



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Albert Balagso
Larry D. Lisenbee
Katy Allen

SUBJECT: SEE BELOW

DATE: 2-04-2008

Approved

Date

2/6/08

COUNCIL DISTRICT: 7

SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF SAN JOSE AND LOS LAGOS GOLF COURSE, LLC FOR THE CONSTRUCTION OF SAFETY IMPROVEMENTS AT LOS LAGOS GOLF COURSE AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE CONSTRUCTION TAX AND PROPERTY CONVEYANCE TAX FUND: CITY-WIDE PARKS PURPOSES FOR THE LOS LAGOS GOLF COURSE SAFETY IMPROVEMENTS PROJECT

RECOMMENDATION

1. Adopt a Resolution authorizing the City Manager to negotiate and execute a First Amendment to the Agreement between the City of San Jose and Los Lagos Golf Course, LLC for Construction of the Safety Improvements thereby increasing the amount by \$260,946 from \$1,958,125 to \$2,219,071 and extending the term from June 30, 2008 to January 31, 2009.
2. Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
 - a) Increase the Los Lagos Golf Course Safety Improvements appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$261,000; and
 - b) Decrease the Ending Fund Balance by \$261,000.

OUTCOME

Delegation of authority to the City Manager to negotiate and execute a First Amendment to Existing Agreement and adoption of the Appropriation Ordinance amendments to provide an additional \$261,000 for Los Lagos Golf Course, LLC to complete the safety improvements at Los Lagos Golf Course.

EXECUTIVE SUMMARY

The purpose of this memorandum is to (1) delegate authority to the City Manager to negotiate and execute an Amendment to the Los Lagos Golf Course Safety Improvement agreement and (2) recommend an increase in the appropriation to the Los Lagos Golf Course Safety Improvements project in the City-Wide Parks Construction and Conveyance Tax Fund by \$261,000. The amendment and appropriation increase are necessary to allow the safety improvements at Los Lagos Golf Course to proceed. Cost reductions of \$127,900 from the original scope are also included and do not compromise the project in any way.

BACKGROUND

In accordance with the Los Lagos Golf Course, LLC's (Operator) Operation and Maintenance Agreement dated April 5, 2002, as amended on November 4, 2003, the Operator is authorized to manage construction projects and may receive a fee up to 15% of the total cost of the project, excluding contingency and fees for City review and inspection. In February 2007, the City of San José and Los Lagos Golf Course, LLC entered into an agreement for Design of Safety Improvements at Los Lagos Golf Course located in Council District 7. The Planning, Building and Code Enforcement Department and the Department of Public Works approved the plans on September 24, 2007.

In September 2007, the City of San José and Los Lagos Golf Course, LLC entered into an Agreement for Construction of Safety Improvements at Los Lagos Golf Course, which allowed Los Lagos Golf Course, LLC to manage the construction of the project on behalf of the City. The scope of the project as stated is to provide perimeter netting along holes 6, 17 and 18. The netting will extend the length of the holes and vary in height from 50 feet to 140 feet. The poles will be of metal and have the capability of expanding up to a maximum of 140 feet in height in 20-foot increments if determined necessary in future years.

Los Lagos Golf Course, LLC conducted a Mandatory Pre-Bid meeting on October 1, 2007, with four prospective bidders in attendance. On October 8, 2007, bids were opened publicly and resulted in three qualified responses with the low bid being \$1,875,200, which was \$375,200 over the agreed upon project budget. The Operator followed all requirements of the Agreement with respect to the management of the Safety Improvement project including following the City's requirements for bidding and providing performance and payment bonds for the construction project. Per the Agreement, all contractors must comply with the City's bidding, insurance, bonding and prevailing/living wage requirements.

ANALYSIS

Los Lagos Golf Course, LLC opened the bids publicly on Monday, October 8, 2007, with the low bidder, Judge Netting, being \$375,200 over the projected budget. Section B-5 of the construction management Agreement - Award of Contract states if the lowest quote or bid obtained by the Operator is over the estimate set forth in the approved plans and specifications, the Operator and Director shall meet and confer in good faith to determine whether to award the construction contract to the low bidder, to reduce the scope of work and obtain new quotes, re-bid the project as applicable, or to proceed in some other manner.

Working with Los Lagos Golf Course, LLC on the alternatives to contain project costs - rejecting all bids, reducing the project scope and re-bidding the project - it was determined the best option for reducing costs would be a scope reduction. Los Lagos Golf Course, LLC contacted the design consultant, Tanner Consulting Group, and provided the City with several options for scope reductions. Recommended scope changes are:

1. Replace the specified netting from high impact to medium impact
2. Lift netting fabric four-feet off the ground
3. Request the golf operator to remove and replace the chain link fencing and to provide the required traffic control

The specified netting was designed for high impact areas such as at driving ranges. The proposed netting is designed for fairways and is a lighter gauge material. The proposed netting will increase site lines through the fabric and is as durable as the heavy gauge fabric with a life expectancy of approximately 10 years. Since all of the netting installed in this project is along fairways and concerns were raised from the community about impaired visibility of the east foothills, this recommendation is appropriate from a safety standpoint and it addresses a community concern. Lifting the netting fabric four-feet off the ground will not impact safety, as there is a six-foot cyclone fence around the perimeter of the course to contain low-flying errant golf balls. Use of existing course staff for fence removal and replacement as well as traffic control will save \$18,600 in project costs. The Operator agreed to use existing course workers and the consultant agrees with changes for the netting recommendations. These recommendations will not compromise the project in any manner and will result in a projected savings of \$127,900.

This memorandum includes a request to increase the Los Lagos Safety Improvements project by \$261,000. The initial agreement between the City and Los Lagos Golf Course, LLC added with the design contract amount totaled \$2,000,000, which is consistent with the current budget allocation for the project. However higher than anticipated construction bids, as well as design modifications, require a \$261,000 increase to this contract. Approving the recommendation included in this memorandum to redistribute \$261,000 from the Parks City-Wide Construction and Conveyance Tax Fund Ending Balance will ensure there is adequate funding for Los Lagos Golf Course, LLC to award the project. Los Lagos Golf Course, LLC is prepared to start the project soon after the appropriation action and First Amendment to the Agreement is approved.

Based upon the above information, it is the recommendation of staff to delegate authority to the City Manager to negotiate and execute a First Amendment to the Los Lagos Golf Course Safety Improvements Agreement, approve the scope reductions, extend the term to complete the work and increase the project allocation.

EVALUATION AND FOLLOW UP

Completion of the project allows for a substantial reduction in errant golf balls, which will result in fewer claims against the City. Project oversight will be the responsibility of Los Lagos Golf Course, LLC in conjunction with the Department of Public Works. This project also aligns with the Neighborhood Livability core service to provide safe and clean parks, facilities and attractions.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 does not meet any of the above criteria, however this memo will be posted to the City's website. To solicit contractors, this project was listed in the San Jose Mercury Newspaper on September 28, 2007.

In addition, community participation through various community meetings was solicited through citywide flyers and mailers. A community meeting specifically for this project was conducted June 28, 2007, to discuss schedule and resident impact. City Council, Golf and City staff as well as Tanner Consulting was in attendance to discuss the project. This memorandum will also be posted on the City's website for the February 26, 2008, City Council meeting.

COORDINATION

This project and memorandum have been coordinated with the City Attorney's Office and Planning, Building and Code Enforcement Department.

HONORABLE MAYOR AND CITY COUNCIL

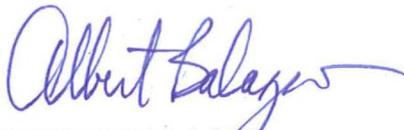
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Subject: Los Lagos Safety Improvements Project

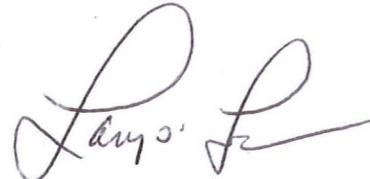
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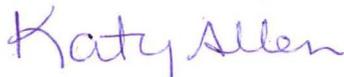
Exempt, File No. PP06-102: Los Lagos Golf Course Netting Project



ALBERT BALAGSO
Director, Parks, Recreation and
Neighborhood Services Department



LARRY D. LISENBEE
Budget Director



KATY ALLEN
Director, Public Works Department

For questions please contact CINDY REBHAN, PARKS MANAGER, PARKS, RECREATION
AND NEIGHBORHOOD SERVICES, (408) 277-5739.