



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Consider Funding the California Environmental Quality Act (CEQA) Environmental Review for the Orchard Heritage Park Museum Expansion and Approve Budget Modification Number 22 to Appropriate Funding for a New Project

BACKGROUND

On June 12, 2019, the Parks and Recreation Commission considered an item brought forward from the Sunnyvale Historical Society and Museum Association (SHSMA) to expand the existing Heritage Museum by approximately 1,600 square feet (RTC 19-0355). The commission voted at that time to recommend to City Council not to proceed with the museum expansion, noting that a study issue was underway (DPW 17-05 Orchard Heritage Park and Heritage Park Museum - Analysis and Options for the Long-Term Operations and Maintenance of Orchard Heritage Park and Review of the Sunnyvale Historical Society and Museum Association Proposed Expansion of the Sunnyvale Heritage Park Museum Site).

On July 16, 2019, the City Council reviewed the potential expansion and chose Alternative 1: Direct staff to develop modifications to the Orchard Heritage Park Master Plan and associated agreements and documents, including appropriate CEQA review, of Alternative Plan 1 - add an addition to the Museum at the location preferred by SHSMA, with all costs including CEQA (estimated at \$25,000 to \$60,000) to be fully funded by SHSMA.

Subsequently, staff proceeded to prepare a scope for CEQA analysis and obtained quotations from environmental firms to perform the Initial Study. Staff presented the scope and fees received to SHSMA, along with a staff recommendation, which was within the estimated cost. SHSMA has since responded verbally, and in writing that they are not willing to pay for CEQA analysis other than a mitigated negative declaration. However, the Initial Study is a necessary step in preparing a mitigated negative declaration.

Due to the uniqueness of this location and impact to the existing agricultural usage and historic significance of the orchard, staff does not have the in-house expertise to prepare the environmental documents. Staff has reached out to qualified environmental consultants to perform the adequate level of analysis for the project. The environmental review process is provided in the Discussion section of this report.

EXISTING POLICY

General Plan, Chapter 3, Land Use and Transportation - Open Space, Goal LT-8

Adequate and Balanced Open Space: Provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the City to finance, construct, maintain and operate these facilities now and in

the future.

From the Orchard Heritage Park Master Plan Action Statements:

2. Maintain a working fruit orchard throughout the largest portion of Orchard Heritage Park for as long a time period as practical within the resources made available to the City. Provide public access to the greatest extent possible while meeting the goal of maintaining a working fruit orchard.
5. Assist the Sunnyvale Historical Society per written agreements, and to the greatest extent practical, in developing a Heritage Museum facility at Orchard Heritage Park consistent with Council direction.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by affirmative votes of at least four members so as to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

ENVIRONMENTAL REVIEW

The action being considered is exempt from the California Environmental Quality Act ("CEQA") guidelines section 15262 as the action relates to the authorization of a feasibility and planning study for possible future actions that the City Council has not approved, adopted, or funded.

DISCUSSION

The California Environmental Quality Act (CEQA) applies to all governmental activities, including private projects that require a discretionary government approval. Because the City has discretion over whether or not to approve the expansion of the Heritage Museum into the City-owned fruit orchard, the proposal is a project subject to CEQA.

Normally, minor additions to an existing structure qualify for the "Class 1" Categorical Exemption (Section 15301 of the CEQA Guidelines). However, staff previously determined that this project cannot rely on the Class 1 exemption because it will require trees to be removed from the fruit orchard, which is a potential heritage resource. Section 15300.2(f) of the CEQA Guidelines provides that "A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource."

In addition to the potential impact on the orchard's historic value as one of the last remaining fruit orchards in Sunnyvale, the orchard is listed on the Santa Clara County Important Farmland Map as Unique Farmland by the California Department of Conservation, Division of Land Resource Protection (compiled from the Farmland Mapping and Monitoring Program pursuant to Section 655750 of the California Government Code). Conversion of farmland to a non-agricultural use is a potential environmental impact that requires analysis under CEQA.

Because this is a working orchard and due to the agricultural history of the orchard, agricultural resources and cultural resources are key topics for the environmental analysis, and require specialized expertise. Staff contacted three firms to provide a proposal for an initial study for the proposed project. Two firms provided scope and proposal. During the proposal period, one firm elected not to propose due to resource limitations at the time.

Once the proposals and costs were obtained from the two firms, staff reached out to SHSMA to obtain feedback for which firm to utilize for the Initial Study. SHSMA responded verbally to staff that

they would not pay for any CEQA costs exceeding \$2,500 because they believe that due to the size and nature of the project, this level of CEQA is not required. Since then, SHSMA has provided a letter requesting that the City Council change the direction given at the July 16, 2019 meeting and provide the funding for the necessary environmental study (Attachment 1).

Staff believes that the environmental analysis can be performed in stages. The first stage is to perform the technical analyses: Agricultural Resources Memorandum and Cultural Resources Report. From the technical analyses, the consultant may determine that a Categorical Exemption may be appropriate. Should the consultant determine that a Categorical Exemption is not appropriate, they have included in their proposal the option to perform an Initial Study and possibly a Mitigated Negative Declaration. (second stage).

FISCAL IMPACT

The lowest priced consultant, Kimley-Horn and Associates, has provided a written cost proposal to prepare the costs for the first and second stages, as described above. Cost for the first stage is \$20,813.10 (inclusive of a standard 10% contingency). Cost for the second stage, which includes the technical memoranda from the first stage is \$36,894.00 (inclusive of a standard 10% contingency). Staff proposes to contract with the consultant for the higher amount. Should stage two work not be necessary, unutilized dollars would be returned to fund. This amount is within the City Manager's authority to award a contract.

Staff has prepared Budget Modification No. 22 to appropriate funding from the Budget Stabilization Fund for the project should Council choose to move forward. Alternately, Council could choose to fund the project from the Council Set Aside which has a remaining balance of \$70,000 for FY 2019/20.

Budget Modification No. 22 FY 2019/20

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Expenditures</u>			
New Project - Orchard Heritage Park Museum Expansion Environmental Review	\$0	\$36,894	\$36,894
<u>Reserves</u>			
Budget Stabilization Fund	\$62,595,955	(\$36,894)	\$62,559,061

The consultant's proposal is included as Attachment 2. Additional funding will be needed to prepare CEQA documentation if additional work is required beyond an Initial Study/Mitigated Negative Declaration.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board

outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Approve funding in the amount of \$36,894.00 to perform the environmental review (Initial Study and possibly a Mitigated Negative Declaration) for the Proposed Expansion of the Heritage Museum and approve Budget Modification 22 to appropriate \$36,894 from the Budget Stabilization Fund to a new project, Orchard Heritage Park Museum Expansion Environmental Review.
2. Approve funding in the amount of \$36,894.00 to perform the environmental review (Initial Study and possibly a Mitigated Negative Declaration) for the Proposed Expansion of the Heritage Museum and approve funding the work from the Council Set Aside.
3. Provide funding in the amount of \$20,813.10 for staff to procure a consultant to prepare a technical memoranda and Categorical Exemption for the Proposed Expansion of the Heritage Museum; approve Budget Modification 22 to appropriate \$20,813.10 to a new project Orchard Heritage Park Museum Expansion Environmental Review.
4. Do not provide funding for staff to procure a consultant to perform the environmental review or preparation of a technical memoranda and Categorical Exemption for the Proposed Expansion of the Heritage Museum and maintain Council's initial direction for SHSMA to provide funding for the environmental review.
5. Other actions as directed by Council.

STAFF RECOMMENDATION

Staff makes no recommendation.

Prepared by: Jennifer Ng, Assistant Director of Public Works

Reviewed by: Chip Taylor, Director of Public Works

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. SHSMA Letter on CEQA Costs
2. Environmental Review Scope and Cost Proposal