

TO: James L. App, City Manager  
FROM: Doug Monn, Public Works Director  
SUBJECT: Accessibility Improvements, Spring Street (22nd to 36th) –  
Authorize Change Order for Phase 2 Work per Consent Decree  
DATE: July 3, 2012

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NEEDS: For City Council to consider a contract change order for Phase 2 work for the Accessibility Improvements at Spring Street (22nd to 36th) per Consent Decree.

- FACTS:
1. A lawsuit was filed against the City on March 16, 2010 alleging violations of the Americans with Disabilities Act (ADA).
  2. As part of the settlement, the City entered into a Consent Decree dated December 11, 2010 specifying certain corrective actions as follows:
    - a. Phase 1 improvements, mandated to be complete by September 2012, are to address curb ramps, paths of travel, and bus stops around the downtown City Park and along Spring Street from 1st Street to 20th.
    - b. Phase 2 improvements, mandated to be completed within five (5) years, are those improvements listed in the Consent Decree, Spring Street from 22nd Street to 36th.  
  
(Note: Improvements on 21st Street, including those at the intersection with Spring Street, are being addressed as a separate project and are therefore excluded from Phase 2.)
  3. On February 21, 2012 City Council awarded the construction contract for Phase 1 work to Rockwood General Contractors.
  4. At the time the contract for Phase 1 work was awarded, City Council also directed staff to proceed with final design and preparation of construction plans for Phase 2 work and negotiate a change order with Rockwood General Contractors.
  5. Rockwood has submitted a cost proposal for Phase 2 work in the amount of \$569,860.

ANALYSIS &  
CONCLUSION:

The Consent Decree list included 30 ramps from 22nd Street to 36th needing upgrade and approximately 15,000 SF of missing sidewalks to be installed. Rockwood's cost proposal includes all "missing sidewalks" to be installed and curb ramps to be upgraded as listed in the Consent Decree.

Staff reviewed the cost proposal submitted by Rockwood and found it to be a fair proposal and within their original bid unit prices.

POLICY  
REFERENCE:

Executed Consent Decree; Resolution No. 12-022

FISCAL  
IMPACT:

Funding for the project would be allocated from the proceeds generated by the 2009 issuance of Redevelopment Agency Tax Allocation Bonds by means of a Redevelopment Agency Funding Agreement, dated December 22, 2010, pursuant to which the Agency agreed to pay for or reimburse City for the costs of these ADA improvements. The City Council has allocated \$2,304,000 in Budget 712.910.5452.296 in its approved Capital Improvement Project to complete the necessary accessibility improvements.

While the Agency bonds and the Funding Agreement are included on the list of the Agency's Enforceable Obligations, due to ambiguous wording in AB 1X 26 (the bill that dissolved redevelopment agencies), there is a risk that the bond proceeds would not be available for this project, and that therefore the City might not be reimbursed. Clean-up legislation has been introduced which would clarify that bond proceeds could be used for this project, but it has not yet been adopted. If bond proceeds cannot be used, the improvements would have to be paid out of City General Fund reserves.

To date the following is a summary of the project budget:

Amount allocated	\$ 2,304,000
Phase 1 work encumbered (construction, design, construction management)	\$ 1,717,000
Balance	\$ 587,000

It is doubtful that another funding source will be available in the next five years to complete the second phase improvements required under the Consent Decree. As a result, to achieve economies of scale, it is suggested the City Council direct staff to approve a change order to the Rockwood contract. Two options are presented for Council's consideration.

Option A: That City Council approve a change order in the amount of \$569,860 and allocate an additional \$132,860 to the budget based on the following Phase 2 needs:

Construction	\$ 569,860
Contingency	\$ 60,000
Construction management *	\$ 90,000
Total needed	\$ 719,860
Balance available	\$ 587,000
Additional needed	\$ 132,860

\* Note: The Consent Decree requires completion of a form for each ramp upgraded. The form lists measurements taken at 24 locations on the ramp to insure they are in compliance.

If Council exercises Option A, \$132,860 would need to be allocated as follows: \$50,000 from available RDA funds; \$82,860 from General Fund Reserves.

Option B: Do not allocate additional funds, but direct staff to approve a change order in the amount of \$456,000 to upgrade only 24 curb ramps (and not install the "missing" sidewalks, with the understanding that the deleted work would need to be completed by 2016). With this option, the funding needs would be:

Construction	\$ 456,000
Contingency	40,000
Construction management *	80,000
Total needed	\$ 576,000
Balance available	587,000

Additional funds not required.

- OPTIONS:
- a. Adopt Resolution No. 12-xx directing staff to proceed with one of the following options:
    - Option A: Allocate \$50,000 from RDA funds and \$82,860 from General Fund Reserves (\$132,860 total), and approve a change order in the amount of \$569,860;
    - Option B: Approve a change order in the amount of \$456,000 to upgrade 24 ramps only.
  - b. Amend, modify, or reject the above option.

Prepared by: Ditas Esperanza, P.E., Capital Projects Engineer  
 Attachments: Resolution

## RESOLUTION NO. 12-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
AUTHORIZING A CONTRACT CHANGE ORDER TO PROVIDE PHASE 2 WORK  
FOR INSTALLATION OF ACCESSIBILITY IMPROVEMENTS

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WHEREAS, a lawsuit was filed against the City on March 16, 2010 asserting violation of the Americans with Disabilities Act (ADA); and

WHEREAS, the City entered into a Consent Decree to improve curb ramps, sidewalks and bus stops along Spring Street, from 1st Street to 20th Street, and around Downtown Park for Phase 1 improvements, and from 21st to 36th Street for Phase 2, all as specifically identified in Attachment B to the Consent Decree; and

WHEREAS, the City entered into the Consent Decree in reliance upon the availability of bond proceeds from the 2009 tax allocation bond issuance by the Redevelopment Agency of the City of Paso Robles ("Agency") to fulfill the City's obligations under the Consent Decree; and

WHEREAS, the City and Agency entered into a Funding Agreement, dated December 22, 2010, pursuant to which the Agency agreed to pay for or reimburse the City for the costs of the improvements required under the Consent Decree; and

WHEREAS, AB 1X 26, adopted by the Legislature in 2011 and upheld by the California Supreme Court in *CRA, et al., v. Matosantos, et al.*, required the dissolution of the Agency on February 1, 2012; and

WHEREAS, pursuant to AB 1X 26, the City elected to be the successor entity to the Agency, thereby assuming all of the assets and obligations of the Agency; and

WHEREAS, the Settlement Agreement has listed the Phase 1 and Phase 2 improvements as well as the Agency bond repayment obligations as continuing Agency Enforceable Obligations, as defined in AB 1X 26; and

WHEREAS, the City is required to complete the specified Phase 1 improvements by September 2012 and the specified Phase 2 improvements five years thereafter;

WHEREAS, on February 21, 2012 City Council awarded the construction contract for Phase 1 work to Rockwood General Contractors; and

WHEREAS, at the time the contract for Phase 1 work was awarded, City Council also directed staff to proceed with final design and preparation of construction plans for Phase 2 work and negotiate a change order with Rockwood General Contractors; and

WHEREAS, Rockwood submitted a cost proposal for Phase 2 work in the amount of \$569,860; and

WHEREAS, Rockwood's cost proposal includes all "missing sidewalks," and ramps to be installed as listed in the Consent Decree; and

WHEREAS, there are available Agency bond proceeds to design and construct the specified Phase 2 improvements within the amount budgeted for the specified Phase 1 improvements; and

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council of the City of Paso Robles does hereby find and determine that the above recitals are true and correct and hereby incorporates them by reference.

SECTION 2. The City Council does hereby allocate \$132,860 for Phase 2 accessibility improvements (\$50,000 from Redevelopment Agency funds and \$82,860 from General Fund Reserves).

SECTION 3. The City Council does hereby authorize a contract change order to Rockwood General Contractors, Inc. in the amount of \$569,860 for Phase 2 work.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 3rd day of July 2012 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Duane Picanco, Mayor

ATTEST:

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Caryn Jackson, Deputy City Clerk

## RESOLUTION NO. 12-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
AUTHORIZING A CONTRACT CHANGE ORDER TO PROVIDE PHASE 2 WORK  
FOR INSTALLATION OF ACCESSIBILITY IMPROVEMENTS

---

WHEREAS, a lawsuit was filed against the City on March 16, 2010 asserting violation of the Americans with Disabilities Act (ADA); and

WHEREAS, the City entered into a Consent Decree to improve curb ramps, sidewalks and bus stops along Spring Street, from 1st Street to 20th Street, and around Downtown Park for Phase 1 improvements, and from 21st to 36th Street for Phase 2, all as specifically identified in Attachment B to the Consent Decree; and

WHEREAS, the City entered into the Consent Decree in reliance upon the availability of bond proceeds from the 2009 tax allocation bond issuance by the Redevelopment Agency of the City of Paso Robles ("Agency") to fulfill the City's obligations under the Consent Decree; and

WHEREAS, the City and Agency entered into a Funding Agreement, dated December 22, 2010, pursuant to which the Agency agreed to pay for or reimburse the City for the costs of the improvements required under the Consent Decree; and

WHEREAS, AB 1X 26, adopted by the Legislature in 2011 and upheld by the California Supreme Court in *CRA, et al., v. Matosantos, et al.*, required the dissolution of the Agency on February 1, 2012; and

WHEREAS, pursuant to AB 1X 26, the City elected to be the successor entity to the Agency, thereby assuming all of the assets and obligations of the Agency; and

WHEREAS, the Settlement Agreement has listed the Phase 1 and Phase 2 improvements as well as the Agency bond repayment obligations as continuing Agency Enforceable Obligations, as defined in AB 1X 26; and

WHEREAS, the City is required to complete the specified Phase 1 improvements by September 2012 and the specified Phase 2 improvements five years thereafter;

WHEREAS, on February 21, 2012 City Council awarded the construction contract for Phase 1 work to Rockwood General Contractors; and

WHEREAS, at the time the contract for Phase 1 work was awarded, City Council also directed staff to proceed with final design and preparation of construction plans for Phase 2 work and negotiate a change order with Rockwood General Contractors using the Phase 1 unit cost bid price; and

WHEREAS, Rockwood submitted a cost proposal for Phase 2 work in the amount of \$569,860; and

WHEREAS, Rockwood's cost proposal includes all "missing sidewalks," and ramps to be installed as listed in the Consent Decree; and

WHEREAS, there are available Agency bond proceeds to design and construct the specified Phase 2 improvements within the amount budgeted for the specified Phase 1 improvements; and

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council of the City of Paso Robles does hereby find and determine that the above recitals are true and correct and hereby incorporates them by reference.

SECTION 2. The City Council does hereby authorize the City Manager to execute a contract change order with Rockwood General Contractors, Inc. in the amount of \$456,000 for Phase 2, to upgrade 24 ramps only.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 3rd day of July 2012 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Duane Picanco, Mayor

ATTEST:

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Caryn Jackson, Deputy City Clerk