

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Albert Balagso  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** 10-08-10

Approved

Date

10/14/10

**COUNCIL DISTRICT:** 5

**SNI AREA:** Alum Rock

**SUBJECT: JOINT USE AGREEMENT WITH ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE CONSTRUCTION TAX AND PROPERTY CONVEYNACE TAX FUND: PARKS PURPOSES COUNCIL DISTRICT 5 FOR THE ALUM ROCK SCHOOL DISTRICT SPORTS FIELD PARTNERSHIP (SHEPPARD MIDDLE SCHOOL) PROJECT**

## RECOMMENDATION

A. Adopt a resolution that:

1. Authorizes the City Manager to negotiate and execute a joint use agreement with Alum Rock Union Elementary School District ("District") for a 25 year term from project acceptance for the design, construction, operation, maintenance, joint use and funding of an artificial turf soccer field, a synthetic running track and support amenities ("Project") on William L. Sheppard Middle School property in an amount not to exceed \$1,500,000; and
2. Authorizes the City Manager to execute an amendment to the Agreement, subject to the completion of CEQA review by the District, to include lights to illuminate the soccer field as a part of the Project and to increase the City's contribution to the Project by \$500,000 for a total of \$2,000,000; and
3. Authorizes the City Manager to terminate the Agreement on behalf of the City for any reason deemed prudent by the City Manager, including without limitation if the Project does not include lights to illuminate the soccer field; and

B. Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 5 (Fund 382):

1. Increase the Alum Rock School District Sports Field Partnership (Sheppard Middle School) project by \$500,000; and
2. Decrease the Ending Fund Balance by \$500,000

### **OUTCOME**

Through this agreement, the City will acquire access to a new artificial turf soccer field and support amenities in Council District 5. The City shall be entitled to minimum of three thousand hours of use of the facility per fiscal year.

### **BACKGROUND**

In May 2010, Councilmember Nora Campos submitted a budget document (BD#13) which requested the allocation of \$1,500,000 for the City to enter into a partnership with the District to build a soccer field at Sheppard Middle School to help alleviate the shortage of playing fields in Council District 5. This recommendation was approved as part of the June 2010 Mayor's Message and included in the 2010-2011 Adopted Capital Budget. The District has been successful with a recent bond measure that would allow the District to contribute a portion of the funding for this project. The renovation would result in upgraded facilities to include a lighted artificial surface for the sports field and a 400-meter all weather running track. A joint use agreement was placed on the District's Board agenda and approved on September 9, 2010, however the form of agreement presented to the District Board is substantially different from the final negotiated agreement between the parties and final approval by the District will require an additional action by the District's Board.

City and District staff have held a series of meetings over the past few months to negotiate terms of the agreement including funding, construction, operations, joint use, and maintenance with a goal of 25 years of joint operation after completion of construction. The purpose of this memorandum is to provide the City Council with a summary of the proposed terms of the agreement and to seek City Council approval for the project and the appropriation of additional funding.

### **ANALYSIS**

The overall scope of the Project at William L. Sheppard Middle School includes the design and construction by the District of an artificial turf athletic field, a synthetic 400-meter running track, and support amenities including perimeter paths for pedestrians and vehicles, perimeter fencing,

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a drinking fountain and a toilet facility (as Additive Alternate #1). In addition, staff request authorization to the City Manager for a possible amendment to the agreement prior to construction, contingent upon completion of environmental review by the District, to allow the addition of lights for the Field as part of the initial project and an additional \$500,000 contribution from the City. These amenities, including the potential lights, are as shown on Exhibit A. Furthermore, the City Manager seeks authority to immediately terminate the Agreement if the District's additional environmental review for the field lights is not completed within six months from the date the agreement is executed or if the field lights are otherwise not included in the project.

The District's contribution to the project includes over six acres of land and approximately \$500,000 for construction and a contribution to 50% of the costs of capital repairs. The City's contribution would be \$1,500,000 based on bid results for the base bid and the restroom add alternate. In addition, if the agreement is amended to add the field lights, the City may contribute an additional \$500,000 toward the project, plus its contribution to ongoing maintenance, repair and utilities, which are further described below.

The term of the agreement is 25 years from the date construction is completed. The facility will be managed jointly by a Steering Committee comprised of equal City and District representation. The Steering Committee will develop an annual operation, programming and maintenance workplan and budget to ensure efficient operations and resolve problems that may arise.

The City's annual contribution to the operation, programming and maintenance would be subject to City Council approval. The District may terminate without cause upon 18 months notice but shall be obligated to reimburse the City's initial contribution amortized over 25 years. The City may terminate without cause upon 6 months prior notice, however, by exercising this right the City will not receive reimbursement of its contribution.

If the Steering Committee cannot reach agreement upon the maintenance plan or operational budget, then City Council and the Board of Directors may declare a breach of the Agreement.

It is currently anticipated that the revenue generated from this facility will completely offset the operating and maintenance impact the completed facility will have on the General Fund. Per the agreement, the City will pay for 100% of all routine maintenance (including custodial maintenance), 50% of capital maintenance/repairs and 100% of utility costs over the 25 year term, regardless of whether the need for maintenance or utility usage arises from District use or City use. The District is obligated to leave the Field in a clean condition when turned over to the City for periods of City use. Each party is responsible for damage caused during their period of use of the facility. As part of a future budget process, a recommendation will be brought forward to appropriate a separate allocation in a Parks Capital Fund for the City's share of capital replacement costs (such as turf replacement) for this joint use agreement sports field and potentially for other joint use sports fields that may be developed in the future.

If the City fails to pay any costs owed to the District over the 25 year term, the District may suspend the City from use of the facility. If the City's failure to pay for its share of maintenance, repair or utility costs exceeds 365 days, the District may terminate and the City shall not be entitled to any reimbursement of its contribution.

Costs to book the facility and to staff the facility and otherwise oversee the day to day use of the facility, will be paid for by the City and the District, each being responsible for such costs during their hours of use. It is the intent of the parties that all custodial, utility and 50% of capital maintenance/repair costs, as well as the City's day to day operation costs, will be offset by the City's portion of revenue generated from the use of the Project.

It is the stated goal of the parties in the agreement that each party will use reasonable efforts to pay for 50% of the cost for replacement of the site amenities at the end of their useful life. As mentioned above, it is the intent of the City to establish a separate appropriation in a Parks Capital Fund for the City's share of capital replacement costs (such as turf replacement) associated with this facility, and potentially other joint use sports fields that may be developed in the future. However, since it is likely that both the District and the City must appropriate additional funds toward those expenditures, and therefore neither party is legally bound to contribute toward the replacement of the surfacing. If the District refuses to contribute to the replacement of the surfacing, the City may terminate and the District must reimburse City for the remaining value of the amenities based upon the amortized value of the City's original contribution over a 25 year period. If the City refuses to fund the surfacing, District may terminate and is not obligated to repay the City's contribution.

The agreement provides that the District will utilize the City's fee schedule for the use of artificial turf fields to the extent feasible, so that rates for the use of the Project will be consistent. The District's current schedule of fees and charges does not include a rate for artificial turf fields with night lighting.

During the school year, the District will be responsible for the facilities until 6:00 p.m. Monday through Friday, to accommodate their athletic programs and agrees to end programming by 5:30 pm to allow for transition to City use by 6:00 pm. The City would be responsible for the facilities from 6:00 p.m. to 10:00 p.m. Monday through Friday and from 8:00 a.m. to 10:00 p.m. on weekends. On school holidays and during the summer months (which are defined as from June 24th to August 8th), the City would have responsibility from 8:00 a.m. to 10:00 p.m., seven days a week. The City would be responsible for providing staff support and scheduling use during hours assigned to the City. The District will have up to 16 times per year where they can either extend the hours of use into the evening or reserve a weekend, holiday or summer day. These days will be arranged by the steering committee on an annual basis.

Without the City's contribution, the District will not have sufficient funds to convert the field to artificial turf and the track to synthetic surfacing nor build the support amenities such as night lighting. Without this partnership, the City will lose this opportunity to provide the community

with access to a sports facility in Council District 5. In order to avoid delays to the District's project, Council authorization to invest in this project is required at this time.

The Department of Parks, Recreation and Neighborhood Services has a strong tradition of partnering with local school districts to improve service delivery. As proposed, this agreement will enable the City to move forward with joint-use sports field development. The proposal for joint use, operations, maintenance and funding is a collaborative effort to make the Project available for community use outside school operational hours. Moreover, this agreement represents a new approach to service delivery that leverages mutual assets while minimizing operational costs. The City and the District look forward to utilizing this agreement as a template for future collaborations in other areas of the District.

### **EVALUATION AND FOLLOW-UP**

This memo will not require any follow-up from staff.

### **POLICY ALTERNATIVES**

*Alternative #1: City declines to invest in the project.*

**Pros:** Funds could be used for other projects in Council District 5.

**Cons:** Should the Council not wish to invest, the District will not be able to afford to install the synthetic track and artificial turf sports field and the City would lose access to the field.

**Reason for Not Recommending:** There is a shortage of community sports fields throughout the City, especially in District 5. The proposed investment will enable the City to quickly expand its inventory with a project that recovers maintenance and operations costs.

### **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 meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This memorandum will be posted on the City's website for the October 26, 2010 Council agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's office, Council District 5 Office and the Planning, Building and Code Enforcement Department.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with Council-approved 2010-2011 Budget Balancing Strategy principles in that it protects vital core city services and considers alternative service delivery mechanisms (e.g. appropriate partnerships) to reduce costs of delivering needed services to the community. It is also consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

### **COST SUMMARY/IMPLICATIONS**

1. TOTAL POTENTIAL AGREEMENT AMOUNT: \$2,000,000
2. SOURCE OF FUNDING: 375 - Subdivision Park Trust Fund  
382 - Construction Tax and Property Conveyance Tax Fund:  
Parks Purposes Council District 5
3. OPERATING COSTS: The proposed operating and maintenance costs of this project are estimated based on experience with similar projects at other facilities as follows:

It is currently anticipated that the operating and maintenance costs for this facility will be completely offset by the City's portion of revenue generated from the use of the facility. Therefore, the completed facility will have no adverse impact on the General Fund. As previously mentioned, a recommendation will be brought forward in a future budget process to establish a separate allocation in a Parks Capital Fund to support capital replacement (such as turf replacement).

### **BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to fund the construction contract recommended as part of this memorandum and remaining project costs, including project delivery, construction and contingency costs.

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Actions

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Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2010-11 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
<b>Current Funding Available</b>							
375	7169	Alum Rock School District Sports Field Partnership (Sheppard Middle School)	TBD	\$377,000	\$377,000	Page V-598	
382	7169	Alum Rock School District Sports Field Partnership (Sheppard Middle School)	TBD	\$1,123,000	\$1,123,000	PageV-393	
<b>Additional Funding Requested*</b>							
382	8999	Ending Fund Balance	N/A	\$500,000*	\$500,000	Page V-385	
<b>Total Current Funding Available</b>				<b>\$2,000,000</b>	<b>\$2,000,000</b>		

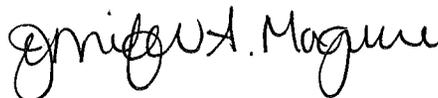
\* Included in the memorandum is the recommendation to allocate \$500,000 from the Council District 5 Construction and Conveyance Tax Fund's Ending Fund Balance (appropriation total is \$890,230) for the project.

**CEQA**

Categorically Exemption: Class 1: Sec. 15301 and Class 2: Sec. 15302

/s/

ALBERT BALAGSO  
 Director of Parks, Recreation and  
 Neighborhood Services



JENNIFER A. MAGUIRE  
 Budget Director

For questions please contact Matt Cano, Acting Deputy Director, at 408-535-3580.