



DATE: January 25, 2022

TO: Mayor and City Council

FROM: Public Works Director
City Attorney

SUBJECT: Adopt a Resolution Authorizing the Public Works Director to Complete Construction of Subdivision Improvements in Tract 8058 of the Golden Oaks 2 Subdivision; Making Findings to Procure the Work on the Open Market; and Authorizing Expenditure of City Funds in an Amount Not to Exceed \$630,000

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the Public Works Director to complete construction of specified subdivision improvements in Tract 8058 of the Golden Oaks 2 Subdivision, making findings that it is more beneficial to procure the work on the open market, and authorizing expenditure of City funds in an amount not-to-exceed \$630,000.

SUMMARY

On October 2, 2014, the Hayward Planning Commission approved the tentative map for Tract 8058, a five-lot subdivision on an approximately 1.15 acre site between Hayward Boulevard and Hillcrest Avenue. The Council approved the final map for Tract 8058 (Attachment III), with certain conditions of approval, at its regularly scheduled meeting on June 30, 2015. In February 2017, Ron Esau, the subdivider of Tract 8058 entered into a Subdivision Improvement Agreement with the City to construct improvements specified for the subdivision within 365 days of the agreement. The improvements remain incomplete as of this date. Under the terms of the Subdivision Improvement Agreement, the City has the contractual right to complete the work and seek reimbursement from the subdivider/developer. Staff recommended action is pursuant to the terms of a settlement agreement that resolves ongoing litigation between two property owners within the subdivision and the City of Hayward.

BACKGROUND

The City has been engaged in ongoing litigation with two property owners within the Golden Oaks 2 subdivision since June 2020 as result of the incomplete subdivision

improvements (*Sharma, et al. v. City of Hayward*, Alameda County Superior Court case number HG 20064943). The parties participated in court-ordered mediation and have negotiated a resolution, which includes the City undertaking completion of specific subdivision improvements that would allow the property owners to connect to utility services and apply for certificates of occupancy for their residences.

DISCUSSION

The project will entail construction of the following subdivision improvements:

- a. Sanitary sewer extension to each lot in Tract 8058.
- b. Natural gas, electricity and telecommunication conduit extensions to each lot.
- c. Drainage collection and treatment from each lot.
- d. Common driveway extension from existing paved street to lower three lots. The upper two lots front on a public street (Hillcrest Ave).
- e. Removal and disposal of surplus dirt left on some lots and regrading as per the approved plans.
- f. Lot owners will pay for and complete improvements required on their lots such as buildings, patios, landscaping, retaining walls, utility services and laterals etc.

Staff recommends that the Council make findings pursuant to Hayward Municipal Code Section 2-8.01 that it is more beneficial to procure the work on the open market as opposed to advertising for bids. This recommendation is based on the relatively small size of the project which could make it challenging to attract bidders, the need to quickly identify and reach out to a specific pool of contractors with experience constructing and installing these types of improvements, including PG&E facilities, and the time sensitive nature of the property owners' financing arrangements.

CEQA review was conducted as part of the original entitlement process for Tract 8058 (Golden Oaks 2) and the project was found to be categorically exempt from environmental review pursuant to Section 15332 of the CEQA Guidelines for infill development.

FISCAL IMPACT

The developer was required to post a cash deposit in the amount of \$209,140.76 to secure performance of its obligations under the Subdivision Improvement Agreement. The remaining balance of the security deposit is \$141,671.91. A combination of the remaining cash deposit and City funds will be used to finance construction of the improvements. The City Attorney's Risk Fund will absorb the cost of construction in excess of the developer's security. Total construction cost is estimated not-to-exceed \$508,650 (\$462,405 estimated construction total + \$46,240.50 construction contingency budget). Public Works staff charges of \$121,350 are estimated for preparation of the construction bid documents, bid invitation, construction inspection and administration. These internal staff costs will be funded through the Public Works Department budget.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

NEXT STEPS

If the Council adopts the attached resolution, Public Works staff will proceed with reaching out directly to contractors with relevant experience and qualifications to solicit bids for construction of the subdivision improvements. Staff will return to the Council to approve execution of the construction contract once a contractor is identified.

Prepared by: Mo Sharma, Senior Civil Engineer
Kathy Garcia, Deputy Public Works Director
Michael G. Vigilia, Senior Assistant City Attorney

Recommended by: Alex Ameri, Public Works Director
Michael S. Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager