

RESPONSE TO COUNCIL QUESTIONS RE: 5/16/2023 CITY COUNCIL AGENDA

Agenda Item #: 1.C

Title: Award of Contract to Graham Contractors for Annual Slurry Seal 2023 and Make a Finding of California Environmental Quality Act (CEQA) Categorical Exemption Pursuant to CEQA Guidelines Section 15301 (c) (PW23-02)

Council Question: What is our estimated PCI after the approved slurry seal efforts?

Staff Response: The information regarding the treatments to these street segments cannot be entered into the system until they are completed, and the completion date is known. Also, the City is starting a new grant funded project this summer to review the Pavement Condition Index (PCI) of all the street segments in the City. The review will provide more accurate information about the City's overall PCI, which will help guide future projects.

Agenda Item #: 1.D

Title: Accept Addendum 5 to the Program Environmental Impact Report (PEIR) for the Sunnyvale Water Pollution Control Plan (WPCP) Master Plan and Approve the Plan for the Secondary Effluent Pipeline Replacement Project in Accordance with the California Environmental Quality Act (CEQA)

Council Question: Please provide a cost summary of funds spent to-date by the City on the emergency repair activities since WPCP operators observed the active boil in the Cargill Channel.

Staff Response: The City has to-date spent \$2,169,111 on this project. Of this amount, \$252,946 was for the design firm, Carollo Engineers and the remainder for construction.

Council Question: The staff report says that "No budget modifications are expected at this time. Staff will return to City Council should additional budget appropriations be needed." Assuming the approval of the PEIR, what is the expected timing of bidding/implementation?

Staff Response: The design of the permanent fix of the pipelines is underway and has a long permitting lead time. We are anticipating bidding late Summer 2024.

Agenda Item #: 1.E

Title: Authorize the City Manager to Execute a Revised 2023 Amended and Restated Joint Use Agreement Between the City of Sunnyvale and Santa Clara Valley Water District for the Sunnyvale West Channel and Sunnyvale East Channel Project

Council Question: This is only for the "Google" portion of the channel, does Valley Water have the final funding to implement the full west channel and east channel projects? The City would have responsibility for maintenance of the East Channel, correct?

Staff Response: According to Valley Water's project page for the East and West Channel flood protection project (<https://www.valleywater.org/project-updates/e2-sunnyvale-east-and-sunnyvale-west-channels-flood-protection>), construction funding for the East Channel has been reallocated to

other projects within the Safe, Clean Water program. It is City staff's understanding that the West Channel improvements will still proceed.

The original joint use agreement between City and Valley Water gave maintenance responsibility for the paved trail to the City upon construction completion. With Google voluntarily doing upgrades along the channel, a pass-through maintenance agreement from City to Google will be executed for those areas. The channel itself, as it relates to flood control, will retain the responsibility of Valley Water.

Agenda Item #: 1.G

Title: Approve Amendments to Council Policy 7.3.19 (Council Meetings) Adding a Pilot Process for City Council Colleague Memorandums to Propose new Agenda Items

Council Question: The second-to-last bullet point ends with "for Council action." Could this be construed as meaning that Council would mandatorily have to take action on each and every colleague memorandum created under this policy? What would happen if those three words were removed?

Staff Response: The words "...for Council action", highlighted below in context, support the over-all goal of the Colleagues Memorandum pilot process. The pilot process is intended to provide additional information regarding potential future agenda items to Council and the public. By submitting a Colleagues Memorandum to the City Manager, the authors communicate their intention to make a motion to adgendize the topic at a future meeting. Whether or not the motion passes or fails, Council will have acted on the request to adgendize.

Colleagues Memorandum*

*Absent City Council action, this subheading becomes inoperative on January 31, 2024.

- A group of two or three Councilmembers may prepare a brief colleagues memorandum outlining a request to create a future agenda item for the Council to consider at an upcoming Council meeting.
- Councilmembers shall submit colleagues memorandums directly to the City Manager.
- Colleagues memorandums are not to be shared with Councilmembers outside of the group who authored a specific memorandum.
- Memorandums shall not exceed two (2) pages and shall be focused on the need for a future agenda item without advocating for or against the merits of the agenda item being requested.
- The City Manager will review and approve the Colleague Memorandums consistent with this policy and the Ralph M. Brown Act (open meetings law) or provide feedback to the authors.
- The City Manager will schedule the approved colleagues memorandum for the next available Council agenda.
- Completed colleagues memorandums will be included under the Non-Agenda Items & Comments portion of the Council meeting agenda **for Council action**.
- A colleagues memorandum is not required to request an agenda item be added to a future agenda.

Agenda Item #: 3

Title: Adopt a Resolution Pursuant to California Streets and Highways Code Section 11311 to Establish a Pedestrian Mall on the 100 Block of South Murphy Avenue, Accept the Second Addendum to the 2020 Downtown Specific Plan Environmental Impact Report for the Historic Murphy Avenue Pedestrian Mall Project in Accordance with the California Environmental Quality Act, Introduce an Ordinance Adding Chapter 10.66 (Pedestrian Mall on South Murphy Avenue) to Title 10 of the Sunnyvale Municipal Code and Amend Various Sections of Chapter 10.56 (Bicycles) of the Sunnyvale Municipal Code Related to Bicycles on Pedestrian Malls and Approve Budget Modification No. 20 in the Amount of \$800,000

Council Question: The staff reports states “Prior to temporally closing Murphy Avenue, staff cleaned the sidewalks, but did not clean the street” however we *did* do street cleaning before (with a street sweeper). Are we now spray washing the street weekly? After the ADA construction is complete, who will maintain the streets and sidewalk cleaning?

Staff Response: Staff has been pressure washing the street weekly due to the issues with the crows.

Council Question: The RTC says “Prohibit the riding of bikes on pedestrian malls and prohibiting stunt riding on pedestrian malls.” However, the ordinance (**10.56.140 C**) states “It is unlawful for any person to ride or operate a bicycle, motor driven cycle or motor scooter upon any pedestrian mall, except in the **portion designated as a bike path.**” Is there a bike path planned in the final design for the mall?

Staff Response: Staff does not have a final design as Council needs to take action to fund the project. However, it is unlikely that a bike path will be incorporated in the final design as the street is too narrow to support outdoor dining, pedestrians, and bicycles.

Council Question: Part of Council’s previous discussion was whether parking along Washington would be ADA and short term parking. Has that been decided?

Staff Response: Appropriate locations for ADA and short-term parking will be evaluated during construction of ADA improvements.

Council Question: There were many questions previously about on-going operation on the new Murphy Avenue Pedestrian Mall. Is this an update planned about the operation of businesses in the Pedestrian Mall (if so what is the timing)? Some of the on-going questions were:

- What are permitting/restrictions on furniture, boundary designation (fence, stanchions, etc.), music/entertainment, lighting, outdoor amplification, etc.?
- What happens if businesses don’t follow the rules (e.g. go beyond their designated area)?
- Will each business need to submit new permits even if they currently are utilizing the larger area?
- Is there a plan to mark the “street center pedestrian area” to easily clarify how much of the street can be utilized for café furniture?

- What is the final recommendation on umbrellas vs. tents or even the covering at Fibbar Magee's?

Staff Response: Guidelines and conditions of approval will be included with the outdoor dining permit which will require an annual renewal. Staff has been working with businesses on how to best address these issues and will provide additional information once the pedestrian mall plans are developed.

Council Question: Is busking allowed on Murphy Avenue sidewalks?

Staff Response: Generally, under the First Amendment which protects the right to free speech, busking cannot be prohibited in areas where other forms of free speech are not prohibited. As such, busking would be permitted on Murphy Avenue sidewalks where free speech rights are protected. However, the City can enforce regulations of the time, place, and manner of expression which are content-neutral, are narrowly tailored to serve a significant governmental interest, and leave open alternative channels of communication. Examples many include regulations to prevent unreasonable noise, audio clutter and other public nuisances.

Council Question: For 10.56.140, in the May 16, 2023 Council Meeting there was a hearing for Agenda item#3 Introduce an Ordinance specifically SECTION 1. Chapter 10.56 and especially the policy changes made to 10.56.140. The changes proposed appear to be policy change which goes beyond pedestrian malls so could this ordinance instead be modified to isolate policy changes in 10.56.140 for only pedestrian malls?

Staff Response: Please disregard the draft ordinance which had typographical errors. Staff revised the Ordinance. In the revised version, the existing language of Section 10.56.140 remains unchanged, and the only substantial change is a new subsection which prohibits riding on pedestrian malls, except in the portion designated as a bike path. The revised Ordinance was upload to Legistar.

Council Question: For 10.56.140, if there are major changes and if there is a consensus on the Council then could this language be handed to the BPAC to look at it? One of the specific duties for BPAC specified in the Council Policy Manual, section 7.2.19 2.I.(II)(b)iii is: "Review and make recommendations on changes to the Sunnyvale Municipal Code related to bicycles and pedestrians." BPAC has the knowledge and practical experience necessary to understand and discuss important details with input from staff. The Council could benefit from their advice to make fully informed decisions on 10.56.140 if there are major changes.

Staff Response: Please disregard the previous version of the draft ordinance which had typographical errors. Staff uploaded a revised Ordinance to Legistar. In the revised version, the existing language of Section 10.56.140 remains unchanged, and the only substantial change is a new subsection which prohibits riding on pedestrian malls, except in the portion designated as a bike path.

Council Question: As simplified language, what is the feasibility of this for 10.56.140 or some form of these versions of 10.56.140.?

10.56.140. Riding on sidewalks, pedestrian malls and overhead pedestrian crossings—
Allowed.

(a) It is lawful for any person to ride or operate a bicycle upon sidewalks, pedestrian malls, and overhead pedestrian crossings so long as they ride at pedestrian speeds, exercise due care, and give any pedestrian the right-of-way.

(b) - delete

(c) - delete

(d) [Text unchanged.]

Or

10.56.140. Cyclists of any age may ride on pedestrian facilities when they feel it is necessary for safety provided, they yield to pedestrians, slow to pedestrian speed when needed, and exercise due care at intersections and driveways.

(b) - delete

(c) - delete

(d) [Text unchanged.]

Staff Response: Please disregard the previous version of the draft ordinance which had typographical errors. Staff uploaded a revised Ordinance to Legistar. In the revised version, the existing language of Section 10.56.140 remains unchanged, and the only substantial change is a new subsection which prohibits riding on pedestrian malls, except in the portion designated as a bike path. Council may make amendments to Section 10.56.140 regarding cyclists upon sidewalks, pedestrian malls, overhead pedestrian crossings, etc.

Council Question: Why does the Sunnyvale ordinance need not address motor driven cycles and motor scooters when they are already excluded from using these pedestrian facilities by state law (<https://www.dmv.ca.gov/portal/vehicle-registration/new-registration/motorcycles-mopeds-and-scooters/#:~:text=You%20can%20only%20drive%20motorized,a%20speed%20of%2015%20mph>)?

Staff Response: The California Vehicle Code does not cover pedestrian malls specifically. Per California Vehicle Code Section 21235 motorized scooters are allowed to operate on any roadway with a speed limit of 25mph or less. They are restricted to within bicycle facilities for roadways with posted speed limits above 25mph. Within that same section scooters are prohibited from operating on sidewalks unless necessary to enter or leave adjacent properties or to park.

Council Question: Ordinance 10.56.140 governs riding bicycles on sidewalks and pedestrian facilities within the City of Sunnyvale. BPAC declined to forward a study issue to modify this ordinance, and Council has not prioritized substantial changes. Yet as part of tonight's pedestrian mall ordinance, Staff proposes striking the entirety of section (c) of this ordinance, which covers that allow children and senior citizens to ride their bicycles on a sidewalk, and notes that anyone "ride a bicycle on a

sidewalk if riding upon the street would place the cyclist in an unsafe situation". Is it actually the intent of Staff to strike section (c), or was the intent to insert the provision regarding the pedestrian mall as a new section (c), and push the existing section?

Staff Response: It is not staff's intent to strike subsection (c). In the previous version of the draft ordinance, Section 10.56.140 had typographical errors, including the inadvertent strikeout of subsection (c). A revised version of the ordinance in which the text of the existing subsection (c) remains unchanged, though it has been relettered to subsection (d), has been uploaded on Legistar.

Agenda Item #: 5

Title: Select Final Icon and Approve Locations for the Sunnyvale Icon Sculpture Project and Authorize the Arts Commission to Approve the Final Icon Design and Select Artists

Council Question: Would there be a standard base for each of the sculptures (much like the Hearts of San Francisco in the staff presentation)?

Staff Response: Yes. Each sculpture will have a metal base that will be bolted to concrete.

Council Question: The staff report says there is no public art in Las Palmas Park, but aren't the Easter Island sculptures considered art?

Staff Response: The Easter Island sculptures are part of the park's theme and were included as part of the original playground design. They are not considered public art.

Council Question: Staff is suggesting that the 30 sculpture icons be placed in 5 parks. That seemed like a high number per park.

While I agree with the equity of prioritizing underserved areas of the city, I would think the concentration of icons within a single park (of a small set of parks) seemed high, and the priority would be to get more icon art throughout the city (much like the utility box art program). Some of the recent parks have no art (Wiser Park, Swegles Park).

In looking at the Hearts of San Francisco, it looks like they are widely spread around SF (and beyond):

<https://sfghf.org/hearts-in-san-francisco/>

Map: https://www.google.com/maps/d/embed?mid=1FD1RzRACeDyxTZcEoJh_SOIsnuPBJFd2&ll=38.01853842607886%2C-122.0035772&z=9

1. Couldn't we target parks that are even up for renovation soon (still some years away)? I'm assuming that the icons would be movable to another location, and then could be moved back?
2. Would it be difficult to spread the locations to more parks/districts around the city, (thus, making the icons park destinations)? Could Council delegate to the Art Commission to finalize

a wider list of park locations spread throughout the city? (Victory Park, Cannery Park, Orchard Gardens, etc.)

Staff Response:

1. We could target parks that are scheduled for renovation. Due to the temporary nature of these pieces, and an estimated shelf life of 18 to 24 months, it may be difficult for staff (Arts and Parks) to administer a rotational program.
2. Given that the Sunnyvale icons are smaller than the Hearts of San Francisco, it will take a pairing/grouping of the smaller sculptures to have the same impact. Council can delegate to the Arts Commission a wider list of park locations, spread throughout the City. There are several factors to consider as part of this process, including budget, total number of sculptures, staff installation time and available/accessible locations within each selected park.

Council Question: For the recently completed Muwekma Park, is there a plan for art?

Staff Response: Wisner, Swegles and Muwekma Parks were all part of private development projects and therefore were not subject to Council Policy 6.4.4 (Art in Public Places). As staff continues to work through art projects identified as part of the Master Plan for Public Art, these parks can be considered for future projects, such as murals, park benches, etc.

Council Question: Isn't JW Christian Greenbelt seen as a linear park going through underserved neighborhoods? Was that considered as a location for several pieces (other than Orchard Park and Fairwood at each end)?

Staff Response: The JW Christian Greenbelt was considered for this project, however, concrete pads would need to be poured which would require a time-consuming permitting process.

Council Question: Does Staff consider the first (up to) 30 icons as a Phase 1, and then plan to create new destinations in Phase 2? Or reduce the number of initial artists to much less than 30 as park locations were evaluated.

Staff Response: Based on the approved budget for Icons, this is the only planned phase at this time. However, staff will evaluate the project and available public art funds in two years to determine the feasibility of a second phase.

Council Question: I agree that the icons are considered temporary. From the Staff report: "It is the City's expectation that the art will remain in place for 18-24 months, or until such time it is deemed necessary to remove the sculptures for any reason." What is the plan for the icon sculptures at the end of the 2 years? (I think SF actually sold them to businesses to make them internal destinations

for some businesses.) Would they be repainted and replaced if the structure was still in good shape? Or would they be redistributed?

Staff Response: Staff has not yet determined what will be done with the sculptures. Factors such as how well they withstand the elements, how well they are received by the public and available funding at the end of the exhibition will be considered. Possibilities will include: extending exhibit timeline, auction, disposal, donation, restoration and repainting, or relocation to other parks throughout the City.