

**NOTICE OF REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF ST. GEORGE,
WASHINGTON COUNTY, UTAH**


Public Notice


Public notice is hereby given that the City Council of the City of St. George, Washington County, Utah, will hold a regular meeting in the Administrative Conference Room at the St. George City Offices located at 175 East 200 North, St. George, Utah, on Thursday, October 12, 2023, commencing at approximately 5:00 p.m.

The agenda for the meeting is as follows:

1. Consider approval of a Public Roadways Improvements Reimbursement Agreement with RCSG, Bonneville Builders, and Prime Excavating.

BACKGROUND and RECOMMENDATION: This Public Roadways Improvements Reimbursement Agreement consists of reimbursing the developer's contractor (Prime Excavating) for some additional roadway and drainage improvements along River Road on the east side, just south of George Washington Boulevard. The reimbursement amount is \$133,965.55. Staff recommends approval.


Christina Fernandez, City Recorder


Date

REASONABLE ACCOMMODATION: The City of St. George will make efforts to provide reasonable accommodations to disabled members of the public in accessing City programs. Please contact the City Human Resources Office, 627-4674, at least 24 hours in advance if you have special needs.



Agenda Date: 10/12/2023

Agenda Item Number: 01

Subject:

Consider approval of a Public Roadways Improvements Reimbursement Agreement with RCSG, Bonneville Builders, and Prime Excavating.

Item at-a-glance:

Staff Contact: Wes Jenkins

Applicant Name: City of St. George

Reference Number: N/A

Address/Location:

River Rd at George Washington Blvd (River Crossing Development)

Item History (background/project status/public process):

This Public Roadways Improvements Reimbursement Agreement consists of reimbursing the developer's contractor (Prime Excavating) for some additional roadway and drainage improvements along River Road on the east side, just south of George Washington Boulevard. The reimbursement amount is \$133,965.55. Staff recommends approval.

Staff Narrative (need/purpose):

The River Crossing Development is required to install certain lengths of northbound deceleration lane. Due to the continued increase of traffic volumes on River Rd, it is necessary to add more length to the northbound outer lane to accommodate new traffic. The City would like to have the additional width and length of roadway installed at the same time the developer is constructing their improvements. Furthermore, the developer is required to install new drainage infrastructure within their development and tie in to existing City drainage infrastructure. In order for the drain to work properly, the existing storm drain pipe must be lowered. The City would like to upgrade the portion of drainage infrastructure that would not be part of the developer's responsibility but that is consistent with new growth.

Name of Legal Dept approver: Jami Brackin

Budget Impact:

Cost for the agenda item: \$133,965.55

Amount approved in current FY budget for item: \$2,500,000

If not approved in current FY budget or exceeds the budgeted amount, please explain funding source:

The Developer Matching budget is for items related to development and new growth. This item is consistent with the intent of the budget.

Description of funding source:

Transportation Impact Fees

Recommendation (Include any conditions):

Staff recommends approval of the reimbursement agreement.

PUBLIC ROADWAY IMPROVEMENTS REIMBURSEMENT AGREEMENT
River Road – 1490 East Circle
(Prime Excavating Installs; City Reimburses)

This Agreement is entered into this _____ day of _____, 2023 between the City of St. George, a municipal corporation of the State of Utah (hereinafter referred to as the “City”), and RCSG, LLC (hereinafter referred to as RCSG) and Bonneville Builders (hereinafter referred to as Bonneville) and Prime Excavating (hereinafter referred to as Prime). City, RCSG, Bonneville, and Prime are herein collectively referred to as the “Parties”.

RECITALS

WHEREAS, with the development of River Crossing Phase 1 Subdivision, City desires additional infrastructure improvements to improve River Road, a 90-foot master planned roadway plus correct storm drain within 1490 East Circle; and

WHEREAS, the developer of River Crossing Phase 1, RCSG, must complete infrastructure improvements along northbound River Road including two right turn lanes into the River Crossing Phase 1 and storm drain improvements and frontage improvements along 1490 East Circle; and

WHEREAS, City desires the River Road existing northbound auxiliary lane be extended to the south in place of the two right turn lanes and a dedicated right turn lane from River Road to George Washington Boulevard be constructed; and

WHEREAS, the River Road auxiliary lane extension will be located over existing corrugated metal pipe storm drain but lack sufficient cover to protect the pipe; and

WHEREAS, City desires the existing River Road storm drain pipe shall be replaced due to the age and material of the storm drain and to provide sufficient cover above the pipe; and

WHEREAS, existing storm drain in 1490 East Circle does not flow properly; and

WHEREAS, City desires to reconstruct the storm drain in 1490 East Circle to provide sufficient slope in the storm drain to flow properly; and

WHEREAS, City has approached RCSG to use their contractor Bonneville, who will be constructing the River Crossing Phase 1 development and roadway improvements for RCSG, to construct the roadway and storm drain improvements for City along River Road and 1490 East Circle; and

WHEREAS, Bonneville has subcontracted with Prime to construct the roadway and storm drain improvements for the River Crossing Phase 1 development and RCSG and Bonneville have agreed to allow City to use Prime to construct the roadway and storm drain improvements along River Road and storm drain within 1490 East Circle with the construction of the improvements for River Crossing Phase 1 as shown in Exhibit A; and

WHEREAS, the parties have agreed that City will reimburse Prime directly for the cost of these roadway and storm drain improvements; and

WHEREAS, RCSG and Bonneville agree that it is in their best interest of all parties to allow Prime to work directly with City for construction of the roadway and storm drain improvements for which City is responsible and that City reimburse Prime directly for the cost of these improvements; and

WHEREAS, City agrees to directly reimburse Prime, in lieu of City reimbursing RCSG for the cost of City roadway and storm drain improvements along River Road and 1490 East Circle; and

WHEREAS, City, acting pursuant to its authority under Utah Code Annotated, Section 10-9a-101, et. seq., and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations has determined this Agreement is in the best interest of the citizens of the City of St. George, and, in the exercise of its legislative discretion, has elected to approve this Agreement.

NOW THEREFORE, in consideration of the premises, and for good and valuable agree as follows:

AGREEMENT

1. **Recitals.** The foregoing recitals are incorporated herein by reference.
2. **The Project.** Bonneville agrees to allow Prime, the sub-contractor with whom they have contracted for the construction of the roadway and storm drain improvements for River Crossing Phase 1 for which RCSG is responsible, to work directly with City to construct additional roadway and storm drain improvements for City along River Road and 1490 East Circle with the construction of the roadway improvements for which RCSG is responsible to develop their parcel. City will provide storm drain pipe for the River Road pipe replacement. Prime agrees to pay for the cost to construct the roadway and storm drain improvements along River Road and 1490 East Circle for City, as shown on Exhibit A. City agrees to reimburse Prime the cost of these roadway and drainage infrastructure improvements.
3. **Representatives.** Engineering Manager, Carolyn Prickett will be the representative for the City for this Project. The representative for Prime will be John Steed.
4. **Reimbursement.** Due to the cost of the improvements, City agrees to allow Prime to request one reimbursement from City during construction of the roadway and drainage infrastructure improvements along River Road. Upon completion of the installation of the storm drain pipe and catch basins and approval by City for installation of these improvements, City agrees to reimburse Prime the cost of these improvements upon submittal of an invoice and City required documents. Upon completion of the installation of the roadway and storm drain improvements along River Road and 1490 East Circle, as shown on attached Exhibit A, City agrees to reimburse Prime the remaining cost of the roadway and storm drain improvements in the not to exceed amount of one hundred thirty-three thousand nine hundred sixty-

five dollars and fifty-five cents (\$133,965.55). This is the total cost to construct the roadway and storm drain infrastructure improvements as specified and shown on the attached Exhibit A.

City shall reimburse Prime within 30 days for the first reimbursement as described above upon receipt of an invoice and city documents. City shall reimburse Prime the final reimbursement for the remaining costs up to the total of \$133,965.55 within 30 days of approval by City of the construction of the roadway and drainage infrastructure improvements and upon receipt and approval by City of an invoice, warranty bond, and City documents.

5. Exhibits. All exhibits attached hereto are incorporated as part of this Agreement.
6. Changes to Contract Documents. Changes to the Agreement that increase the City's cost participation for the roadway and other improvements along River Road, as shown on attached Exhibit A, shall not be made without written consent from Prime and City. Any such amendment shall be required to be approved by the City of St. George.
7. Project Approvals and Compliance with City Design and Construction Standards. Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with City Ordinances and City of St. George Standard Specifications for Design and Construction, and all applicable requirements of the City necessary for approval of any development of Developer's property, including the payment of fees and compliance with all other applicable resolutions, regulations, policies and procedures of the City, except as specifically modified or waived in this Agreement.
8. Indemnity and Liability. To the extent allowed by state law, the Developer shall indemnify City against all claims, demands, causes or action, suits or judgments, including but not limited to all claims, demands, causes of action, suits or judgments for death or injuries to persons or for loss of or damage to property, arising out of or in connection with this Agreement to the extent that it relates to performance of acts of the Developer, or its agents or assigns. In the event of any such claims made or suits filed against the City, City shall give the Developer prompt written notice. Developer agrees to defend against any claims brought or actions filed against City, whether such claims or actions are rightfully or wrongfully brought or filed. In case a claim should be brought, or an action filed with respect to the subject of indemnity herein, the Developer agrees that City may employ attorneys of its own selection to appear and defend the claim or action on its own behalf at the expense of the Developer. Said attorney fees shall be reasonable and subject to review by the Developer. The Developer shall be responsible for all costs associated with any claim, demand, action, suit, appeal, or judgment, including attorney's fees for which it indemnifies or defends City.
9. Governing Law and Venue. This Agreement shall be construed according to the laws of the State of Utah. The parties agree that venue for all legal actions, unless they involve a cause of action with mandatory federal jurisdiction, shall be the Fifth District Court for the State of Utah. The parties further agree that the Federal District

Court for the District of Utah shall be the venue for any cause of action with mandatory federal jurisdiction.

10. Construction. Each of the Parties has had the opportunity to review this Agreement with counsel of their choosing and the rule of contracts requiring interpretation of a contract against the party drafting the same is hereby waived and shall not apply in interpreting this Agreement.

11. Notices. All notices required herein, and subsequent correspondence in connection with this Agreement shall be mailed to the following:

City of St. George
Attn: City Attorney
175 East 200 North
St. George, Utah 84770

RCSG, LLC
Attn: Trever Einerson
2306 East 3860 South
St. George, UT 84790

Bonneville Builders
Attn: Tyler Johnson
8610 S Sandy Parkway Suite 210
Sandy, UT 84070

Prime Excavating
Attn: John Steed
P.O. Box 911494
St. George, UT 84791

Such notices shall be deemed delivered following the mailing of such notices in the United States mail. Adequate notice shall be deemed given at the addresses set forth herein unless written notice is given by either party of a change of address.

12. Assignment. Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without prior written consent of City, which consent shall not be unreasonably withheld.

13. No Joint Venture, Partnership or Third-Party Rights. This Agreement does not create any partnership, joint venture, undertaking, business arrangement or other arrangement between Developer and City. No term or provision of this Agreement is intended to be, nor shall it be, for the benefit or obligation of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

14. Binding Effect. Subject to the provisions of this document above, all the provisions of this Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors, heirs, representatives, officers, agents, employees, members, assigns, and receivers.

15. Integration. This Agreement contains all the terms and conditions pertaining to the subject matter hereof and, except with regard to zoning and other approvals upon which this Agreement is based, supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the parties, whether oral or written with respect to the subject matter. Any amendments hereto must be in writing and signed by the respective parties.

16. Severability. If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
17. Survival. It is expressly agreed that the terms, covenants and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.
18. Headings. The section and other headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
19. Counterparts. This Agreement may be executed in counterparts each of which shall be an original and shall constitute one and the same agreement.
20. Modification. The terms and conditions of this Agreement may be amended or modified only by written agreement of the parties.
21. Authority of Parties. The parties executing this Agreement hereby warrant and represent that they are duly authorized to do so in the capacity stated, and that this Agreement constitutes a valid and binding agreement.

OWNER:

RCSG, LLC

Trever Einerson

STATE OF)

COUNTY OF)

On the ____ day of _____, 20___, personally appeared before me Trever Einerson, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed the foregoing document and acknowledged before me that he signed it voluntarily for its stated purpose.

Notary Public

CONTRACTOR:

Bonneville Builders, LC

Tyler Johnson, Vice President of Operations

STATE OF UTAH)
)
COUNTY OF)

On the ____ day of _____ 20__, personally appeared before me, Tyler Johnson, who being by me duly sworn did say that he is the Vice President of Operations of Bonneville Builders, LC, and that he executed the foregoing document on behalf of said corporation by authority of a resolution of its board of directors and he did acknowledge to me that the corporation executed the same for the purposes stated therein.

Notary Public

SUB-CONTRACTOR:

Prime Excavating

John Steed

STATE OF UTAH)
)
COUNTY OF WASHINGTON)

On the ____ day of _____ 20__, personally appeared before me, John Steed, who being by me duly sworn did say that he is the _____ of Prime Excavating, Inc and that he executed the foregoing document on behalf of said corporation by authority of a resolution of its board of directors and he did acknowledge to me that the corporation executed the same for the purposes stated therein.

Notary Public

St. George City

By: _____
Michele Randall,
Mayor

Attest: _____
Christina Fernandez,
City Recorder

Approved as
to form: _____
Jami Brackin,
Deputy City Attorney

STATE OF UTAH)
)
COUNTY OF WASHINGTON)

On the ____ day of _____, 20____, personally appeared before me, MICHELE RANDALL, the signer of the foregoing instrument, who being duly sworn, did say that She is the Mayor of the City of St. George, a Utah municipal corporation, and that the foregoing instrument was signed on behalf of said corporation by Michele Randall.

Notary Public

Exhibit "A"

Construction Costs

ITEM	DESCRIPTION	UNIT	RATE	QTY	COST
1	Traffic Control	LS	\$6,925.00	1	\$6,925.00
2	1 Year Warranty Bond	LS	\$2,809.70	1	\$2,809.70
3	Remove Existing 24" Storm Drain	LF	\$4.00	877	\$3,508.00
4	Connect to Existing Storm Drain	EA	\$750.00	1	\$750.00
5	Install 24" Storm Drain - River Road	LF	\$33.60	877	\$29,467.20
6	Install 24" Storm Drain - 1490 East Circle	LF	\$88.14	129	\$11,370.06
7	Remove & Reinstall Storm Drain Catch Basin	EA	\$2,240.00	3	\$6,720.00
8	Install Custom Storm Drain Catch Basin	EA	\$8,372.00	2	\$16,744.00
9	Grade and Base Type HB30-7 Curb and Gutter	LF	\$8.75	533	\$4,663.75
10	Type HB30-7 Concrete Curb and Gutter	LF	\$41.80	533	\$22,279.40
11	Subgrade Preparation	SF	\$0.40	4782	\$1,912.80
12	Aggregate Base - 12" Thick	SF	\$2.26	4782	\$10,807.32
13	Asphalt Pavement - 4" Thick	SF	\$2.85	4782	\$13,628.70
14	Pavement Striping - Solid White	LF	\$2.27	446	\$1,012.42
15	Pavement Striping - Dashed White	LF	\$2.27	360	\$817.20
16	Pavement Marking - Turn Arrow	EA	\$275.00	2	\$550.00
TOTAL					\$133,965.55