



AGENDA MEMORANDUM

Action Item for the City Council Meeting December 17, 2019

DATE: December 6, 2019
TO: Peter Zanoni, City Manager
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Motion to approve Amendment No. 1 to Developer Agreement for Park Road 22 Bridge and Village Canal

CAPTION:

Motion to approve Amendment No. 1 to Developer Agreement for Park Road 22 Bridge and Village Canal

SUMMARY:

The purpose of this item is to approve an amendment to the Developer Agreement for Park Road 22 Bridge and Village Canal. The amendment will allow for the award of the construction contract along with a limited notice to proceed for purposes of value engineering and resolving any design issues. Without the amendment, the City would not award the construction contract until after substantial completion of the canal.

BACKGROUND AND FINDINGS:

Diamond Beach Holdings, LLC (DBH) and Padre Island Holdings, LLC (PIH) are the current owners of land adjacent to the proposed location of the Park Road 22 Bridge. DBH and PIH are proposing to build a canal to create a water connection under the Park Road 22 Bridge and provide for connectivity from the existing canal system owned by the Padre Island Property Owners Association to the Packery Channel.

A Developer Agreement for Park Road 22 Bridge was approved by City Council on April 23, 2019. That agreement lays out the requirements for the proposed bridge and canal project.

Amendments to the agreement are as follows:

Section A.1. Roles and Responsibilities of the City, paragraph 1.5 of the Agreement is hereby deleted in its entirety and replaced with the following language:

~~1.5 As soon as practicable following notice of the Village Canal's substantial completion in accordance with Section 2.5 below, City will award a contract for the construction of the Bridge Project at a regular meeting and will provide written notice to Developers of the date and time of the meeting and a copy of the documents being presented to City Council at the meeting. The Developers acknowledge that items typically appear on the City Council agenda twice before final approval. For purposes of this Section 1.5, substantial completion of the Village Canal shall mean the date when the dredging and bulkheading is completed for the Village Project;~~

1.5 Following the determination of available funding, the City will award the construction contract for the Bridge Project and issue a limited notice to proceed to that the construction contractor for purposes of value engineering and resolving any design issues related to the Bridge Project. The City will have no obligation to issue a full notice to proceed or begin work on the Bridge Project until the Village Canal is substantially completed. For purposes of this Section 1.5, substantial completion of the Village Canal shall mean the date when the dredging and bulkheading is completed for the Village Project;"

Section A.1. Roles and Responsibilities of the City, paragraph 1.6 of the Agreement is hereby deleted in its entirety and replaced with the following language:

~~1.6 As soon as practicable following the City's award of the contract for the construction of the Bridge Project, the City shall issue a notice to proceed (the "Notice to Proceed") to the contractor awarded the Re-Bid, so long as the contractor timely provides an executed contract and all of the documents required to finalize the contract, and will provide written notice of the Notice to Proceed to Developers within 3 days of its issuance;~~

1.6 As soon as practicable following notice of the Village Canal's substantial completion in accordance with Section 2.5 below, the City shall issue a full notice to proceed (the "Notice to Proceed") to the contractor awarded the Re-Bid, and will provide written notice of the Notice to Proceed to Developers within 3 days of its issuance. For purposes of this Section 1.6, substantial completion of the Village Canal shall mean the date when the dredging and bulkheading is completed for the Village Project;

Section A.3. Sequencing of Obligations, paragraph 4 is hereby amended to add the following language at the end of said paragraph:

4. City shall determine its funding capabilities based on bids submitted in response to Re-Bid (Section 1.3), and City shall certify funding for the Re-Bid to Developers (Section 1.4), The City will award the construction contract for the Bridge Project and issue a limited notice to proceed (Section 1.5)"

Section A.3. Sequencing of Obligations, paragraph 9 is hereby amended to add the following language at the end of said paragraph:

9. City shall award construction contract for the Bridge Project (Section 1.5) and issue the Notice to Proceed (Section 1.6), City shall issue the Notice to Proceed on the construction contract for the Bridge Project (Section 1.6)"

ALTERNATIVES:

The alternative is to not amend the agreement. However, if this amendment is not approved, staff cannot recommend award of the construction contract until after substantial completion of the canal, which will delay the value engineering work that the Engineering Department seeks to engage in.

FINANCIAL IMPACT:

There is no financial impact.

RECOMMENDATION:

Staff recommends the motion to approve Amendment No. 1 to Developer Agreement for Park Road 22 Bridge and Village Canal.

LIST OF SUPPORTING DOCUMENTS:

Current agreement
Amendment