer Utility De			Silicon Valley Power	Total
	Storm Drain	Sanitary Sewer	Potable Water	Recycle Water	Electric	
Design	\$132,658	\$233,284	\$20,226	\$20,226	\$20,226	\$426,620
Construction	\$1,594,927	\$2,623,263	\$260,623	\$260,623	\$260,623	\$5,000,000
Total	\$1,727,585	\$2,856,447	\$280,849	\$280,849	\$280,849	\$5,426,620

The budget amendment below allocates funding from the General Fund, Sewer Utility Capital Fund, Water Utility Capital Fund, Recycled Water Capital Fund, and the Electric Utility Capital Fund to the General Government Capital Fund for design services in the amount of \$426,620 related to the relocation or protection of utility crossings for Storm Drain, Sanitary Sewer, Potable Water, Recycled Water, and Electric, respectively.

**Budget Amendment
FY 2022/23**

	Current	Increase/ (Decrease)	Revised
General Fund (001)			
<u>Expenditures</u>			
Transfer to the General Government Capital Fund	\$1,614,283	\$132,658	\$1,746,941
<u>Fund Balance</u>			
General Fund Capital Project Reserve	\$6,728,508	(\$132,658)	\$6,595,850
Sewer Utility Capital Fund (594)			
<u>Expenditures</u>			
Sanitary Sewer System Improvements	\$2,000,000	(\$233,284)	\$1,766,716
Transfer to the General Government Capital Fund	\$0	\$233,284	\$233,284
Water Utility Capital Fund (592)			
<u>Expenditures</u>			
Distribution System Replacement/Restoration	\$2,000,000	(\$20,226)	\$1,979,774
Transfer to the General Government Capital Fund	\$0	\$20,226	\$20,226

Recycled Water Capital Fund (597)

Expenditures

Recycled Water System Mains and Services	\$50,000	(\$20,226)	\$29,774
Transfer to the General Government Capital Fund	\$0	\$20,226	\$20,226

Electric Utility Capital Fund (591)

Expenditures

New Business Estimate Work	\$5,997,453	(\$20,226)	\$5,977,227
Transfer to the General Government Capital Fund	\$0	\$20,226	\$20,226

General Government Capital Fund (539)

Revenues

Transfer from the General Fund Capital Project Reserve	\$89,283	\$132,658	\$221,941
Transfer from the Sewer Utility Capital Fund	\$0	\$233,284	\$233,284
Transfer from the Water Utility Capital Fund	\$0	\$20,226	\$20,226
Transfer from the Recycled Water Capital Fund	\$0	\$20,226	\$20,226
Transfer from the Electric Utility Capital Fund	\$0	\$20,226	\$20,226

Expenditures

UPRR Agnew Siding Project - City Utility Protection/Relocation (NEW PROJECT)	\$0	\$426,620	\$426,620
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General Fund Capital Projects Reserve balances are tentative pending Council approval of the FY 2021/22 Year End Report scheduled for the City Council on December 6, 2022. An additional estimated \$5 million for construction will be considered as part of the Fiscal Year 2023/24 biennial budget process to allocate costs equitably across the utilities.

COORDINATION

This report has been coordinated with the Finance Department, the Water and Sewer Utilities Department, Silicon Valley Power, and the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

1. Authorize the City Manager to negotiate, execute, and administer an Agreement with Capitol Corridor Joint Powers Authority to reimburse design related costs for the protection or relocation of City-owned and maintained utilities in the amount not-to-exceed \$426,620;
2. Approve the following FY 2022/23 budget amendments:
 - A. In the General Fund, increase the transfer to the General Government Capital Fund and reduce the Capital Projects Reserve by \$132,658 (**five affirmative Council votes required for the use of unused balances**) ;
 - B. In the Sewer Utility Capital Fund, increase the transfer to the General Government Capital Fund and reduce the Sanitary Sewer System Improvements project by \$233,284 (**majority affirmative Council votes required**);

- C. In the Water Utility Capital Fund, increase the transfer to the General Government Capital Fund and reduce the Distribution System Replacement/Restoration project by \$20,226 (**majority affirmative Council votes required**);
 - D. In the Recycled Water Capital Fund, increase the transfer to the General Government Capital Fund and reduce the Recycled Water System Mains and Services project by \$20,226 (**majority affirmative Council votes required**);
 - E. In the Electric Utility Capital Fund, increase the transfer to the General Government Capital Fund and reduce the New Business Estimate Work project by \$20,226 (**majority affirmative Council votes required**); and
 - F. In the General Government Capital Fund, increase the transfer in from the General Fund Capital Project Reserve by \$132,658, increase the transfer in from the Sewer Utility Capital Fund by \$233,284, increase the transfers in from the Water Utility Capital, Recycled Water Capital, and Electric Utility Capital Funds by \$20,226 each, and establish the UPRR Agnew Siding Project - City Utility Protection/Relocation project in the amount of \$426,620. (**five affirmative Council votes required to appropriate additional revenue**).
3. Authorize the City Manager to amend the Agreement to include construction related costs for an additional amount up to \$5,000,000, for an aggregate not to exceed amount of \$5,426,620, subject to the appropriation of funds; and
4. Authorize the City Manager to execute any and all documents associated with, and necessary for the award, completion, and acceptance of the construction of the Project and to extend the term.

Reviewed by: Craig Mobeck, Director of Public Works
Gary Welling, Director of Water and Sewer Utilities
Manuel Pineda, Assistant City Manager/Chief Electric Utility Officer

Approved by: Rajeev Batra, City Manager

ATTACHMENTS

- 1. Project Location Map