



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** May 24, 2021

Approved

Date

**5/27/2021**

**SUBJECT: ACTIONS RELATED TO THE 7699 - CITYWIDE OUTFALL  
REHABILITATION (SIX OUTFALLS) PROJECT**

## **RECOMMENDATION**

Adopt a resolution authorizing the Director of Public Works to:

- (a) Award and execute the 7699 – Citywide Outfall Rehabilitation (Six Outfalls) Project construction contract to the lowest responsive and responsible bidder, in a total amount not to exceed \$1,600,000 and approve a construction contingency of fifteen percent of the amount of the construction contract, not to exceed \$240,000;
- (b) Decide any timely bid protest(s), make the City’s final determination as to the lowest responsive bidder that is responsible, or reject all bids and rebid the project; and
- (c) Negotiate and execute any single and/or multiple change orders for the Project in excess of \$100,000 up to the amount of the contingency of \$240,000.

## **OUTCOME**

Approval of this resolution authorizing the Director of Public Works to award a construction contract for the 7699 – Citywide Outfall Rehabilitation (Six Outfalls) Project will enable the contract to be implemented with construction to be completed on or before October 15, 2021 to meet the regulation requirements set forth by the California Department of Fish and Wildlife (CDFW) Streambed Alteration Agreement (SAA) Notification Number 1600-2015-0151-R3, the San Francisco Regional Water Quality Control Board Section 401 Water Quality Certification dated March 19, 2020, and Valley Water (VA) Encroachment/Construction permit File Number 33582 expiring on October 15, 2021. The fifteen (15) percent contingency will provide funding for any unanticipated work necessary for the proper completion of the Project.

## **BACKGROUND**

This project entails the rehabilitation of six deteriorated storm sewer outfalls located along the Guadalupe River, Coyote Creek, Thompson Creek and Calabazas Creek. Scour and erosion of the creek banks has undermined and, in some cases, washed away portions of the existing concrete sack rip-rap and outfall infrastructure. The deteriorated conditions of the outfalls required timely repair; otherwise, they could jeopardize the creek bank stability causing water quality degradation and potential safety issues. Proposed rehabilitation activities include removal of compromised concrete sack rip-rap, fill and compaction of scour cavities, repair or replacement of corrugated metal outfall piping, installation of sediment filter fabric, installation of rock slope protection, and revegetation of scoured creek banks. The project will repair and refurbish the existing outfalls with newer slope protection techniques and materials to stabilize creek banks and optimize storm sewer function while reducing channel erosion and associated sedimentation.

## **ANALYSIS**

This project must meet a stringent schedule from various regulatory agencies requiring work on all six outfalls to be completed by October 15, 2021.

Authorizing the Director of Public Works to award the contract will allow the project to meet the CDFW's SAA requirement of construction work within the stream banks and riparian corridor to be confined to the period of April 15, 2021 to October 15, 2021 and also to comply with Valley Water's Encroachment/Construction permit expiring on October 15, 2021. Currently the bids are due on June 17, 2021 and there is not sufficient time between this date and the end of the Fiscal Year to prepare and post a recommendation to the City Council for award of this project. Therefore, staff is proposing this delegation of award authority. If approved, this would allow staff to award the project by July 13, 2021, saving approximately 3 weeks time as opposed to waiting until the August 3 Council meeting.

For these reasons, staff is asking Council to delegate authority to the Director of Public Works for the award of the contract for this project. This delegation will include the authority for the Director of Public Works to hear and decide any bid protests, to make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the Project.

The specifications for the project will include the following process regarding bid protests:

1. Bid results and a Notification of Intention to Award Contract to Apparent Low Bidder by the Director of Public Works will be posted on Biddingo.

2. All bidders will have five working days to file a formal written bid protest.
3. The Director of Public Works will then hear and decide any timely bid protests, including any issues of bidder responsiveness or responsibility, and will award the contract after.

Council Policy provides for a standard contingency of ten (10) percent on public works projects involving utilities. However, on this project, a contingency of fifteen (15) percent is recommended due to the following reasons: a) potential archeological artifacts that are typically found along the riparian banks and stream channels; b) construction during the bird nesting season which may cause impacts construction activities; c) potential high ground water level when performing construction near and along the river and creek banks; d) possible special-status species encountered during construction; e) and other unanticipated work necessary to ensure this project is completed as mandated by other governmental agencies Permits and Agreements requirements. The funds budgeted for this project are sufficient to provide for the recommended contingency.

Construction is scheduled to begin in August 2021 with substantial completion on or before October 15, 2021.

### **CONCLUSION**

Awarding of this project will need to be executed during the July time period when Council meetings will not be in session. Therefore, staff recommends the Council to adopt a resolution authorizing the Director of Public Works to award the construction contract for the 7699 – Citywide Outfall Rehabilitation (Six Outfalls) Project to keep the project on schedule and be in compliance with other Agencies' permit and agreement requirements.

### **EVALUATION AND FOLLOW-UP**

No additional follow up action with the Council is expected at this time.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

To obtain permits and agreements, staff coordinated with a) San Francisco Bay Regional Water Quality Control Board; b) California Department of Fish and Wildlife; c) United States

Department of Commerce National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service; d) Santa Clara Valley Habitat; and e) Valley Water.

To solicit contractors, this project will be listed on the Biddingo. The complete bid package and project information for all Department of Public Works' construction projects will be available on Biddingo for interested contractors, contractor organizations and builders' exchanges. This project will be posted to the City's website for the June 8, 2021 Council agenda.

### **COORDINATION**

This project and memorandum were coordinated with the City Attorney's Office and the City Manager's Budget Office.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

### **FISCAL/POLICY ALIGNMENT**

Rehabilitating deteriorated storm sewer outfalls is in alignment with the City's stormwater urban runoff policies and regulations.

### **COST SUMMARY/IMPLICATIONS**

<b>1. ESTIMATED COST OF PROJECT</b>	
Project Delivery (except permitting)	\$600,000
Permitting Costs and Fees	400,000
Construction Contract	1,600,000
Contingency	240,000
<b>TOTAL PROJECT COST</b>	<b>\$2,840,000</b>

**2. SOURCE OF FUNDING:** Storm Sewer Capital Fund (Fund 469)

### **BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the contract recommended as part of this memo.

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**Subject: Actions Related to the 7699 – Citywide Outfall Rehabilitation (Six Outfalls) Project**

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Fund #	Appn. #	Appn. Name	Appn. Amt.	Amt. for Contract	2021-2022 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
469	4245	Citywide Outfall Improvements	\$5,000,000	\$1,600,000	V-80	TBD

\* The 2021-2022 Proposed Capital Budget is expected to be approved by City Council on June 15, 2021 and adopted on June 22, 2021.

### **CEQA**

Public Project for the rehabilitation of eight failing storm drain outfalls throughout the City by removing and replacing the damaged structures in place, to reduce erosion and improve function.

Reference to the Statement of Exemption File No. ER20-266 dated February 26, 2021. Under the provisions of Sections 15301 Existing Facilities and 15302 Replacement Reconstruction of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

/s/

MATT CANO  
Director of Public Works

For questions, please contact Mathew Nguyen, Interim Deputy Director, Public Works Department at (408) 535-8384.

Attachments:  
Outfall Vicinity & Location Map



