



Staff Report

TO: City Council
FROM: Jeff Hart, Director of Public Works
DATE: November 15, 2022
SUBJECT: Authorization for a Letter of Credit for Mitigation Bank Credits Associated with CIP 2017-009 Pennsylvania Avenue Widening

Description Authorize City staff to execute a letter of credit in an amount not to exceed \$96,000 for future purchase of mitigation bank credits associated with CIP 2017-009 Pennsylvania Avenue Widening.

Background and Analysis:

On August 17, 2022, City Council adopted the Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the Pennsylvania Avenue Widening Project. The MMRP identifies various mitigation measures required to ensure that the Pennsylvania Avenue Widening Project complies with all applicable environmental mitigation requirements identified in the IS/MND (see Attachment A).

One of the mitigation measures, BIO-2, requires the City to offset permanent impacts to 0.1-acres of riverine resources by purchasing 0.1 acres of re-establishment credits and 0.1 acres of re-habilitation credits from the Riverpark Mitigation Bank located within the San Jacinto watershed. The City estimates a cost of \$80,000 for the required 0.2 acres of credits based on the current cost of \$400,000 per acre for the current phase (A) of Riverpark Mitigation Bank credits; however, there are no available credits remaining in the current phase. The management of the Riverpark Mitigation Bank has stated that the next phase (B) of credits may not be released until the end of this year, and phase C will be in March of 2023. The cost of the next phase of credits is unknown at this time but is not expected to exceed 120% of the current phase cost.

As an alternative to purchasing credits prior to the start of construction, the California Department of Fish and Wildlife (CDFW) allows the deferred purchase of credits by accepting security in the form of a Letter of Credit (LOC). The LOC template is included as Attachment B for reference.

In order to prevent a construction delay, City staff is seeking City Council approval to request a LOC prior to final approval from CDFW. CDFW has not yet approved the City's request to provide a LOC in lieu of purchased credits prior to construction of this project, however they did recently approve a letter of credit for the Fire Station 106 project that is awaiting credits from the same mitigation bank. It is anticipated that the LOC amount will not exceed \$96,000, which is 120% of the current phase estimate.

Fiscal Impact:

Project funding is based on the approved five-year Capital Improvement Plan. An amount not to exceed \$96,000 will be paid from the permit budget. The following is a summary of the funding and budget:

2017-009 Pennsylvania Avenue Widening Project Accounting Summary				
Funding Summary				
Funding Year	Funding Source			Amount
FY 17/18	Road & Bridge DIF			\$650,000.00
FY 17/18	Grant			\$24,600.00
FY 19/20	TUMF			\$3,368,000.00
FY 22/23	2022 Appropriation Bill			\$1,300,000.00
FY22/23	General Fund			\$4,000,000.00
FY22/23	Road & Bridge DIF			\$1,200,000.00
Total Project Funding =				\$10,542,600.00
Budget Summary				
Project Component	Budget	Encumbered	Paid to Date	Remaining Budget
Project Management	\$22,540.00	(\$22,537.44)	(\$22,537.44)	\$2.56
Preliminary Services	\$0.00	\$0.00	\$0.00	\$0.00
Environmental	\$164,026.00	(\$164,026.00)	(\$159,189.35)	\$0.00
Design	\$679,396.00	(\$679,396.00)	(\$420,276.52)	\$0.00
Construction	\$9,285,268.00	(\$9,285,268.00)	(\$173,000.00)	\$0.00
Construction Services	\$60,000.00	\$0.00	\$0.00	\$60,000.00
Permits	\$331,370.00	(\$33,165.00)	(\$29,716.51)	\$298,205.00
Equipment	\$0.00	\$0.00	\$0.00	\$0.00
Project Summary Totals	\$10,542,600.00	(\$10,184,392.44)	(\$804,719.82)	\$358,207.56

Recommended Action:

Authorize City staff to execute a letter of credit in an amount not to exceed \$96,000 for future purchase of mitigation bank credits associated with CIP 2017-009 Pennsylvania Avenue Widening.

Attachments:

- A. Mitigation Monitoring and Reporting Program
- B. Letter of Credit Template