

### REPORT TO COUNCIL

#### **SUBJECT**

Authorize the City Manager to Execute an Increase to the Existing Construction Contract Contingency Amount with Robert A. Bothman Construction for Fair Oaks Park Renovation and Enhancement and Magical Bridge Playground, Approve Budget Modification No. 26 in the Amount of \$1,044,500 for the Unhoused Program and additional All-Inclusive Playground Grant funding, Authorize the City Manager to Execute Second Amendment to the Occupancy Agreement with the Travel Inn and the Second Amendment to the HomeFirst Services Agreements, Fair Oaks Park Unhoused Program Update, and Evaluation of Wi-Fi Installation

#### **BACKGROUND**

The Fair Oaks Park Renovation and Enhancement and Magical Bridge Playground Project was created for the modernization and improvement of portions of Fair Oaks Park. Certain parts of the existing park, such as the park building, were renovated relatively recently, and were not included in improvements. A construction contract for the project was awarded to Robert A. Bothman Construction (Bothman) on September 15, 2020 (RTC No. 20-0651).

The all-inclusive playground portion of the project, designed by the Magical Bridge Foundation, incorporates equipment suitable for all park users, including children with various physical and cognitive abilities and the elderly. To help fund construction of the playground, the City partnered with the Magical Bridge Foundation for fundraising and applied for an All-Inclusive Playground Grant (AIPG) from Santa Clara County. The City was awarded a portion of the funds requested in the grant application and scaled back portions of the playground to better align with the available funding. Sunnyvale Park Dedication Funds make up the remaining funding.

When Bothman began to mobilize their construction equipment, unhoused individuals were in the park within the area intended for renovation. Design changes were made to allow Bothman to proceed with construction of a majority of the project and to provide City staff time to work in partnership with non-profit agencies to offer assistance to the unhoused population that met the Center for Disease Control and Prevention (CDC) Guidelines. This created unexpected expenses for the project including design, construction, site cleanup and temporary housing costs.

In addition, as part of the overall project scope, staff has worked with consultants to identify costs to provide wi-fi to the park. An evaluation of wi-fi costs as part of major park renovations was direction provided at the February 16, 2018 Study/Budget Issues Workshop. Study Issue ITD 18-01 to consider providing Wi-Fi at City parks was dropped with the request that staff evaluate these costs as individual parks are due for major renovations.

#### **EXISTING POLICY**

Pursuant to Policy 7.1.5 Grants, Donations, Contributions and Sponsorships of the Council Policy

Manual, any grants of \$100,000 or more shall require Council approval of a budget modification before funds can be expended by staff.

Pursuant to Section 2.09.040 of the Sunnyvale Municipal Code, City Council approval is required for public works contracts exceeding \$100,000 in any one transaction.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

### **DISCUSSION**

After the construction contract for this project began, some unexpected changes occurred that resulted in additional costs and therefore require a budget modification.

#### **AIPG Grant Funding and Contract Amendment**

On November 17, 2020, the Santa Clara County Board of Supervisors voted to approve \$500,000 in additional funding for the City of Sunnyvale’s AIPG “Fair Oaks Park” project. These funds are to allow the City to “add back in” some accessibility amenities that had been cut from the original grant proposal.

To finalize the award of these additional funds, the existing Funding Agreement was amended to reflect the amenities that would be constructed with the additional funding. The grant scope/cost estimate form has been revised to show a new total grant reimbursable expenditure of \$1,500,000 (Attachment 1). The additional amenities to be added back into the project as a result of this additional funding include:

- Replace the music zone with an innovative water play feature
- Provide 2 additional retreat huts
- Lengthen slides
- Add 3 stationary bikes
- “Magic Map” of playground for visually impaired
- Add chairs, benches, and game tables
- Increase the size of trees to be planted
- Add braille signage at entry ways and donor wall

With this amendment to the grant, the City will have until May 8, 2023 to complete the project, which is within the latest construction schedule, currently expected to be complete in early 2022.

#### **Fair Oaks Park Unhoused Population**

Prior to construction start, approximately 31 unhoused individuals were living on park grounds, adjacent to the basketball courts. As part of the major park renovations, this area is intended to become primarily parking, with other park amenities such as trash enclosure location and PG&E power. Intended construction activities directly conflicted with the unhoused location. Staff reached out to non-profit organizations with expertise on the unhoused for assistance. Due to COVID-19 and recommended restrictions identified by the CDC to not relocate unhoused individuals, it was necessary for the City to find alternative housing options.

Staff originally started working with Sunnyvale Community Services (SCS) and Downtown Streets Team (DST) to identify services that they might be able to provide the impacted individuals. After multiple meetings, it was determined that the best course of action was to work with a non-profit agency that had the case management experience necessary for a program such as this. The City engaged HomeFirst, who was able to make case management services available for unhoused people living in the Park. (Attachment 2) Along with case management, the HomeFirst Agreement included security for the motel program. Several weeks into the program, HomeFirst recommended and the City agreed to modify the Agreement to include two case managers and reduce the hours for security service to make the change cost neutral.

Concurrently, City staff initiated discussions with the Travel Inn located on Mathilda as a temporary housing solution. The City contracted directly with the Travel Inn for housing through June 2021 with the option to extend for two months (August 2021) if necessary. The HomeFirst Agreement has a not to exceed amount of \$169,203 with a term ending June 2021 and was entered into under the City Manager's contracting authority. The Travel Inn Motel Agreement is based on occupancy. The City authorized 18 rooms with a rate of \$80 per night for single occupancy and an additional \$10 per night for double occupancy and \$10 per night for any pets. A room was authorized for HomeFirst staff to utilize as an onsite office for \$40 per night. In addition, the City provided the Travel Inn a deposit for physical damage to the rooms and/or premises in the amount of \$18,000 and an additional deposit in the amount of \$12,000 for any damage incurred by the Travel Inn to include lost operation costs and eviction costs. Staff is requesting authorization for the City Manager to execute the Second Amendment to the Occupancy Agreement with the Travel Inn. (Attachment 7)

These contracts with HomeFirst and Travel Inn utilized the City Manager's Operating Budget as an initial funding source (Attachments 2 and 5). The Travel Inn Agreement includes an option for an extension for two additional months to August 31, 2021 (Attachment 5). The City is requesting a budget modification in the amount of \$544,500 to cover the costs for the Travel Inn and case management services with HomeFirst through August 2021 to include security and replenish the original funding source. As these are estimates based on participants in the program, specifically the hotel costs, any funds not used for this program will be returned to fund.

#### Additional Project Costs

In addition to the cost of the Unhoused Fair Oaks Park Program, other unexpected costs have been incurred. An increased design fee of \$2,040 was incurred to modify the design of the encampment area to allow the contractor to proceed with work in other parts of the park. The changes directly led to an additional \$105,475 in construction costs. This was due to inefficiencies in the contractor's operations created by changing the soil stabilization method used to address expansive clays in the area.

Similarly, there was a non-construction related expense of \$6,465 for visits and outreach to the encampment and for removal and disposal of debris once the area was vacated. This work was completed by Tucker Construction under an existing purchase order and will be charged to the project budget.

These additional project costs are currently absorbed by the council-approved design and construction contract contingencies.

### Fair Oaks Park Wi-Fi Evaluation

After construction started, it was determined that Wi-Fi had not been evaluated for this park as requested by Council during the discussion of Study Issue ITD 18-01. Staff worked with ITD and the project design team to review options for providing Wi-Fi in the park. Three options were evaluated including Wi-Fi inside the park building, in the passive areas around the building, the dog park, skate park and parking lots, and for blanket coverage of the entire park. The costs to furnish and install the infrastructure and the ongoing annual costs for maintenance and the AT&T connection and service fees are prohibitive for all 3 options. The rough order costs are as follows:

- Inside the park building only: \$70k one-time; \$50k annual ongoing
- Passive areas: \$570k one-time; \$130k annual ongoing
- Whole park site: \$730k one-time; \$160k annual ongoing

Providing Wi-Fi within the park building is the least expensive, but it still will not be a good value and will not be added to the park renovation project currently under construction. As a less expensive alternative way to provide Wi-Fi at the park building, an “Internet on the Go Mobile Hotspot Kit” can be offered when the park building is reserved. These mobile hotspots are currently available for checkout from the Library and allow up to 15 devices to connect.

### **FISCAL IMPACT**

Funding for the Fair Oaks Park Renovation and Enhancement project is funded by Park Dedication Fund Revenue. Funding for the All-Inclusive Playground Project is funded as follows:

|                    |   |
|--------------------|---|
| \$2,301,500        | Park Dedication Fund  |
| \$1,290,000        | Magical Bridge Foundation Contribution                          |
| \$1,000,000        | Original County of Santa Clara All-Inclusive Playground Grant   |
| \$ 500,000         | Additional County of Santa Clara All-Inclusive Playground Grant |
| <b>\$5,091,500</b> | <b>Total</b>  |

With regards to addressing the housing and services provided to the unhoused population, Park Dedication Funds are restricted and may not be used for these purposes. Therefore, staff is recommending appropriation of funding from the General Fund Budget Stabilization Fund to cover these costs.

FEMA has a current program called Project Roomkey. This program provides funding for transitional housing costs with no City match, including all costs (food, lodging, security, cleaning, etc.) associated with housing COVID positive individuals quarantining. The claim submission process is the same as standard process of FEMA claim of submitting expense details with supporting documentation at the at time costs are submitted for reimbursement. Finance department staff is working with the Office of the City Manager to properly document claims for reimbursement.

Budget Modification No. 26 has been prepared to appropriate the \$500,000 in additional grant funds from the County, appropriate those funds to the All Inclusive Playground Project, and appropriate \$544,500 from the General Fund Budget Stabilization Fund to fund a new project for the costs related to housing the unhoused population.

## Budget Modification No. 26 FY 2020/21

|   | Current       | Increase/ (Decrease) | Revised       |
|---|---------------|----------------------|---------------|
| <b><u>Infrastructure Fund</u></b>         |               |                      |               |
| <u>Revenues</u>                           |               |                      |               |
| All Inclusive Playground Grant            | \$ 1,000,000  | \$ 500,000           | \$ 1,500,000  |
| <u>Expenditures</u>                       |               |                      |               |
| Project 832780 - All Inclusive Playground | \$ 4,690,150  | \$ 500,000           | \$ 5,190,150  |
| <b><u>General Fund</u></b>                |               |                      |               |
| <u>Expenditures</u>                       |               |                      |               |
| New Project - Fair Oaks Unhoused          | \$ 0          | \$ 544,500           | \$ 544,500    |
| <u>Reserves</u>                           |               |                      |               |
| Budget Stabilization Fund                 | \$ 56,037,768 | \$ (544,500)         | \$ 55,493,268 |

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Approve Budget Modification No. 26 in the Amount of \$1,044,500 for the Unhoused Program and additional AIPG funding and Authorize the City Manager to execute an increase to the contingency amount for Robert A. Bothman Construction in an amount of \$500,000, increasing the construction contingency from \$1,630,000 to \$2,130,000 and Authorize the City Manager to Execute Second Amendment to the Occupancy Agreement with the Travel Inn and the Second Amendment to the HomeFirst Services Agreement.
2. Other action as City Council deems appropriate.

### **STAFF RECOMMENDATION**

Alternative 1. Approve Budget Modification No. 26 in the Amount of \$1,044,500 for the Unhoused Program and additional All-Inclusive Playground Grant funding, Authorize the City Manager to execute an increase to the contingency amount for Robert A. Bothman Construction in an amount of \$500,000, increasing the construction contingency from \$1,630,000 to \$2,130,000, and Authorize the City Manager to Execute Second Amendment to the Occupancy Agreement with the Travel Inn and the Second Amendment to the HomeFirst Services Agreement in Substantial Form to Attachments 4 and 7.

Prepared by: Nathan Scribner, Assistant City Engineer

Reviewed by: Tim Kirby, Director of Finance

Reviewed by: Chip Taylor, Director, Public Works

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. AIPG Second Amendment
2. HomeFirst Agreement
3. First Amendment to HomeFirst Agreement
4. Draft Second Amendment to HomeFirst Agreement
5. Travel Inn Occupancy Agreement
6. First Amendment to Travel Inn Occupancy Agreement
7. Draft Second Amendment to Travel Inn Occupancy Agreement