



Office of the City Manager

CONSENT CALENDAR
September 19, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Liam Garland, Director, Department of Public Works
Subject: Agreement with Goldsmiths for Strawberry Creek Culvert Repair

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a Cost Sharing Agreement and Release with Steven and Cathy Goldsmith for repair of a section of Strawberry Creek Culvert. The culvert was reported to have failed on or about October 24, 2021 and the extents of the failure is alleged to include area in both City right-of-way and private property under the Goldsmiths' home. Per the agreement, the City would expend an amount not to exceed \$75,000 toward repair of the creek culvert in exchange for a release of claims relating to the October 24, 2021 culvert failure.

FISCAL IMPACTS OF RECOMMENDATION

Per the proposed cost sharing agreement, the City's expenditure is not to exceed \$75,000 for repair of the culvert. This funding is available in Fiscal year (FY) 2024 in the Capital Improvement Fund (501).

CURRENT SITUATION AND ITS EFFECTS

On or about October 24, 2021, a segment of Strawberry Creek culvert was reported to have failed causing damage to property located at 1749 Allston Way ("Allston Property"). Steven and Cathy Goldsmith ("Goldsmiths"), owners of the Allston Property, performed initial repairs to the culvert to secure the Allston Property. The Goldsmiths intend to perform additional repairs to repair the creek culvert. These repairs are estimated to cost approximately \$125,000, plus additional fees for permits, material testing, and third-party inspections.

The full scope of the culvert failure repair includes a section of culvert within the City right-of-way. Staff recommends that City enter into a cost sharing agreement with the Goldsmiths and expend a payment not to exceed the amount of \$75,000 toward the repair of the portion of the culvert within the right-of-way. As a condition of the agreement, the Goldsmiths will release the City from future claims arising from the October, 24, 2021, culvert failure. Additional considerations of the agreement are outlined in the attached Cost Sharing Agreement and Release. The City Attorney's Office has reviewed the proposed agreement and approved it as to form.

Repair of the creek culvert supports the Strategic Plan goals of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities, and of creating a resilient, safe, connected, and prepared City.

BACKGROUND

Strawberry Creek Watershed begins on the western slope of the Berkeley Hills with a series of springs and tributaries which converge and flow through the University of California, Berkeley campus. The confluence of the creek enters a culvert at Oxford Street at the edge of campus. Downstream of the campus, the watershed is highly urbanized and the creek is mostly confined to culverts. The City owns and maintains only those sections of Strawberry Creek culvert which run through City right-of-way or City-owned properties.

ENVIRONMENTAL SUSTAINABILITY

Collaborating with the Goldsmiths on the repair of the creek culvert supports sustainable practices outlined by the City in its 2009 Climate Action Plan by eliminating greenhouse gas emissions associated from City performing a separate creek culvert repair project for the portion of the culvert located within the City right-of-way.

RATIONALE FOR RECOMMENDATION

The cost sharing and release agreement allows City to provide funding for repair of a City owned creek culvert as part of a private creek culvert project. The agreement eliminates duplication of efforts associated with the design, permitting, and construction of separate City and private projects, conserving staff, financial, and material resources. The agreement protects the City's legal interests by obtaining a release for potential claims relating to the October 24, 2021 culvert failure.

ALTERNATIVE ACTIONS CONSIDERED

Perform the creek culvert repair in City right-of-way as a separate City project. This approach would require additional staff resources and cost, and would potentially delay completion of the repairs for the City-owned portion of the creek culvert.

CONTACT PERSON

Ron Nevels, Interim City Engineer/Manager of Engineering, Department of Public Works, 981-6439

Srinivas Muktevi, Supervising Civil Engineer, Department of Public Works, 981-6402

Ricardo Salcedo, Associate Civil Engineer, Department of Public Works, 981-6407

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

COST SHARING AND RELEASE AGREEMENT WITH GOLDSMITHS FOR
STRAWBERRY CREEK CULVERT REPAIR

WHEREAS, on or about October 24, 2021, a segment of Strawberry Creek culvert was reported to have failed causing damage to property located at 1749 Allston Way (“Allston Property”). Steven and Cathy Goldsmith (“Goldsmiths”), owners of the Allston Property, at their own expense performed initial repairs to the culvert to secure their property; and

WHEREAS, the Goldsmiths intend to perform additional repairs to the creek culvert and these repairs are estimated to cost approximately \$125,000, plus additional fees for permits, material testing, and third-party inspections; and

WHEREAS, the Goldsmiths proposed creek culvert repair extends beyond the Allston Property limits and into City right-of-way; and

WHEREAS, City staff recommends that the City enter into a cost sharing agreement (Agreement) with the Goldsmiths for repair of the creek culvert, to address the adjacent portion of City owned culvert; and

WHEREAS, the Agreement would allow the Goldsmiths to include repair of City owned infrastructure as part of their project and would eliminate duplication of efforts associated with the design, permitting, and construction of a separate City project; and

WHEREAS, the Agreement includes a release of the Goldsmiths’ potential claims against the City relating to the October 24, 2021 culver failure; and

WHEREAS, the agreed upon City contribution is not to exceed Seventy-Five Thousand Dollars (\$75,000) and funding is available in Fiscal Year (FY) 2024 in the Capital Improvement Fund (501).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute the Agreement by and Between the City of Berkeley and Steven and Cathy Goldsmith for repair of the Strawberry Creek Culvert failure.

