



CITY OF FERNLEY

CITY COUNCIL AGENDA REPORT

Meeting Date: December 1, 2021

REPORT TO: Mayor and City Council
REPORT THRU: Daphne Hooper, City Manager
REPORT FROM: Jessica Dover, Senior Project Manager
REVIEWED BY: Brandi Jensen, City Attorney
REVIEWED BY: Denise Lewis, City Treasurer

FINANCIAL IMPACT:

Yes: No:

CURRENTLY BUDGETED:

Yes: No:

FUND/ACCOUNT:

100-475-745

ACTION REQUESTED: Consent Ordinance Resolution Motion Receive/File

AGENDA ITEM: Staff Report (For Possible Action): Possible Action to Approve twelve (12) Right-of-Way Acquisitions, (listed and described per the Project Summary Section, below), necessary for Construction of Proposed Improvements associated with the Cottonwood LN Reconstruction Project.

Agenda Item Brief:

In February 2021, City entered into a Contract for Professional Right-of-Way Services with Atkins North America, Inc. (Atkins) for acquisition services related to the City of Fernley (City) Cottonwood LN Reconstruction Project (Project). To date, all Property Owners impacted by Right-of-Way (RoW) have reviewed Offer Packages from the City; all Owners take no exception to terms and conditions outlined per the individual Public Highway Agreements (PHAs). All acquisitions associated with the Cottonwood LN Reconstruction Project will be agendized for Council review and approval prior to compensation being distributed to affected Owners.

Recommended Motion:

“I move to Approve twelve (12) Right-of-Way Acquisitions, (listed and described per the Project Summary Section, below), necessary for Construction of Proposed Improvements associated with the Cottonwood LN Reconstruction Project.”

Business Impact (per NRS Chapter 237):

- A Business Impact Statement is Attached.
- A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

1. City Council may approve proposed acquisition terms and costs listed per the Project Summary Section, below, which will allow Staff to move forward with the escrow process, payment of fee, finalizing PHAs and advancing design of the Project to 100%
2. City Council may reject proposed acquisition terms and costs and provide additional direction to the City Manager

PROJECT SUMMARY:

Overview

Not all projects can be constructed within the limits of the existing Right-of-Way, locally, typically owned by the City or NDOT. When this occurs, RoW must be acquired to accommodate work anticipated within the project limits, outside of public rights-of-way.

RoW Acquisition Services for the Project have been (and will be) completed in accordance with the Uniform Relocation and Assistance and Real Property Acquisition Policy Act of 1970, as amended. Valuation for the parcels listed below were determined to be uncomplicated and fair market value was estimated under the valuation limits set forth in 49 CFR, Part 24, Subpart B. Waiver Valuation Reports were then prepared by the City's RoW Services Consultant, Atkins North America, Inc. and reviewed by the City prior to distribution of Letter Presenting Written Offer (Offer) to Owners.

Impacted property Owners have been in contact with Atkins to review individual Offers and to execute PHAs. Council approval of acquisition terms and costs will allow Staff to move forward with the escrow process, payment of fee and finalizing PHAs. The City will need to complete these acquisitions in order to advance to the 100% Project design Submittal. Advertising to Bid for Construction is tentatively scheduled to occur Spring/Summer 2022 pending final Right-of-Way Acquisitions, Utility Relocation Agreements, and NDOT, NDEP and USBR coordination and permitting requirements.

Description of Real Property rights to be acquired (including improvements) and associated Estimated Fair Market Value (FMV) of Property to be acquired (for each impacted Parcel) are described and depicted in the (12) PHA Attachments to this Agenda Report, summarized as follows:

- **APN: 020-282-01**, Cooper:
 - o Temporary Construction Easement (TCE-4) containing 18+/- square feet, rectangular in shape and located on the north property line of the subject property. Easement required to remove existing (E) concrete
 - o Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 022-441-09**, Beaulieu:
 - o Temporary Construction Easement (TCE-5) containing 178+/- square feet, circular segment in shape and located on the southeast corner of the subject property. The easement is required to remove an existing corner ramp and reconstruct new
 - o Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 022-444-01**, Lacefield:
 - o Temporary Construction Easement (TCE-6) containing 178+/- square feet, circular segment in shape and located on the southwest corner of the subject property. The easement is required to remove an existing corner ramp and reconstruct new
 - o Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 020-846-15**, Villagomez and Lizarraga:
 - o Permanent Easement (PE-7) containing 68+/- square feet, triangular in shape and located in the southeast corner of the subject property. Easement required to remove/replace an (E) corner ramp
 - o Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 020-843-01**, Tachera and Oliver:

- Permanent Easement (PE-8) containing 64+/- square feet, triangular in shape and located in the southwest corner of the subject property. Easement required to remove/replace an (E) corner ramp
- Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 020-728-31**, Callen Family 2020 Trust:
 - Permanent Easement (PE-9) containing 44+/- square feet, triangular in shape and located on the southeast corner of the subject property. Easement required to remove/replace an (E) corner ramp
 - Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 022-154-04**, Lewis:
 - Permanent Easement (PE-10) containing 252+/- square feet, triangular in shape and located on the southeast corner of the subject property. Easement required to remove/replace an (E) corner ramp
 - Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 022-153-01**, Skube and Phelps:
 - Permanent Easement (PE-11) containing 231+/- square feet, triangular in shape and located on the southwest corner of the subject property. Easement required to remove/replace an (E) corner ramp
 - Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 022-041-03**, Guzman:
 - Permanent Easement (PE-12) containing 187+/- square feet, triangular in shape and located on the northeast corner of the subject property. Easement required to remove/replace an (E) corner ramp
 - Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- **APN: 022-043-04**, Mentzel:
 - Permanent Easement (PE-13) containing 208+/- square feet, triangular in shape and located on the northwest corner of the subject property. Improvements in the easement area include 4.5 cubic feet of landscape gravel and 35 linear feet of brick pavers. Easement required to remove/replace an (E) corner ramp
 - Estimated FMV of Property and Improvements combined with Incentive Payment, if applicable: **\$1,215**
- **APN: 021-171-15**, Lyon County School District (LCSD):
 - PE-14A
 - Permanent Easement (PE-14A) containing 130+/- square feet, trapezium in shape and located on the northerly property line of the subject property. Easement required for construction and future O&M of new bike path along school frontage
 - PE-14B
 - Permanent Easement (PE-14B) containing 105+/- square feet, rectangular in shape and located on the northeast property corner of the subject property. Easement required for construction and future O&M of new bike path along school frontage and barrier rail near LCSD basin
 - TCE-15
 - Temporary Construction Easement (TCE-15) containing 539+/- square feet, rectangular in shape and located along the northerly property line of the subject property. Easement required for construction related to new bike path along school frontage
 - TCE-16
 - Temporary Construction Easement (TCE-16) containing 443+/- square feet, rectangular in shape and located at the northeast corner of the subject property. Easement required for construction related to new bike path, railing, and slope stabilization
 - Estimated FMV of Property combined with Incentive Payment, if applicable: **\$4,200**
- **APN: 020-281-13**, Aspinall:

- Permanent Easement (PE-15) containing 136+/- square feet, a strip located on the north property line of the subject property. Easement required for a new T-intersection barrier rail and associated signage
- Estimated FMV of Property combined with Incentive Payment, if applicable: **\$1,200**
- A non-compensable Permission to Construct (PTC) Agreement was executed for this parcel to accommodate removal of large landscaping rocks from City RoW; to be relocated on Owner's property

For Estimated Fair Market Values (including Improvements and/or Damages, if applicable) less than \$1,000, a minimum Offer of \$1,000 was made for each acquisition parcel.

In an attempt to expedite the acquisition process, and commence Construction of Improvements, the City implemented an incentive-based acquisition program for this Project. A \$200 (per parcel) incentive payment was offered to all impacted property Owners. Owners choosing to execute and return the Public Highway Agreement (PHA) and related Easement Deeds to grant the necessary property rights within 21 calendar days of receipt of the Letter Presenting Written Offer are eligible to receive the incentive payment.

With the exception of PE 11, all property Owners associated with proposed Acquisitions listed and described above, have reviewed, executed and returned individual PHAs and related Easement Deeds to the City. The Owner associated with PE 11 takes no exception to the Offer as presented; signed documents are pending receipt by City.

Staff anticipates PE 7, PE 8, PE 10, PE 11 and PE 12 may require Title/Escrow Services. These Fees will be determined and invoiced to the City at a future date and will not exceed the approved FY 21/22 Project budget.

BACKGROUND:

Overview

Cottonwood LN is a critical East-West Minor Collector for the City and provides residential and commercial access between US 50A/95A and SR 828 (Farm District RD). A portion of the street between Cook WY and Bardot WY is currently in a state of disrepair with a Pavement Condition Index (PCI) of less than 24. A portion of the street between Hardie LN and US 50A/9A has a PCI of less than 50. These PCI rankings indicate preventative maintenance is no longer appropriate for these sections of roadway and that reconstruction is required. The remaining sections of the street are in good condition and will be treated with a preventative maintenance technique such as slurry or chip seal.

The road also has areas of missing curb, gutter and sidewalk and drainage issues that will need to be addressed to prevent future deterioration of the roadway.

A portion of 18-inch water main is missing between Rosewood DR and Cook WY. This missing section will need to be connected to the existing line and has been identified in the City's 2008 Water Master Plan as a project that will improve the operation of the distribution system. Another section of water main that extends from US 50A/95A to Hardie LN will be upsized to 18" as part of this Project; a jack and bore will be performed across US 50A/95A to connect the new 18" line to the (E) 6" line at the west side of US 50A/95A.

Various sanitary sewer manholes within the Project area are nearing the end of their useful service life and will be removed/replaced or rehabilitated as part of this Project.

Lumos and Associates, Inc. was awarded the Contract for Engineering Services for the Cottonwood LN Reconstruction Project on August 21, 2019. The Project is ongoing and currently at 90% design. This Project is tentatively scheduled to bid FY 22/23, pending final Right-of-Way Acquisitions, Utility Relocation Agreements, and NDOT, NDEP and USBR coordination and permitting requirements. Right-of-Way Services for the Project commenced during FY 20/21; Staff anticipates completion of RoW acquisitions Spring 2022.

LEGAL IMPLICATIONS:

Policy Reference

Nevada Statutes:

- NRS 625.050 Practice of Professional Engineering
- NRS 625.530 Section 3 Restrictions upon Public Works
- NRS 332.115.b

Other:

- 49 CFR, Part 24, Subpart B
- City of Fernley Transportation Master Plan (TMP), Resolution #20-014
- City of Fernley 2017 Parks Master Plan (Bike and Ped Facilities)
- 2015 Pavement Management Program, Resolution #2015-008
- 2008 Water Master Plan Update, Resolution #08-028
- FY 18/19 ADA TP Infrastructure Survey, Inventory and Final Report

FINANCIAL IMPLICATIONS:

Project appropriations are included in the approved FY 2022 Budget as part of the Capital Improvement Plan:

- \$2,053,000 (100-475-745), Cottonwood LN Reconstruction Project (Page 169, 218, A-12)
 - o \$130,000 of \$2,053,000 estimated budget for FY 21/22 RoW acquisitions
- \$671,100 (510-166-100), Cottonwood LN Waterline Replacement and Extension (Page 222, A-47)
- \$164,845 (520-166-100), Cottonwood LN Sanitary Sewer Rehab/Reconstruct (Page 224, A-58)

Existing Contracts, Cottonwood LN Reconstruction Project

Lumos Standard Contract for ENGR Services *. **	\$310,900
Shaw Engineering, Water/Sewer Modeling TOA	\$9,000
<u>Atkins Contract for Professional Right-of-Way Services</u>	<u>\$124,375</u>
Total (E) Contracts (Including OPTIONAL Services):	\$444,275

* includes \$48,300 Proposed Amendment No. 1 to the (E) Contract for ENGR Services, (FCC approval pending)

** The Lumos Scope of Work, as amended, excludes Engineering During Construction (EDC) Services; a proposal for these services will be brought to City Council under a separate Scope at a future date.

Estimated Actuals to date, Cottonwood LN Reconstruction Project

Lumos Standard Contract for ENGR Services	\$227,788.79
Shaw Engineering, Water/Sewer Modeling TOA	\$2,295.00
<u>Atkins Contract for Professional Right-of-Way Services</u>	<u>\$75,156.12</u>
Total Actuals (Including OPTIONAL Services):	\$305,239.91

Projected Remaining Contract Balance, Cottonwood LN Reconstruction Project

Lumos Standard Contract for ENGR Services	\$83,111.21
Shaw Engineering, Water/Sewer Modeling TOA	\$6,705.00
<u>Atkins Contract for Professional Right-of-Way Services</u>	<u>\$49,218.88</u>
Total Contract Balance (Including OPTIONAL Services):	\$139,035.09

To date, \$75,156.12 has been expended from Atkins' Contract for Professional RoW Services. \$37,555 of the \$75,156.12 total Actuals to date was invoiced by Atkins and paid by the City during FY 21/22. When combined with Atkins projected remaining Contact balance (\$49,218.88), **\$43,226.12 is the approximate balance remaining of the estimated \$130,000 budgeted for FY 21/22 RoW Services and Acquisitions.**

The total anticipated Acquisition costs listed per the Project Summary Section, above is \$17,415; Therefore, Staff does not anticipate the FY 21/22 budget amount estimated for RoW to be exceeded, even with the addition of Title/Escrow Fees TBD at a later date. Acquisition costs will not exceed the total FY 21/22 General Fund amount budgeted for the Project.

ATTACHMENTS:

1.) Cottonwood LN Reconstruction Project, Public Highway Agreements:

- APN: 020-282-01, Cooper
- APN: 022-441-09, Beaulieu
- APN: 022-444-01, Lacefield
- APN: 020-846-15, Villagomez and Lizarraga
- APN: 020-843-01, Tachera and Oliver
- APN: 020-728-31, Callen Family 2020 Trust
- APN: 022-154-04, Lewis
- APN: 022-153-01, Skube and Phelps
- APN: 022-041-03, Guzman
- APN: 022-043-04, Mentzel
- APN: 021-171-15, Lyon County School District (LCSD)
 - o PE-14A
 - o PE-14B
 - o TCE-15
 - o TCE-16
- APN: 020-281-13, Aspinall