



Agenda Report

Fullerton City Council

MEETING DATE: MAY 7, 2019

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: KENNETH A. DOMER, CITY MANAGER

PREPARED BY: MEG McWADE, PUBLIC WORKS DIRECTOR
YELENA VORONEL, ACTING CITY ENGINEER

SUBJECT: RAYMOND AVENUE GRADE SEPARATION –
SETTLEMENT AND RELEASE AGREEMENT FOR
CONSTRUCTION CONTRACT

SUMMARY

Consideration of the Settlement and Release Agreement between City of Fullerton and Flatiron West, Inc., the General Contractor for the Raymond Avenue Grade Separation project (Attachment 1).

RECOMMENDATION

Approve the Settlement and Release Agreement between City of Fullerton and Flatiron West, Inc. in the amount of \$54,000,000 and authorize the City Manager to execute it on City's behalf.

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement/s:

- Infrastructure and City Assets.

FISCAL IMPACT

There is no fiscal impact to the City. On February 4, 2014, City Council approved the construction contract with Flatiron West, Inc. in the total amount of \$46,416,872. The amount of the Settlement and Release Agreement that was negotiated between City of Fullerton and Orange County Transportation Authority (OCTA) teams and Flatiron West, Inc. is \$54 million, increasing the total construction contract amount by \$7,583,128. The project construction, including the said increase in construction contract costs, is fully funded by State and OCTA funds with no match required from the City of Fullerton.

DISCUSSION

The City was the lead agency for the design and construction of the Raymond Avenue and State College Boulevard Grade Separation Projects. These are two of seven grade separation projects included in OCTA's OC Bridges Program. Implementation of both projects is a joint effort of the City and OCTA.

Construction of both projects started in June of 2014 and was completed in spring of 2018. Currently, both projects are in the closeout phase finalizing construction contracts and record documents. OCTA is in the process of closing the entire OC Bridges Program and securing sufficient funds needed for both of Fullerton's grade separation projects.

City of Fullerton and OCTA teams completed review of all construction contract costs related to Raymond Avenue and State College. Following OCTA's recommendation based on extensive experience with these types of projects, OCTA and Fullerton negotiated a Settlement and Release Agreement with Flatiron West, reasonably settling all disputed extra costs / change orders in lieu of engaging in a lengthy and expensive claim process. The Settlement Agreement amount is \$54 million, including the original contract amount of \$46,416,872 and change orders totaling \$7,583,128. No City money is involved in this Settlement Agreement.

During the four-year long construction phase, Raymond Avenue Grade Separation project underwent significant changes in its scope due to numerous unforeseen conditions, additional items of work, and necessity to further minimize the inconvenience to adjacent business and residential communities and overall street circulation. Additionally, causes for the increased costs were changing regulations related to disposed material and interagency coordination with major utilities and railroad. The Settlement amount is approximately \$1M less than the contractor originally requested and is fully supported by OCTA project partners.

OCTA will provide additional funding for the project, reimbursing the City for all project construction, construction management, and project management expenses.

Attachments:

- Attachment 1 – Settlement and Release Agreement between City of Fullerton and Flatiron West, Inc.