



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 10-04-10

Approved

Date

10/14/10

COUNCIL DISTRICT: 7

SNI Area: Tully/Senter

SUBJECT: NISICH PARK DEVELOPMENT PROJECT – CONTRACT CHANGE ORDER NO. 3

RECOMMENDATION

Increase of contingency budget and approval of Contract Change Order Number 3 with Star Construction Inc. for the Nisich Park Development Project in amounts to be provided by supplemental memorandum.

OUTCOME

Increase of contingency budget and approval of Contract Change Order No. 3 will enable the contractor to complete the disposal of the soil containing serpentine rock or naturally occurring asbestos (NOA) from the Nisich Park site to an appropriate waste disposal site and to import clean soil.

BACKGROUND

On April 23, 2010, the Director of Public Works awarded a construction contract to Star Construction, Inc., for the subject project in the amount of \$1,049,500 along with a five percent contingency in the amount of \$53,000. A Notice to Proceed was issued effective June 28, 2010 for a contract term of 150 calendar days. Construction began on June 25, 2010 with completion now scheduled for December 21, 2010.

As of this memorandum, the project is approximately 60 percent complete. Two change orders to date in the amount of \$17,828 have been issued, which is approximately 33.6 percent of the project contingency budget or 1.7 percent of the original contract amount. Three days have been added to the contract.

During construction and grading of the site, material suspected of containing serpentine was first observed in surface soils at the site. The source of the soil is unknown; however it is thought that

the material was fill material placed in the 1960s during the construction of the nearby US101/Tully Road interchange. One soil sample was immediately collected from the surface and analyzed for asbestos using the PLM (asbestos bulk) method. Upon receipt of a positive detection for asbestos, all grading work was halted at the site, the soil stockpile as a result of grading operations was covered, and dust control measures on exposed surfaces was continued. URS Corporation, an environmental consultant to the City, collected 29 soil samples on August 26, 2010 to characterize surface soil at the site for asbestos up to one foot below the ground surface and from the soil stockpile. The results of the soil samples received on August 30, 2010 confirmed the presence of NOA in the soil at the site.

As part of the original purchase of the property by the Redevelopment Agency, a Phase I environmental site assessment was performed by the Environmental Services Department on February 4, 2004. The Phase I assessment involved a search for unusual odors and a visual inspection of the site surface soil for staining or evidence of fuel storage tanks and wells. A review was also performed to reference the site with all documented contamination sites that would be adjacent or in the immediate vicinity. The identified contamination sites in the area were not anticipated to impact the property. The assessment also included a comparison to United States Geological Survey maps which identify areas of known, likely, and suspected geologic outcroppings of naturally occurring asbestos. The project site was not within any mapped areas of potential concern.

Conclusions were made from the site assessment that there were no significant environmental concerns related for past or present on-site activities and furthermore that the property had not been impacted with any known environmental concerns.

ANALYSIS

To address the presence of NOA, the contractor will be required to remove the surface soils across the site in proposed landscaped areas to a depth of twenty-four inches in order to meet the Department of Toxic Substance Control (DTSC) Interim Guidance for Naturally Occurring Asbestos at School Sites which is the most appropriate guidance available for NOA for the subject park project. Areas which have been covered or capped such as the paved areas which has been already installed, including curbing, sidewalks, and certain park features are sufficient to create a barrier and prevent future expose. All other areas to be excavated will be replaced with clean soil.

It is presently expected that the amount of this change order will both exceed \$100,000 and require an increase in the project contingency budget. It is also likely that such increased costs will require appropriation of additional funds. A supplemental memo will be issued upon determination of the total costs and funding sources for this change order.

EVALUATION AND FOLLOW-UP

No additional follow up actions with the Council are expected at this time.

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 recommendation does not meet any of the criteria stated above. However, this memorandum will be posted on the City's website for the October 26, 2010 City Council Agenda.

COORDINATION

This memorandum has been coordinated with the Departments of Parks, Recreation and Neighborhood Services, Planning, Building and Code Enforcement, Environmental Services, City Manager's Budget Office and the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

1. **COST OF RECOMMENDATION:** To date, two change orders totaling \$17,828 have been issued for this project. The Construction Contingency of \$53,000 has been sufficient to cover the cost of these change orders. Following determination of the final cost of Change Order No. 3, a supplemental memorandum will be issued outlining those costs and any appropriation action which will be necessary to increase the contingency amount in order to fully fund this change order.
2. **SOURCE OF FUNDING:**
 - 375 – Subdivision Park Trust Fund
 - 385 – Construction Tax and Property Conveyance
Tax Fund: Parks Purposes Council District
#7
 - 450 – Services for Redevelopment Capital Projects
3. **OPERATING COSTS:** No additional fiscal impact is anticipated as a result of the actions recommended in this memorandum. Upon completion of Nisich Park, it is anticipated the operating and maintenance impact on the General Fund will be approximately \$15,000 annually beginning in 2011-2012. This funding was included in the 2011-2015 General Fund Forecast, which was released on February 26, 2010.

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BUDGET REFERENCE

The table below identifies the fund to fund the contract and remaining project costs, including project delivery, construction, and contingency costs. If additional funding is necessary, appropriation actions will be recommended in the supplemental memorandum, which will be presented to the City Council on the October 26, 2010 meeting.

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amount for CCO#2	2010-2011 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
Current Funding Available							
385	5558	Nisich Park Development	1442 03	\$356,000*	TBD	V-416	10/19/10*
375	7097	Nisich Park Development		\$33,000**		V-533	10/19/10**
Total Current Funding Available				\$389,000	TBD		

* Funding was reduced by \$574,000 in the 2009-2010 Annual Report due to the over-expenditure of estimated 09-10 expenditures. The 2009-2010 Annual Report was presented to the City Council on October 19, 2010. Grant funding of \$825,000 has been awarded to this project from Proposition 40 and is reflected in the 2009-2010 and 2010-2011 project budget.

** Funding was increased by \$33,000 in the 2009-2010 Annual Report due to funds not expended in 2009-2010 being rebudgeted to 2010-2011.

CEQA

CEQA: Statement of Exemption, File No. PP06-164, dated November 2, 2006.

/s/

KATY ALLEN

Director, Public Works Department

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

MH:lnr:as

Nisich CCO#3 Placeholder Council Memo.doc