

# SUPPLEMENTAL

COUNCIL AGENDA: 01-09-07  
ITEM: 5.4

## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen  
Albert Balagso  
Larry D. Lisenbee

**SUBJECT:** LAKE CUNNINGHAM REGIONAL  
SKATE PARK PROJECT

**DATE:** 12-22-06

Approved

*Ray Warner*

Date

*1/4/07*

**COUNCIL DISTRICT:** Citywide

### REASON FOR SUPPLEMENTAL MEMO

To provide additional information after bids were opened.

### RECOMMENDATION

- a. Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes (Fund 391);
  1. Increase the estimate for Grants in the amount of \$541,000;
  2. Increase the City-wide Skateboard Park Development appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$997,000; and
  3. Decrease the Ending Fund Balance by \$456,000
- b. Report on bids and award of contract for the Lake Cunningham Regional Skate Park Project to the low bidder, Robert A. Bothman, Inc., in the amount of \$4,761,300, and approval of a contingency in the amount of \$240,000.
- c. Adoption of a resolution approving the Lake Cunningham Regional Skate Park Project and incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the project.

CEQA: Mitigated Negative Declaration, PP06-043.

### OUTCOME

Approval of this construction contract to Robert A. Bothman, Inc. will allow the Lake Cunningham Regional Skate Park Project to be built and occupied for use by the community by spring, 2008. Approval of a five percent contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the Project.

## **EXECUTIVE SUMMARY**

The purpose of this memorandum is to (1) report on bids and award a contract to the low bidder, Robert A. Bothman, Inc., and (2) recommend an increase in the appropriation to the City-wide Skateboard Park Development in the Construction and Conveyance Tax Fund: City-wide Parks Purposes by \$997,000 to provide additional funds necessary to award the project.

## **BACKGROUND**

The concept of adding a regional skate park to Lake Cunningham Park arose from the City of San José Greenprint adopted by Council in September 2000. In February 2003, Beals Alliance, Inc. completed a Feasibility Study that defined a regional skate facility, outlined its program elements and determined whether these elements can be appropriately developed within Lake Cunningham Regional Park.

Based on the assessment presented in the Feasibility Study, Beals Alliance, Inc. recommended a 40,000 square foot skate park with a restroom building and supporting park amenities. Beals Alliance, Inc. was then hired to prepare the Lake Cunningham Regional Park Master Plan Amendment, which included the skate park facility and associated construction documents. The master plan amendment and environmental clearance were approved by Council on December 5, 2006.

The proposed Lake Cunningham Regional Skate Park Project site is located on the southeast corner of Lake Cunningham Park near the Tully and White Roads intersection.

The base bid scope of work for the Lake Cunningham Regional Skate Park includes a 40,000 square foot concrete skate area, asphalt concrete decking areas, concrete pathway, staff/restroom building, security cameras, fencing, irrigation and landscaping, security lighting, and other site amenities. In addition to the base bid scope of work, there are six Add Alternate bid items:

<u>Add Alternate Descriptions</u>	<u>Engineer's Estimate</u>
1. Handrail in Skate Area	\$180,000
2. Concrete in Place of Asphalt Concrete Around Skate Area	\$285,000
3. Concrete Path and Observation Overlooks	\$225,000
4. Handicap Parking and Drop-Off Area	\$70,000
5. Parking Lot	\$165,000
6. Skate Facility Night-Use Lighting	\$140,000

Construction is scheduled to begin in February 2007 with completion in spring 2008.

**ANALYSIS**

Bids were opened on December 12, 2006 with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Variance</u> <u>Amount</u>	<u>Over/(Under)</u> <u>Percent</u>
AJ Vasconi (Concord)	\$5,500,000	\$1,500,000	37
Robert A. Bothman, Inc. (San José)	4,761,300	761,300	19
<b>Engineer's Estimate</b>	<b>4,000,000</b>	--	--

The low bid submitted by Robert A. Bothman, Inc. (Bothman) in the amount of \$4,761,300 is 19 percent over the Engineer's Estimate. The Consultant estimated lower costs for the storm water prevention measures, grading, drainage, and the skate facility work, three major components of the project. During the design process, industry prices for materials related to these categories appeared to stabilize and this factor was considered in the Consultant's estimate. However, prices subsequently increased, which resulted in higher bids for some of the individual bid items. Further evaluation showed that the Engineer's Estimate for the storm water prevention measures, grading and steel reinforcing work in the skate park were conservative.

Staff has evaluated the alternative of rejecting all bids, reducing the project scope and re-bidding the project with the expectation of attracting additional bidders that might result in a more favorable bid. However, the present project as bid reflects a substantial reduction in the original scope and incorporates a series of add alternates for desirable but not essential items of work. To ensure a viable regional skate facility meeting both the functional requirements and conforming to community expectations, no further reductions to project size or components should be made. The 2003 Lake Cunningham Regional Skate Park Feasibility Study states that a regional skate park include elements for all skill levels within a facility offering a skateable surface area of 40,000 to 50,000 square feet. This project includes appropriate elements with 40,000 square feet of skate area which is considered a minimal size. Investigation and evaluation of prospective bidders has not shown that rebidding will generate an increase in interest, particularly given that a significant portion of this project is skate park-related specialty construction.

Other issues associated with rebidding the work include: Inability to meet deadlines for completion of the site clearing as stipulated in the CEQA documents, possibly requiring amendments to the environmental documents; and amendment of the consultant agreement to account for the extended project schedule.

Within the last few years, Bothman has been the general contractor on several City projects. Of particular relevance is the fact that Bothman was the general contractor on the Plata Arroyo Skate Park which was completed on time and on budget in February 2005. The City has been very pleased with the quality of the project and the 10,000 square foot skate area has proven to be very popular with the skate community. Although there has never been an issue about the quality of

Bothman's work, Bothman was late in completing the Emma Prusch Park Improvements Project and the Rose Garden Branch Library project. The Emma Prusch project was completed 92 days late and the Rose Garden project was completed 36 days late. The City is currently negotiating resolutions on both of these projects.

Based upon the above information, it is the recommendation of staff to award the project and that the bid by Bothman is considered acceptable for the work involved.

Council Policy provides for a standard contingency of five percent on public works projects involving the construction of a park. Staff considers the standard contingency appropriate for this project.

Appropriation Ordinance amendments in the Citywide Construction and Conveyance Tax Fund: City-wide Parks Purposes in the amount of \$997,000 are recommended to provide the additional funds necessary to award the project. Of this amount, \$541,000 is reimbursable by a State Grant through the 2002 Resources Bond Act (Proposition 40) – Per Capita Program. Accordingly, an increase to the estimate for Grants in the amount of \$541,000 is recommended in this memo.

### **POLICY ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH/INTEREST**

- ✓ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. To solicit contractors, this project was listed on the City's Internet Bid Line and advertised in the *San José Post Record*. Bid packages for all Department of Public Works construction projects were provided to various contractor organizations and builder's exchanges. The placeholder award memo was posted on the City's website for the January 9, 2007 Council agenda, and this supplemental memo was posted online during the week of January 1, 2007.

In addition, community participation in the master planning update effort through various community meetings was solicited through citywide flyers, mailers, and local newspaper articles and advertisements.

**COORDINATION**

This project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, Fire, General Services, the City Attorney’s Office, and Council District 8 Office.

**FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council-approved Budget Strategy to continue with capital investments that spur construction spending in our local economy.

**COST SUMMARY/IMPLICATIONS**

1. COST OF PROJECT:

Project Delivery	\$686,709	
Design, Survey & Geotechnical Consultants	700,991	
Construction	4,761,300	
Contingency	240,000	
<b>TOTAL PROJECT COSTS</b>	<b>\$6,389,000</b>	
Prior Year Expenditures	397,000	*
<b>REMAINING PROJECT COSTS</b>	<b>\$5,992,000</b>	

\* A total of \$397,000 was expended/encumbered in Fiscal Year 2005-06 for the master plan amendment, survey, and a portion of the construction documents.

2. COST ELEMENTS OF CONSTRUCTION CONTRACT:

Storm Prevention, Utility Conflict	\$185,000
Demolition, Grading, Drainage & Utilities	1,110,000
Irrigation, Planting & Maintenance	223,000
Site Concrete & Asphalt Paving	288,000
Electrical	365,000
Building & Miscellaneous Site Furniture	305,000
Skate Facility	2,285,300
<b>TOTAL CONSTRUCTION CONTRACT</b>	<b>\$4,761,300</b>

3. SOURCE OF FUNDING:

- 462 - Lake Cunningham Fund
- 375 - Subdivision Park Trust Fund
- 391 - Construction and Conveyance Tax Fund: City-wide Parks Purposes

4. FISCAL IMPACT: The master plan study includes defining operations and maintenance costs, with recommendations for revenue generation to offset operating costs. Operating costs for the facility will be addressed in the 2007-2008 fiscal year operating budget development process. Net operating costs in the first full year of operations (08/09) are estimated at \$220,000 annually.

**BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2006-2007 Adopted Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs</b>			<b>\$5,992,000</b>			
<b>Current Funding Available</b>						
375	5190	City-Wide Skateboard Park Development	327,000	\$300,000	V-648	
391	5190	City-Wide Skateboard Park Development	4,618,000	3,700,000	V-541	10/17/2006, Ord. No. 27888
<b>Total Current Funding Available</b>			<b>4,945,000</b>			

<b>Additional Funding Recommended</b>						
391	5190	City-Wide Skateboard Park Development (reimbursable by the 2002 Resources Bond Act (Prop. 40) – Per Capita Program	541,000*	541,000		
391	5190	City-Wide Skateboard Park Development	456,000	220,300		
<b>Funding in FY 07-08 of CIP</b>			<b>50,000</b>			
<b>Total Project Funding</b>			<b>\$5,992,000</b>	<b>\$4,761,300</b>		

\* \$831,000 in 2002 Resources Bond Act (Prop. 40) – Per Capita Program grant funds are allocated to the Lake Cunningham Skatepark and Perimeter Landscaping project. \$541,000 of this total would be allocated to the Skatepark project.

**CEQA**

Planning has issued a mitigated negative declaration for the Lake Cunningham Park 2006 Master Plan Amendment. This project is a component of the master plan amendment. The mitigated negative declaration identifies a number of mitigations that need to be implemented in order to address environmental impacts. These mitigation measures and their manner of implementation are identified in the Mitigation Monitoring and Reporting Program (MMRP) for the master plan

amendment. The mitigations that are required for this project have been incorporated into the project design and the construction documents. As part of today's action, staff is requesting Council to approve these mitigations and their manner of implementation, as set forth in the Mitigation Monitoring and Reporting Program, and direct the implementation of these mitigations as part of the project.

Mitigation measures that are required as part of this project include the following:

- Trees – If the design of the project requires the removal of any trees, they shall be replaced as outlined in the Mitigation Monitoring and Reporting Program (MMRP).
- Short Term Air and Water Quality – During construction of the project, the contractor shall implement Best Management Practices (BMP) in compliance with the requirements of the City specifications and the Bay Area Air Quality Management District guidelines.
- Cultural Resources – During demolition and excavation activities, the contractor shall adhere to the requirements as outlined in the project specifications for archaeological requirements.
- Nesting Birds and Raptors – Vegetation removal and ground clearing shall conform to the requirements of the MMRP.
- Burrowing Owls – A qualified ornithologist or biologist shall conduct a pre-construction survey as outlined in the MMRP.
- Geology and Soils – The facility shall be constructed per the Uniform Building Code and the Geotechnical investigation report.
- Hazardous Materials – The City shall monitor removal of soils during construction to detect possible contaminants.
- Hydrology and Water Quality – The City shall file a Notice of Intent with the State Water Resources Control Board prior to the start of construction.
- Noise – Construction activities shall adhere to the guidelines as stated in the MMRP.

Mitigated Negative Declaration, PP06-043.



KATY ALLEN  
Director, Public Works Department



ALBERT BALAGSO  
Director, Parks, Recreation and  
Neighborhood Services Department



LARRY D. LISENBEE  
Budget Director

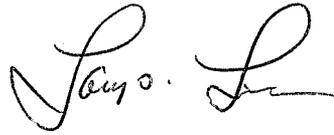
HONORABLE MAYOR AND CITY COUNCIL

12-22-06

**Subject: Lake Cunningham Regional Skate Park Project**

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I hereby certify that there will be available for appropriation in the Construction and Conveyance Tax Fund: City-wide Parks Purposes in Fiscal Year 2006-2007 monies in excess of those heretofore appropriated there from, said excess being at least \$541,000.

A handwritten signature in black ink, appearing to read "Larry D. Lisenbee". The signature is fluid and cursive, with a large initial "L" and "D".

LARRY D. LISENBEE  
Budget Director

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, PUBLIC WORKS DEPARTMENT, (408) 535-8300.