



Agenda Report

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File #: 19-0243

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**AGENDA REPORT  
REQUEST FOR CITY COUNCIL ACTION**

DATE: 3/20/2019

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

**SUBJECT:**

City Council consideration of a Property Damage Release for settlement of damages to the City fiber network on North Main Street - Kinsale Insurance Company.

**RECOMMENDED ACTION:**

That the City Council:

1. Approve and authorize the City Manager to execute a Property Damage Release for the settlement of damages to the City's fiber network on North Main Street (Kinsale Insurance Company).
2. Consider, accept and approve General Fund and Gas Tax revenue increases for insurance proceeds in the amount of \$3,165.48 and \$69,505.00 respectively, from Kinsale Insurance Company for reimbursement of damages caused to the City's fiber network on North Main Street.
3. Authorize an appropriation of \$69,505.00 for reimbursement to the Capital Improvement Project titled "Striping Rehabilitation" within the Gas Tax Fund (Fund 222).

**ANALYSIS:**

On December 1, 2017, a contractor working on the commercial redevelopment project at 705 North Main Street struck a City fiber conduit and severed multiple fiber optic cables used to connect traffic facilities throughout the City. Kinsale Insurance Company, who is representing the contractor, agreed to cover the damages but declined to hire a contractor to do the work, thereby electing to have the City hire and supervise its own contractor. The work has since been completed to City standards and specifications, and the total cost, which includes the contractor's costs, as well as City labor costs in overseeing the repairs, is \$72,670.48. Kinsale Insurance Company has agreed to pay this amount and provided the City with the attached Property Damage Release to complete the settlement.

Per City Municipal Code (CMC) section 2.04.060 (W), the City Manager is authorized to enter into an agreement for the receipt of money by the City in an amount up to \$25,000 in order to compromise or avoid the filing of a claim or lawsuit by the City against a third party. Since the amount to be paid to the City with this settlement is in excess of what is permitted under the CMC, the City Council would need to approve the receipt of this amount and the associated Property Damage Release in order to settle all claims against the contractor and Kinsale Insurance Company pertaining to the damage that occurred on December 1, 2017.

All work has been completed to restore the City's fiber network, which has been fully tested and deemed functional. Therefore, staff recommends that the City Council approve and authorize the City Manager to execute the Property Damage Release provided by Kinsale Insurance Company.

**COMMITTEE ACTION:**

Not applicable.

**STRATEGIC PLAN:**

Not applicable.

**FISCAL IMPACT:**

This action will reimburse the City \$72,670.48 for the repair of its damaged facilities at full cost including materials and labor. The funds will reimburse the General Fund (110) and the Gas Tax Fund (222) of the Capital Improvement Project (CIP) for the Striping Rehabilitation project (Project No. 72920), which provided the funds to pay the contractor to repair the fiber optic cables. This CIP was used as it funds roadway striping rehabilitation and maintenance of the traffic signal communication system infrastructure.

| Fund                              | Description   | Amount             |
|-----------------------------------|---|--------------------|
| Gas Tax (222)                     | Cost of contractor hired to effect repairs          | \$69,505.00        |
| General Fund (110)                | Staff time to administer repair and process release | \$3,165.48         |
| <b>Total Reimbursement Amount</b> |   | <b>\$72,670.48</b> |

| Fund                | 07/01/18 Est.<br>Fund Balance | Budgeted<br>Revenues/<br>Sources | Budgeted<br>Expenditures/<br>Uses | Fund Balance<br>Impacts                         | 06/30/19 Est.<br>Fund Balance |
|---------------------|-------------------------------|----------------------------------|-----------------------------------|---|-------------------------------|
| Gas Tax Fund<br>222 | \$259,526                     | \$4,312,791                      | (\$4,330,032)                     | \$69,505 Revenue<br>(\$69,505)<br>Appropriation | \$242,285                     |

| GENERAL FUND   |                  |
|--|------------------|
| Budget Workshop May 23, 2018 - Estimated Revenue Over Expenditures | \$6,626,911      |
| Previously approved budget adjustments (net)* - Note 1             | (5,999,820)      |
| Current Estimated Revenue Over Expenditures                        | 627,091          |
| Damage Reimbursement - Kinsale Insurance Company                   | 3,165            |
| <b>Revised Estimated Revenue Over Expenditures - Note 1</b>        | <b>\$630,256</b> |

|   |                     |
|---|---------------------|
| Budget Balancing Measures Reserve - Actual 6/30/18                    | \$25,182,735        |
| Estimated FY 2018-19 Change in Budget Balancing Measures              | <u>630,256</u>      |
| <b>Budget Balancing Measures Reserve - Estimated Balance 06/30/19</b> | <b>\$25,812,991</b> |

*\* Approved through Council Action or other operational process.*

Note 1: Includes additional General Fund items on the March 20, 2019 meeting.

**ENVIRONMENTAL ANALYSIS:**

This action approves a settlement that provides reimbursement to the City for completion of repair that is categorically exempt pursuant to Section 15301(b) of the California Environmental Quality Act (CEQA) Guidelines, which states that a project which consists of the repair of existing public or private structures, facilities, and mechanical equipment, involving negligible or no expansion of use beyond that, does not have a significant impact on the environment, and is therefore exempt from CEQA.

**PREPARED BY:** DENNIS RALLS, T.E., PUBLIC WORKS PROGRAM MANAGER

**REVIEWED BY:** TOM KOPER, P.E., ASSISTANT PUBLIC WORKS DIRECTOR

**REVIEWED BY:** NELSON D. NELSON, P.E., PUBLIC WORKS DIRECTOR

**REVIEWED BY:** KIM SITTON, FINANCE MANAGER

**REVIEWED BY:** KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

**SUBMITTED BY:** MICHELE NISSEN, ACTING CITY MANAGER

**Attachment:**

1. Property Damage Release