



TOWN OF FAIRFAX

SUPPLEMENTAL STAFF REPORT

March 2, 2022

TO: Mayor and Town Council

FROM: Jonathon Goldman, Interim Public Works Director

SUBJECT: Adopt a Resolution Making a Supplemental Budget Appropriation, Accepting the Work as Complete and Directing the Issuance of a Notice of Completion for the Temporary Repairs Made to the Roadway at or near 2378 Sir Francis Drake Boulevard, Fairfax in Response to the Local Emergency Declared December 15, 2021

RECOMMENDATION

Adopt the attached revised Resolution Making a Supplemental Budget Appropriation, Accepting the Work as Complete and Directing the Issuance of a Notice of Completion for the Temporary Repairs Made to the Roadway at or near 2378 Sir Francis Drake Boulevard, Fairfax in Response to the Local Emergency Declared December 15, 2021.

BACKGROUND

This supplement has been prepared because Maggiora & Ghilotti received a late invoice for \$5,373.09 (including markup) for traffic flagger signal rental that was not included in its original final invoice.

With action during a special meeting of December 15, 2021 the Town Council of the Town of Fairfax adopted Emergency Resolution No. 21-53 finding, unanimously, that:

1. the recitals in said Emergency Resolution were true and correct; and
2. finding and determining based on substantial evidence in the staff report and oral testimony the existence of a local emergency at or in the vicinity of 2378 Sir Francis Drake Boulevard, Fairfax. These emergency findings were deemed to be entered into the minutes of the meeting at which this Emergency Resolution is passed.

On that basis, as documented in said Emergency Resolution No. 21-53, the Town Manager was ordered and authorized to:

3. provide for the emergency repair or replacement of those public facilities necessary to stabilize the roadway condition and reopen the roadway located at or near 2378 Sir Francis Drake Boulevard, Fairfax; and
4. to take any directly related and immediate action required by those emergency conditions, and to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts pursuant to Public Contract Code Sections 22035 and 22050.

The Town Manager was authorized to let said contract(s) in an amount not to exceed \$250,000 for construction and \$25,000 for design/construction management costs without further approval

by the Town Council and said funding was deemed budgeted and appropriated for the improvements.

The Town Council unanimously adopted a continuing resolution (22-06) regarding the emergency at its January 19, 2022 meeting and a similar resolution at its February 2, 2022 meeting.

DISCUSSION

Staff developed the initial estimate of damages for two principal purposes: (1) to quickly respond to the California Office of Emergency Services assessment team's December 17, 2021 request for an Initial Damage Estimate ("IDE") on or before December 22, 2021 in anticipation of the possibility of a Governor's Disaster Proclamation being issued; and (2) to quickly give the Town Manager the authority to engage design, permitting and construction assistance without the need to return to Council for additional authority any more frequently than necessary. The estimate was prepared before the extent of the damage or detailed understanding of the work that would be necessary to accomplish the temporary repairs was known. By submitting the IDE to the California Department of Transportation ("Caltrans") on time and as requested, the Town established its position as expecting to incur costs in response to storm-related damage and in expecting to seek reimbursement for some or all of those costs should funds be available.

Staff and the Town's consulting engineers, scientists and contractors did their best to evaluate the actual conditions encountered once the roadway, guardrail, fencing and overlying soils were removed from the damaged area, develop a construction sequence to fix the problem using locally-available materials and subcontractors to get the roadway stabilized and restored to full use as quickly as possible.

Doing so resulted in costs that exceeded the IDE. The exceedance resulted from a number of factors including expending overtime labor costs over the Christmas weekend to minimize the magnitude and duration of community impact caused by the road closure, and the requirement (once the extent of damage to the Portland cement concrete gravity wall including its footing was determined) to construct another retaining wall between the failed wall and the roadway to avoid working in Fairfax Creek during the rainy season and avoid potential adverse environmental impacts that could result if work in the Creek was necessary. All of the aquatic resource regulatory agencies with jurisdiction over the project required information developed as the project plans evolved to ensure that the Town did not violate environmental regulations in performing the emergency work. Additionally, some of the subcontractors utilized (owing to their proximity to the job site and availability of specialized equipment) were not familiar with the requirements under the California Labor Code for payment of not less than prevailing wages and the resulting record-keeping requirements. That unfamiliarity resulted in additional time once the work was completed to correctly invoice the prime contractor in order that the prime contractor could invoice the Town. The project team emphasized responsiveness and minimizing delays in selecting materials and subcontractors rather than making an effort to reduce costs — primarily owing to the importance of quickly restoring safe motor vehicle, pedestrian and bicycle operations to the roadway segment that serves two public schools and many other travelers on a daily basis.

The hazards associated with the local emergency have been satisfactorily addressed. Staff recommends that those temporary repairs be accepted as complete, Staff directed to issue a

Notice of Completion, and that a supplemental appropriation be made to allow the contractor to be paid in full for its prompt, responsive work to benefit the Town and its visitors.

FISCAL IMPACT

Staff’s initial estimate of the cost to make the temporary repairs necessary to address pedestrian, bicycle and motor vehicle safety at the site was \$250,000 for construction and \$25,000 for engineering and permitting. Having now received and approved the final invoices for all of the involved consultants and contractors, the actual costs are \$417,227 for construction and \$21,556 for engineering and permitting. This supplement has been prepared because Maggiora & Ghilotti received a late invoice for \$5,373.09 (including markup) for traffic flagger signal rental that was not included in its original final invoice. Staff recommends that a supplemental appropriation in the amount of \$163,783 be made to cover the Town’s obligations pending reimbursement of some or all of these costs from the State under declared disaster number CA No. 22-3¹. Staff is working with the Caltrans Emergency Response coordinator from District 4 to ensure that the appropriate forms and other information are submitted to Caltrans for reimbursement at the earliest possible convenience.

RECOMMENDATION

Staff therefore respectfully recommends that the Town Council adopt a Resolution Making a Supplemental Budget Appropriation, Accepting the Work as Complete and Directing the Issuance of a Notice of Completion for the Temporary Repairs Made to the Roadway at or near 2378 Sir Francis Drake Boulevard, Fairfax in Response to the Local Emergency Declared December 15, 2021.

ATTACHMENTS

Revised Resolution

¹ <https://www.gov.ca.gov/wp-content/uploads/2021/12/12-30-21-SOE-December-2021-Winter-Storms.pdf>

RESOLUTION 22-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
MAKING A SUPPLEMENTAL BUDGET APPROPRIATION, AUTHORIZING PAYMENT,
ACCEPTING THE WORK AS COMPLETE AND DIRECTING THE ISSUANCE OF A NOTICE OF
COMPLETION FOR THE TEMPORARY REPAIRS MADE TO THE ROADWAY AT OR NEAR 2378
SIR FRANCIS DRAKE BOULEVARD, FAIRFAX IN RESPONSE TO THE LOCAL EMERGENCY
DECLARED DECEMBER 15, 2021**

WHEREAS, with the unanimous passage and adoption of Emergency Resolution 21-53 at a special meeting of the Town Council of the Town of Fairfax on the 15th day of December 2021, and confirmed and continued Emergency Resolution 22-06 at the Town Council’s regular meetings held on the 19th day of January 2022, and again February 2, 2022, the Town Council appropriated funds in the total amount of \$275,000 for and ordered and authorized the Town Manager to continue to provide for the emergency repair or replacement of those public facilities necessary to stabilize the roadway condition and reopen the roadway (the “Work”); and

WHEREAS, the Work has been completed and Staff recommends that the temporary work be accepted as complete and that a Notice of Completion be issued; and

WHEREAS, Staff has received, reviewed and approved all invoices associated with said Work for payment in full subject to a supplemental appropriation in the amount of \$163,783 over and above the appropriation made with Emergency Resolution 21-53 and respectfully requests that Council make such a supplemental appropriation and authorize the Town Manager to make all remaining payments for the Work.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Fairfax hereby declares and orders as follows:

SECTION 1. The Town Council accepts the Work as complete and directs that a Notice of Completion be issued.

SECTION 2. The Town’s current budget for the Work is amended by the supplemental appropriation of \$163,783 in addition to the \$275,000 appropriated with Resolution No. 21-53.

SECTION 3. The Town Manager is hereby authorized to make all approved payments for the Work approved under Resolution No. 21-53.

The foregoing resolution was duly passed and adopted by the Town Council of the Town of Fairfax at a duly noticed meeting held in said Town on the 2nd day of March 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Stephanie Hellman, Mayor

Attest: _____
Michele Gardner, Town Clerk