



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Barry Ng

SUBJECT: SEE BELOW

DATE: September 11, 2017

Approved

D. D. SyL

Date

9/21/17

COUNCIL DISTRICT: 2

SUBJECT: AMENDMENT TO THE CONSTRUCTION AGREEMENT WITH LENNAR AVENUE ONE, LLC TO REIMBURSE THE DEVELOPER FOR THE CONSTRUCTION OF SANITARY SEWER IMPROVEMENTS ON RALEIGH ROAD AND CHARLOTTE DRIVE BETWEEN COTTLE ROAD AND ENDICOTT BOULEVARD

RECOMMENDATION

Approve an amendment (the "Amendment") to the subdivision improvement agreement ("Agreement") with Lennar Avenue One, LLC ("Developer") to reimburse the Developer for the upsizing of the existing, and installation of new, sanitary sewer mains on Raleigh Road and Charlotte Drive between Cottle Road and Endicott Boulevard in an amount not to exceed \$1,314,670 ("Reimbursable Improvements").

OUTCOME

The City agrees to reimburse the Developer for the actual cost of design and construction of the Reimbursable Improvements in amount not to exceed \$1,314,670.

BACKGROUND

On June 21, 2005, the City Council approved the Planned Development Rezoning (PDC04-031) for the Hitachi Campus and Santa Teresa Transit Village ("Development"), which allowed up to 3.6 million square feet of industrial development, up to 460,000 square feet of commercial development, and up to 2,930 single-family detached, attached, and multi-family residences on a 332 gross-acre site. Subsequently, a Planned Development Permit (PD05-087) was approved by the Planning Director on June 2, 2006 to allow for the construction a public street network and park improvements to support future construction of the residential, commercial, and industrial components of the Development. Following the Planned Development Permit approval, the

original developer, Hitachi Global Storage Technologies, proceeded to obtain construction related permits with the City for the completion of the public roadway system and public park improvements. Included within the public roadway system were sanitary sewer improvements necessary to serve much of the Development. During the entitlement phase, staff determined that certain public streets and their accompanying sewer systems would be constructed upon further development of certain adjacent sites. In particular, the extension of Charlotte Drive ("Charlotte Drive Extension") from Charlotte Commons Park to Raleigh Road (as shown in the attached Location Map) would be constructed with the development of the adjacent parcels.

On December 19, 2008, the City recorded a subdivision map (Tract No. 9952) for the Development in Book 829 of Maps, Pages 15-28 of Official Records, Office of the Recorder, County of Santa Clara to reconfigure 14 parcels into 13 lots on a 332 gross acre site. In May 2009, the street network, with the exception of the Charlotte Drive Extension, and park improvements were completed and were opened for public use.

On June 4, 2012, the Developer purchased Lots 10 and 12 of Tract No. 9952 and submitted a Planned Development Permit (PD12-039) to construct 836 residences on these lots. During the review of PD12-039, staff determined that the surrounding sanitary sewer system, beyond the boundaries of the Development, also known as the Monterey-Riverside sanitary sewer system, was operating near maximum capacity. To support additional development growth with the area, as identified in the City's General Plan 2040, sanitary sewer upsizing improvements would be necessary as identified in the City's Sanitary Sewer Masterplan.

The Sanitary Sewer Masterplan identified certain existing sanitary sewer systems that should be upsized to accommodate new growth and the Charlotte Drive Extension was the preferred route for the sanitary sewer improvements to the Monterey-Riverside system.

As the Developer would typically be required to construct an 8-inch sewer main along the project frontage on Charlotte Drive to serve the residential development (PD12-039), City staff identified an opportunity for the current Developer to design and construct the Reimbursable Improvements that would provide additional capacity for the Monterey-Riverside sanitary sewer system, with staff intending to seek City Council approval for reimbursement for the cost of the Reimbursable Improvements through the Amendment. The Reimbursable Improvements included the: 1) upsizing of the existing 12-inch and 15-inch sanitary sewer mains along Raleigh Road from Cottle Road to Charlotte Drive to 21-inches, 2) upsizing of the existing 12-inch sanitary sewer main along Charlotte Drive to the eastern edge of Charlotte Commons Park to 21-inches, and 3) the installation of a new 21-inch sanitary sewer main on Charlotte Drive from the eastern edge of Charlotte Commons Park to Endicott Boulevard, a private street on the Hitachi Global Storage Technology campus. A City capital improvement project constructed the remainder of the downstream sanitary sewer improvements along Cottle Road, obtaining the ultimate capacity for the Monterey-Riverside sanitary sewer system.

On August 8, 2013 the City and Developer entered into the Agreement and the Director of Public Works approved the improvement plans for the Developer's project, which included the

Reimbursable Improvements. In the Agreement, the Developer agreed to construct, at its own expense, all of the public improvements shown on the improvement plans. The Agreement does not require the City to contribute any funds or reimburse the Developer for the cost of the Reimbursable Improvements. In accordance with the Agreement, the Developer has constructed the Reimbursable Improvements at its own expense and no further Reimbursable Improvements are left to be constructed. Staff is proposing that Council approve the Amendment to reimburse for the additional work that has been performed.

The Reimbursable Improvements were designed and constructed consistent with the Monterey-Riverside Relief Sanitary Sewer Improvements Project described in the 2016-2017 Capital Budget and 2017-2021 Capital Improvement Program.

ANALYSIS

The Director of Public Works is authorized to award and execute public works contracts (including Subdivision Improvement Agreement Contracts) up to a maximum of \$1,000,000. Because the cost of the Reimbursable Improvements exceeds this amount, the City Council must approve the Amendment.

Pursuant to San José Municipal Code Section 14.04.330, and subject to the foregoing contract authority limitation, the Director of Public Works is authorized to execute any contract between the City and private developer, in which the City agrees to reimburse the developer for the cost of construction, when the following findings are made: (1) the work to be done for the City under such contract or contracts is to be done by the developer in connection with the subdivision or developer of any real property; 2) in the opinion of the Director, such work can be best or better performed, or more efficiently or expeditiously performed, or performed with less inconvenience to the public by the developer or owner than by the City; and (3) in the opinion of the Director, the cost to the City of having the work done by the developer will not be greater than what would have been the cost if the work was done by the City.

In support of the Amendment, the Director of Public Works makes the following findings:

1. The Reimbursable Improvements done by the Developer for the City is in connection with the subdivision or development of real property bounded by Cottle Road, Raleigh Road, and State Route 85 as approved by Planned Development Rezoning (PDC04-031) and Planned Development Permit (PD12-039).
2. In the opinion of the Director of Public Works, the Reimbursable Improvements were more expeditiously performed and with less inconvenience to the public by allowing the work to be completed prior to the completion of the multiple residential developments in the area and to avoid trenching through a new public street (Charlotte Drive Extension) to upsize the existing sanitary sewer main.

3. In the opinion of the Director of Public Works, the cost to the City of having the work done by the Developer was not greater than what would have been the cost if the work was done by the City or its contractor, based on an engineer's estimate for the work of \$1,314,670.

At the time the City approved the Developer's improvement plans, City staff informed the Developer that they would seek City Council approval for reimbursement for the cost of the Reimbursable Improvements through the Amendment. While the Agreement does not require the City to reimburse the Developer for the cost of the Reimbursable Improvements, staff is recommending approval of the Amendment because of the City's prior representation to the Developer that staff would seek City Council approval to reimburse the Developer.

EVALUATION AND FOLLOW-UP

Upon approval of the Amendment, the City will proceed with the reimbursement of the Reimbursable Improvements. No additional evaluation or follow-up with City Council is anticipated at this time.

PUBLIC OUTREACH

This memorandum will be posted on the City's website as part of the October 3, 2017 City Council agenda.

COORDINATION

This project and memorandum have been coordinated with the Department of Transportation, Department of Planning, Building and Code Enforcement, City Attorney's Office, and City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

Reimbursing the Developer for the sanitary sewer improvements is in alignment with the City Council-approved Budget Strategy Expenditure Control section, thereby avoiding the removal and replacement of new sewer and street improvements.

COMMISSION RECOMMENDATION

No commission recommendation or input is associated with this action.

COST SUMMARY/ IMPLICATIONS

1. TOTAL PROPOSED REIMBURSEMENT TO DEVELOPER: \$1,314,670
2. COST OF AMENDMENT: \$1,314,670
3. SOURCE OF FUNDING: Sanitary Sewer Connection Fee Fund (540) and Sewer Service and Use Charge Capital Improvement Fund (545)
4. OPERATING COSTS: The proposed operating and maintenance costs of this project have been reviewed and will have no significant impact on the Sewer Service and Use Charge Fund or General Fund operating budgets.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund the amendment recommended as part of this memorandum.

| Fund # | Appn # | Appn. Name | Total Appn | Amt. for Contract | 2017-2018 Proposed Capital Budget Page* | Last Budget Action (Date, Ord. No.) |
|--|--------|--|--------------------|--------------------|---|-------------------------------------|
| 540 | 4272 | Immediate Replacement and Diversion Projects | \$1,200,000 | \$552,161 | 186 | 6/20/2017, 29962 |
| 545 | 4272 | Immediate Replacement and Diversion Projects | \$6,500,000 | \$762,509 | 186 | 6/20/2017, 29962 |
| Total Current Funding Available | | | \$7,700,000 | \$1,314,670 | | |

*The 2017-2018 Proposed Capital Budget was adopted on June 20, 2017.

CEQA

Addendum to the Hitachi Campus and Mixed-Use Transit Village Project Environmental Impact Report (Resolution No. 72772) (File No. PDC04-031).

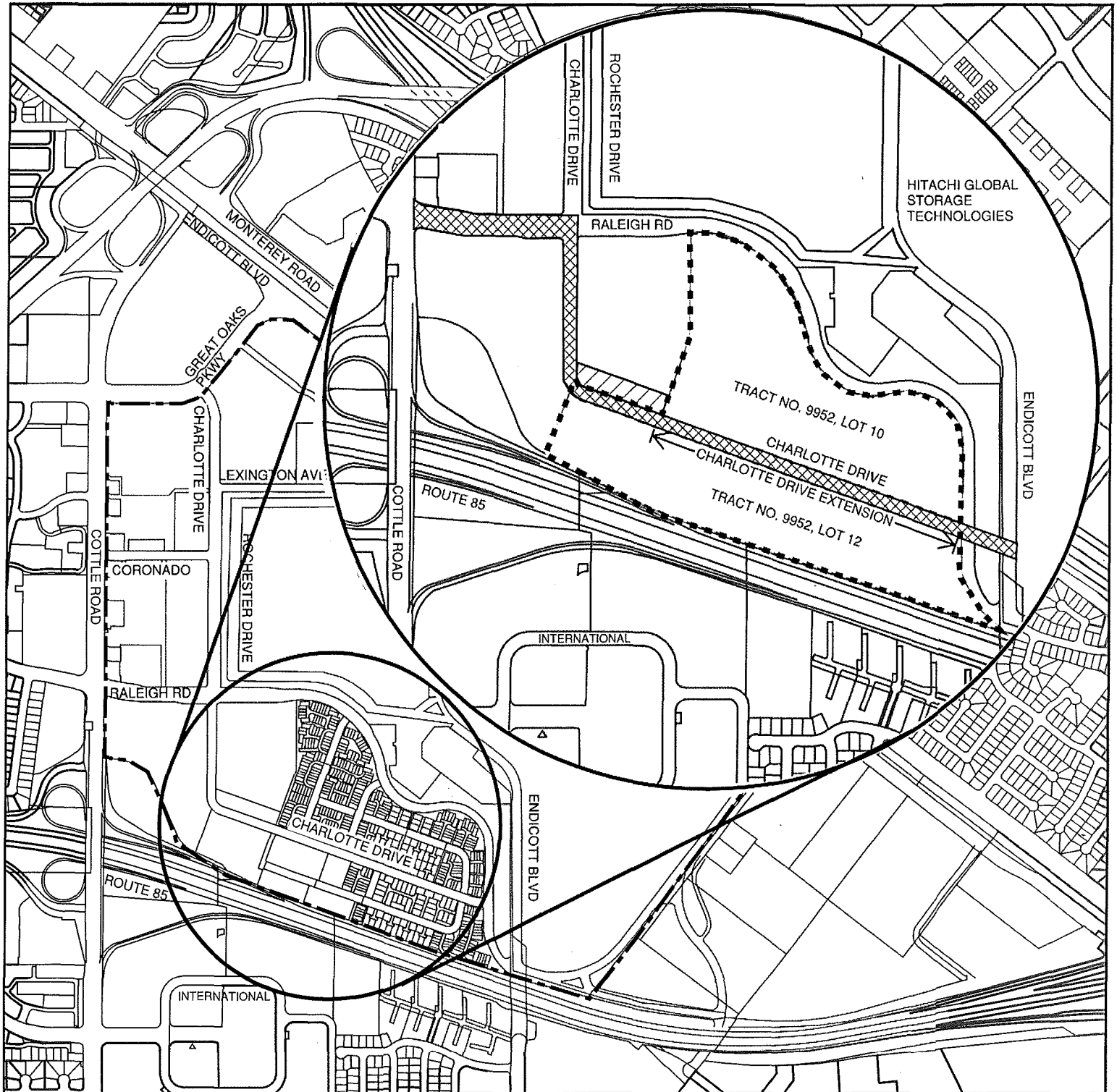
/s/
BARRY NG
Director of Public Works

Attachment: Location Map

For questions please contact Michael Liw, Deputy Director, at 408-535-6835.

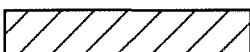
LOCATION MAP

SHOWING THE CONSTRUCTION OF SANITARY SEWER IMPROVEMENTS ON
RALEIGH ROAD AND CHARLOTTE DRIVE



----- BOUNDARY OF TRACT NO. 9952

----- BOUNDARY OF PD12-039



CHARLOTTE COMMONS PARK



LOCATION OF SANITARY SEWER IMPROVEMENTS

