



## PUBLIC WORKS DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: September 20, 2022

#### Subject

Consider providing a Statement of City Council Support for the I-280/Wolfe Road Interchange Project and authorize the appropriation of \$800,000 from the General Fund Capital Reserves as a 10% non-Measure B local match for the I-280/Wolfe Road Interchange Improvements Project.

#### Recommended Action

1. Provide a Statement of City Council Support for the I-280/Wolfe Road Interchange Project, and
2. Adopt Resolution No. 22-xxxx to approve budget modification 2223-239 increasing appropriations in the Capital Reserve by \$800,000 for the transfer out of funds (429-90-001) and General Fund, budget 100-88-844 by \$800,000 for a 10% non-Measure B local match for the I-280/Wolfe Road Interchange Improvements Project.

#### Background

In anticipation of increasing traffic demands and the need for enhanced multi-modal connectivity along Wolfe Road across Interstate 280 (I-280,) in 2017 Valley Transportation Authority (VTA) completed a Project Study Report/Project Development Support (PSR/PDS) as part of the Project Initiation Document (PID) phase for the purpose of identifying alternatives for a new interchange on Wolfe Road at I-280. Following completion of the PID, VTA completed the Project Approval/Environmental Document (PA/ED) phase, resulting in a Project Report (PR) which was approved on November 2, 2020. The VTA is now moving forward on developing the final Plans, Specifications and Estimates (PS&E) and right-of-way acquisition which, in the absence of funding constraints, is anticipated to be completed in early 2023. The 95% PS&E was recently completed in February. Project bidding advertisement (pending funding) is slated for Spring 2023 with construction to begin Fall 2023.

On November 17, 2015, the City Council authorized the City Manager to execute a funding agreement with VTA to identify each organization's respective obligations in regard to the project (Attachment A.) The funding agreement provided for a contribution of \$1,200,000 from the City for completion of the PSR/PDS (comprised of a \$1,000,000

contribution from Apple and \$200,000 from the Irvine Company.) Subsequent amendments to the funding agreement include the following actions:

- On May 2, 2017, the City Council authorized an amendment to the funding agreement to increase the City's contribution to the project from \$1,200,000 to \$1,700,000, which included a one-time contribution of \$500,000 from Cupertino Property Development II, LLC, developers of the Hyatt Hotel project at 10380 Perimeter Road.
- On February 20, 2018, the City Council authorized a second amendment to the funding agreement to increase the City's contribution to the project from \$1,700,000 to \$1,960,000, to include a contribution of \$260,000 from Apple in lieu of an improvement required by mitigation for the Apple Park campus development.
- On June 15, 2021, the City Council authorized a third amendment to the funding agreement to extend the term of the agreement from June 30, 2021, to December 31, 2022. No additional funding was requested or authorized as part of the third amendment.

#### Discussion

During the design phase of the project, it was identified that the existing sanitary sewer system belonging to the Cupertino Sanitary District within the project area was in conflict with the project design and needed to be relocated. As part of the project development process and Caltrans approval of the project, it was determined that an executed utility agreement for this utility relocation was needed. The utility relocation needed to take place in advance of construction of the project.

The Utility Agreement with the Cupertino Sanitary District in the amount of \$6,999,619 was approved by the VTA Board at their August 4, 2022, meeting. This cost, in addition to unforeseen additional costs incurred during the project development phase, has resulted in a deficit of approximately \$8,000,000, which is needed to complete pre-construction (utility relocation and right-of-way acquisition) phases.

The project is anticipated to be funded by a combination of VTA's 2016 Measure B local funds and other funds as available. At their December 2, 2021, meeting, the VTA Board approved the 2016 VTA Measure B Fiscal Year (FY) 2022-2023 biennial budget, which allocated \$85.2 million toward the project, bringing the total 2016 Measure B allocation for the project to \$92.7 million. The total allocation for the project is now \$94.66 million, including the \$1.96 million contribution from the City, as described above. This contribution is credited toward Cupertino's minimum 10% non-Measure B contribution and satisfies the current match requirement for the project through the project development phase. The total project cost is currently estimated at \$120 million.

Although sufficient Measure B funding is available to continue with sanitary sewer relocation and right-of-way acquisition activities, a 10% non-Measure B match is required for VTA to release the funding. VTA anticipates applying for Senate Bill (SB) 1 funds through the Local Partnership Competitive Program to cover this match and future project shortfalls. However, SB 1 funding is competitive and not guaranteed, additionally, funds would not become available until July 2023.

To maintain the momentum of the project, a 10% non-measure B contribution of \$800,000 is presently needed to continue utility relocation and right-of-way activity, and complete project design on schedule by Spring 2023. Failure to maintain project momentum will likely have several negative consequences, including:

- Need for re-engagement of project stakeholders, such as Caltrans and VTA, including potentially further contributing to delay in project delivery;
- Possible redesign work because of changes in design standards or Caltrans Design Review staff; and
- Increases in project costs.

Conversely, maintaining forward progress on the project has several significant advantages, including:

- Demonstrating continued City support for the project, which would further assist in increasing likelihood of outside funding; and
- Increasing likelihood of receiving SB 1 funding for the project to assist with non-Measure B funding match requirements.

Staff recommends reserving \$800,000 from the Capital Fund Capital Reserve to satisfy the 10% non-Measure B local match requirement to maintain project momentum, complete the project on schedule and satisfy Cupertino's obligation as project sponsor. In the event VTA is successful in securing SB 1 funding for the project, the \$800,000 would be returned to the Capital Fund Capital Reserve.

A shortfall of approximately \$25 million exists between the total project estimate of \$120 million, and the available funding of \$94.66 million. The VTA, in partnership with the City, continues to look for opportunities to fund this shortfall, with the most likely source being the SB 1 Local Partnership Competitive Program. In the event alternative funding sources are not successfully identified, further City fund allocations may be requested. As project sponsor and direct beneficiary of project benefits, including congestion relief, improved circulation and enhanced safety, staff recommends that the City Council reaffirm their commitment to ensure the successful completion of the project. This can be achieved by acknowledging council support as part of the motion for the recommended action.

#### Sustainability Impact

N/A

### Fiscal Impact

An appropriation of \$800,000 is being requested from the Capital Fund Capital Reserve (429-99-001) as a transfer out of funds. In addition, a corresponding increase in appropriations for the Transportation Traffic Engineering Budget (100-88-844) is recommended, this increase will be offset by \$800,000 revenue as a transfer in from the Capital Fund Capital Reserve. The Capital Reserve has an estimated balance of \$9.8 million. Should the transfer be approved, the estimated balance in the capital Reserve would be \$9 million. In the event SB 1 or other funding sources are identified, these funds will be returned to the General Fund and there will be no fiscal impact. Staff will continue to look for developer contribution opportunities to offset or reimburse any General Fund Project contributions.

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Prepared by: David Stillman, Transportation Manager

Reviewed by: Matt Morley, Director of Public Works

Approved for Submission by: Pamela Wu, City Manager

### Attachments:

A – Initial Funding Agreement 280-Wolfe

B – Draft Resolution