



## MEMORANDUM

**TO:** CITY COUNCIL

**FROM:** BILL ROBESON, ASSISTANT CITY MANAGER/PUBLIC WORKS DIRECTOR

**BY:** JILL MCPEEK, CAPITAL IMPROVEMENT PROJECT MANAGER

**SUBJECT:** ADOPTION OF A RESOLUTION FINDING AN EMERGENCY EXISTS WITHIN THE CITY AND AUTHORIZING CONTRACTING WITHOUT A COMPETITIVE SOLICITATION FOR BIDS FOR THE STORM DRAIN SYSTEM AT 251 EAST GRAND AVENUE PROJECT, PW 2021-12

**DATE:** NOVEMBER 9, 2021

### **SUMMARY OF ACTION:**

Adoption of the Resolution will allow for immediate emergency repairs to the storm drain system at 251 East Grand Avenue.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The FY 2021-22 Capital Improvement Program (CIP) budget includes \$410,000 of American Rescue Plan Act (ARPA) funds for repair of the Storm Drain System at 251 East Grand Avenue Project. Staff time will be necessary to coordinate construction activities with the property owner, consultant engineer, and contractors.

### **RECOMMENDATION:**

It is recommended the City Council: 1) adopt a Resolution pursuant to Public Contract Code Section 20168 finding that an emergency exists within the City and authorizing contracting without a competitive solicitation for bids pursuant to Public Contract Code Section 22050; and 2) Authorize the City Manager, or designee, to execute contracts with specialized contractors for repair of the Storm Drain System at 251 East Grand Avenue Project, PW 2021-12.

### **BACKGROUND:**

The need to replace a City-owned deteriorating corrugated metal pipe (CMP) located in an easement at 251 East Grand Avenue was identified and included in the FY 2021-22 CIP budget. In response, staff initiated an investigation of potential alternatives and began coordination efforts with the property owner. It was determined that due to extensive deterioration and damage, it would not be possible to fix the deteriorated pipe by lining the existing CMP. A replacement pipe(s) was identified as the most feasible alternative and design efforts commenced. Boring a pipe, or two smaller pipes, parallel to the existing CMP within the existing easement was identified as the quickest (no additional easements

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required) and least disruptive (the Chevron station can continue to operate as opposed to trenching which would require a temporary closure) alignment.

In preparation for the rain event that occurred on October 24-25, 2021, City crews installed a barrier between the existing storm basin and existing CMP inlet to prevent storm water from entering the deteriorated CMP. It was anticipated that, should the basin fill up during the event, it would take the natural drainage course towards Arroyo Grande Creek either by gravity or by pumping operations by City crews. The intent was to preserve the existing CMP as much as possible by preventing any storm water from entering the deteriorating CMP and further undermining the surrounding soil, which causes voids under the pavement and leads to surface depressions and eventually sink holes. However, during the rain event on October 24-25, 2021, when the basin filled above the CMP inlet structure (headwall), the storm water eroded an area behind the headwall where the storm water entered and reflowed through the CMP. This led to areas of further surface depressions which were quickly compacted with additional backfill and asphalt patches by City crews.

The emergency approach being proposed will enable the City to mobilize as quickly as possible in accordance with Public Contract Code (PCC) Section 20168 in an attempt to avoid further undermining of the soil by forthcoming rain events and the potential development of hazardous sink holes and closure of the Chevron station's operations. The proposed work includes plugging and filling the existing CMP and adjacent voids with lightweight cellular concrete, boring a new pipe or two smaller pipes within the existing easement, and constructing two new headwalls at each end of the new pipe(s).

#### **ANALYSIS OF ISSUES:**

Normally, the Public Contract Code (PCC) requires a competitive solicitation for bids on all public works projects. However, PCC Section 20168 allows the Council to adopt a Resolution by four-fifths vote declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. In addition, pursuant to this section and PCC Section 22050, in the case of an emergency, the Council by a four-fifths vote may procure the necessary services to repair a public facility without giving notice for bids. PCC Section 1102 defines an emergency as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

In this case, where capping the inlet headwall proved to be nonviable, there is an imminent danger to public health and safety for the following reasons including, without limitation, the potential for storm water flows and the development of sinkholes caused by voids created by storm water flows inside a collapsed and deteriorated CMP that is located in very close proximity to a gas station.

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It should be noted that PCC Section 22050 requires that after proceeding with an emergency project, the City Council will also need to review the emergency action at its next regularly scheduled meeting and at every regularly-scheduled meeting thereafter until the action is terminated to determine, by a four-fifths vote, that there is a need to continue the action. Therefore, staff will be returning to the City Council with updates as required by the statute.

Adopting the proposed Resolution will ratify the emergency authorize staff to execute the appropriate contracts with specialized contractors; and ensure that the contractors will be properly compensated for their emergency response and repair.

#### **ADVANTAGES:**

Adoption of the Resolution will allow for immediate emergency repairs to the storm drain system at 251 East Grand Avenue without the delays that would occur if the project had to go out to bid, will eliminate a serious threat to public health and safety, and minimize disruptions to the Chevron station's operations.

#### **DISADVANTAGES:**

None identified at this time.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Approve staff's recommendations;
2. Do not approve staff's recommendations and request further information;
3. Modify staff's recommendation and approve; or
4. Provide other direction to staff.

#### **ENVIRONMENTAL REVIEW:**

The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline Section 15301(b) for the repair of existing publicly-owned facilities used to provide public storm drain utility services.

#### **PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

#### **ATTACHMENTS**

1. Proposed Resolution
2. Location of storm drain system repairs from City Storm Drain Atlas

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ARROYO GRANDE DECLARING AN EMERGENCY AND  
AUTHORIZING THE IMMEDIATE EXPENDITURE OF  
FUNDS TO REPAIR THE STORM DRAIN SYSTEM AT 251  
EAST GRAND AVENUE**

**WHEREAS**, the City owns, operates and maintains a storm drain system including a storm drain pipe (the “storm drain pipe”) within a storm drain easement at 251 East Grand Avenue, which is currently improved with a Chevron gas station; and

**WHEREAS**, the storm drain pipe had been constructed with corrugated metal pipe which, due to its age, has deteriorated, allowing water to exit the storm drain pipe and erode the surrounding soil, causing depressions in the asphalt surface above the storm drain pipe; and

**WHEREAS**, in preparation of the rain event of October 24 and 25, 2021, a barrier was placed at the storm drain pipe headwall in attempt to prevent storm water from entering the storm drain pipe and causing further soil erosion; and

**WHEREAS**, during the rain event, storm water bypassed the barrier through a previously unknown area of erosion and entered and flowed through the storm drain pipe; and

**WHEREAS**, the result of the October 24 and 25, 2021 storm water flow through the storm drain pipe created further depressions in the asphalt surface above; and

**WHEREAS**, City crews set up a temporary barricade to direct traffic away from the area of depression while the area was compacted with additional asphalt; and

**WHEREAS**, the failure of the storm drain pipe and the soil erosion surrounding the storm drain pipe has created a situation that constitutes an imminent threat to the public health, safety and welfare and requires immediate corrective action to plug and fill the existing storm drain pipe and adjacent voids, and install a new storm drain pipe or pipes within the existing storm drain easement; and

**WHEREAS**, pursuant to Public Contract Code Section 22050, the City Council deems it is in the public interest, to immediately authorize the expenditure of City funds needed to safeguard the health, safety and welfare in order to proceed immediately with the needed repairs; and

**WHEREAS**, the City Council further finds that the need for immediate repair of the storm drain system at 251 East Grand Avenue is necessary in order to protect the public health, safety and welfare and will not permit a delay resulting from a competitive solicitation for bids and that prompt action, including authorization to expend all funds required for such repairs without competitive bidding, is necessary to respond to the emergency described herein.

**RESOLUTION NO.**

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**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE** that the public interest and necessity demand the immediate expenditure of funds to repair the storm drain system at 251 East Grand Avenue to safeguard the public health, safety and welfare, without strict compliance with the provisions of the Public Contract Code.

**BE IT FURTHER RESOLVED**, that the City Manager is authorized to enter into any contract or agreement needed in order to immediately repair the storm drain system at 251 East Grand Avenue and to report back to the City Council regarding said emergency project at its next regularly scheduled meeting, pursuant to Public Contracts Code Section 22050. All acts of the City Manager in addressing this emergency taken prior to the effective date hereof are hereby duly ratified by the City Council.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

The foregoing Resolution was passed and adopted this 9<sup>th</sup> day of November, 2021.

\_\_\_\_\_  
CAREN RAY RUSSOM, MAYOR

ATTEST:

\_\_\_\_\_  
JESSICA MATSON, CITY CLERK

APPROVED AS TO CONTENT:

\_\_\_\_\_  
WHITNEY McDONALD, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
TIMOTHY J. CARMEL, CITY ATTORNEY

