

CC 05-02-2023

#4

Amended A
Draft Minutes

Desk Item



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Thursday, April 13, 2023

SPECIAL MEETING

At 4:02 p.m. Mayor Wei called the Special City Council Meeting to order in open session and led the Pledge of Allegiance in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue and via teleconference.

ROLL CALL

Present: Mayor Hung Wei, Vice Mayor Sheila Mohan, and Councilmembers Liang Chao, J.R. Fruen and Kitty Moore. Absent: None.

CLOSED SESSION REPORT - None

CEREMONIAL ITEMS - None

POSTPONEMENTS AND ORDERS OF THE DAY – None

ORAL COMMUNICATIONS

Jennifer Griffin supported preserving the Stocklmeir property, including the history of the fruit orchard.

Cathy Helgerson was concerned about construction progress at the former Vallco site and issues of homelessness and supported youth training programs for the government job sector.

Peggy Griffin was concerned about a proposed Civic Center solar panel installation requiring the removal of trees and supported an analysis prior to removal.

Lisa Warren was concerned about any Councilmembers potentially requiring recusal from the Apple development item due to conflicts of interest and opposed the early meeting start time.

CONSENT CALENDAR (Items 1-3)

CC 05-02-2023

#5

FY 2023-24 CDBG, BMR
AHF, and General Fund
HSG funding agreements

Supplemental Report



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

SUPPLEMENTAL 1

Meeting: May 2, 2023

Agenda Item #5

Subject

Fiscal Year (FY) 2023-24 recommended funding allocations for the Community Development Block Grant (CDBG) Program, the Below Market Rate (BMR) Affordable Housing Fund (AHF), and the General Fund Human Services Grant (HSG).

Recommended Action

Recommends that City Council authorizes the City Manager to execute FY 2023-24 CDBG, BMR AHF, and General Fund HSG funding agreements.

Background:

Staff's responses to questions received from Councilmember are shown in italics.

Q1: Please provide the Staff Report page 1 referenced "2020-2025 Consolidated Plan" (**Councilmember Moore**)

The Staff Report for the 2020-2025 Consolidated Plan is attached.

Q2: What was the result of the multi-year HUD Audit being worked on in 2022? How much funding had to be returned? (**Councilmember Moore**)

The HUD audit is not a part of the agenda for this meeting.

Q3: What is the **current fund balance** of the following Special Revenue Funds (**Councilmember Moore**):

a. 260 CDBG

i. This would be funding 4 a, b, and c below, is that correct?

ii. February 28, 2023, report to Council shows \$1,131,803 ending balance

b. 261 HCD Loan Rehab

i. This is for CDBG rehabilitation loans, where are the expenditures showing for this fund? *There are currently no expenditures budgeted for this program.*

- ii. February 28, 2023, report to Council shows \$222,300
- c. 265 BMR Housing
 - i. This would be funding 4 e below, is that correct?
 - ii. February 28, 2023, report to Council shows \$5,497,720

The current estimated year-end fund balance will be presented in the FY 2023-24 Proposed Budget, which will be printed by May 5, 2023.

Q4: Please break down the items in the Staff Report following the Budget Units in the Adopted Budget in the future for clarity (**Councilmember Moore**):

- a. 260-72-707 CDBG General Admin
- b. 260-72-709 CDBG Capital/Housing Projects
- c. 260-72-710 CDBG Public Service Grants
- d. 261 HCD Loan Rehab/CDBG rehabilitation loans
- e. 265-72-711 BMR Affordable Housing Fund
- f. 100-72-712 Human Service Grants (This is coming out of the General Fund 100)

The Staff Report has been updated to show the Budget Units in the description for each item, and the changes are redlined.

Q5: Please connect the CDBG 3 Budget Unit funding in the Staff Report to the \$1,131,803 February 28, 2023, fund balance along with the addition of the anticipated \$358,910 expected to be received from HUD. There appears to be more unexpended funds than the Staff Report is showing. (**Councilmember Moore**)

The FY 23-24 CDBG Budget table on p. 2 of the Staff Report shows \$588,886.28, the amount of CDBG funding that is available to allocate this year.

The monthly treasurer's reports present year-to-date actuals at a point in time (February 28, 2023). It only includes revenues received and expenditures spent at that point in time.

Q6: The FY 2022-2023 Adopted Budget shows \$155,589 expected expenditures for CDBG General Admin Budget Unit 260-72-707, the estimated Admin cost on page 3 of the Staff Report is only \$73,370.80, what accounts for the decrease? (**Councilmember Moore**)

For FY 2022-2023, \$155,589 was the total anticipated expenditure attributed to administering the CDBG program and covers a portion of staff salaries and benefits. Of that amount, \$79,280 was covered by CDBG, and the remaining amount was covered by the General Fund.

HUD regulations establish the maximum percentages that may be allocated to CDBG administration and public services. Of the total estimated funding, a maximum of 20% may be used for administrative costs to cover salary and benefits of staff who operate the CDBG program. For FY 2023-24, this calculates to \$73,370.80. Any remaining costs for CDBG Administration will come from the General Fund.

Q7: Can the Homeless Jobs program be funded from CDBG Fund 260 as opposed to the General Fund under Budget Unit 100-70-700? (**Councilmember Moore**)

The Homeless Jobs program would be classified as a public service activity under CDBG regulations, and the City is only allowed to spend 15% of its annual CDBG allocation on public services. For FY 2023-24, this calculates to \$55,028.10. If CDBG funding is moved to the Homeless Jobs program, then proposed funding amounts for the other organizations will have to be reduced so that the total amount of public service funding does not exceed the cap.

Q8: The FY 2022-2023 Adopted Budget shows \$8,002,202 in Taxes. Is this correct? The February 28, 2023, report shows the 265 BMR Housing Fund at \$5,497,720 which is greater than the \$4.9 M estimate on page 5 of the Staff Report. If there is an additional \$8M in taxes going to this fund, that brings the total to over \$13 M. Can the Staff Report be updated to better correlate with the fund balance and budget? (**Councilmember Moore**)

The FY 23-24 NOFA was released with the current BMR AHF balance of \$5.9 million. A \$1 million amount is typically reserved for operational expenses. Thus, \$4.9 million is reflected in the staff report. The BMR AHF is funded primarily by BMR impact fees from developments. The \$8 million additional amount is an estimate from various development projects once building permits have been submitted.

Attachments Provided with Original Staff Report:

Staff Report

A – FY 2023-24 NOFA RFP

B – Housing Commission Resolution 17-02 (CDBG Contingency Plan)

C – FY 2023-24 CDBG, BMR AHF, HSG Funding Application Summary

Attachment Provided with Supplemental Staff Report:

D. Updated Staff Report

E. 2020-2025 Consolidated Plan Staff Report 1



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: May 02, 2023

Subject

Fiscal Year (FY) 2023-24 recommended funding allocations for the Community Development Block Grant (CDBG) Program, the Below Market Rate (BMR) Affordable Housing Fund (AHF), and the General Fund Human Services Grant (HSG).

Recommended Action

Authorize the City Manager to execute FY 2023-24 CDBG, BMR AHF, and General Fund HSG funding agreements.

Reasons for Recommendation

Background

On November 07, 2022, the City of Cupertino issued an annual Notice of Funding Availability (NOFA) and a Request for Proposals (RFP) (Attachment A), inviting applicants to apply for eligible public services (two-year funding cycle) and capital housing projects (one-year funding cycle). The funding would be part of the City's Fiscal Year 23-24 adopted budget. The NOFA/RFP submittal deadline was February 07, 2023. The City received a total of ten applications during the submittal period.

At its March 9, 2023 meeting, the Housing Commission reviewed the CDBG, BMR AHF, and General Fund HSG applications and made funding recommendations to the City Council (Attachment C). While the CDBG program is administered through the U.S. Department of Housing and Urban Development (HUD), the City Council has the final approval for the BMR AHF and HSG funding requests. CDBG funding amounts will be reduced or increased proportionately for FY 23-24 based on the final HUD allocations. Given that the final HUD allocation may vary, the Housing Commission adopted Resolution 17-02 (CDBG Contingency Plan, Attachment B), on May 11, 2017 to address whether the City receives more or less CDBG funding from HUD. Public service funding cycles have been determined by the timeframe in the City's 2020-2025 Consolidated Plan. The first cycle covered Fiscal Years 20-21, 21-22, and 22-23, and this current cycle will cover Fiscal Years 23-24 and 24-25.

Housing Commission Recommendation

The Housing Commission held a public hearing on March 9, 2023, to finalize the initial ratings and rankings of the FY 2032-43 CDBG, BMR AHF, and General Fund HSG funding allocations. The Commission recommended approval of the proposed FY 2023-24 funding allocations.

CDBG Funding

HUD annually allocates CDBG funding to local jurisdictions for a range of community development activities. Cupertino is one of nine entitlement jurisdictions within Santa Clara County. In order to be classified as an entitlement jurisdiction and receive funds directly from HUD, cities must have a population of 50,000 or more. Entitlement grants are allocated on a formula basis and based on several objective measures of community needs, including the extent of poverty, population, housing overcrowding, age of housing, and the extent of population growth lag in relation to other metropolitan areas. The CDBG Contingency Plan as described in Resolution 17-02 (attachment B) identifies allocation options in the event that the funding either increases or decreases.

On February 27, 2023, HUD released a notice that the City will receive \$358,910 in FY 23-24 CDBG entitlement funding. Additionally, program income in the amount of \$7,944 will be received and allocated from existing CDBG loan payoffs. There is also \$222,032.28 in prior year unexpended CDBG funds. HUD regulations establish the maximum percentages that may be allocated to CDBG administration and public services. Of the total estimated funding, a maximum of 20% may be used for administrative costs to cover salary and benefits of staff who operate the CDBG program, a maximum of 15% may be used for public services, and a minimum of 65% must be used for capital housing projects. As noted earlier, CDBG funding amounts will be reduced or increased proportionately for FY 23-24 based on the final HUD allocations and City Council's approval. The final determination will be available May 15, 2023.

FY 23-24 CDBG Budget (est.)	
Entitlement Amount (EN)	\$358,910.00
Program Income (FY 23-24)	\$7,944.00
Unexpended Funds (FY 21-22)	\$35,439.62
Unexpended Funds (FY 22-23)	\$186,592.66
Sub-Total	\$588,886.28
Program Administration (20% EN)	\$73,370.80
Public Service (15% EN)	\$55,028.10
Capital/Housing Projects (65% EN + Unexpended Funds)	\$460,487.38
Total	\$588,886.28

HUD regulations require that eligible activities selected for funding must benefit very low and low-income households, eliminate a blighted area, or address an urgent (emergency) community need, and must also meet a HUD national objective. In addition, only certain types of eligible activities qualify under the CDBG regulations. Examples of eligible activities are:

- Public improvements
- Public service activities
- Affordable housing developments
- Property acquisition for affordable housing
- Rehabilitation of affordable units

2023-24 CDBG Program Administration Funds

An estimated total of \$73,370.80 will be used for CDBG program administration, and this falls under Budget Unit 260-72-707, CDBG General Admin. The City will use these funds for administrative costs to cover partial salary and benefits of the City's Housing Division staff who operate the CDBG program.

2023-24 CDBG Capital Housing Project Funds (One-Year Funding Cycle)

An estimated total of \$460,487.38 is available to be used for eligible CDBG capital housing projects, and this falls under Budget Unit 260-72-709, CDBG Capital/Housing Projects. This consists of FY 23-24 funding and unexpended funding from prior years. City staff conducted extensive outreach and the NOFA/RFP was sent to over 250 contacts in the affordable housing community. In addition, staff provided technical assistance to six affordable housing developers and non-profits during this time, resulting in the receipt of one application in this category, totaling \$92,536.00. The City did not receive applications for the excess \$367,951.38 in funds and is, therefore, still actively seeking eligible opportunities to expend the excess funding. When an appropriate activity is identified, the City will complete a Substantial Amendment to the FY 22-23 and FY 23-24 Annual Action Plans to allocate the funding. Funding recommendations are listed in the table below.

1	CDBG Capital Housing Projects				
	FY 23-24 Application Summary	Funds Available	Funding Requests	Funding Recommendations	FY 22-23 Funding Allocations
a	Rebuilding Together Silicon Valley- Homeowner Repair and Rehabilitation Program		\$92,536.00	\$92,536.00	\$88,966.00
	Sub-Total	\$460,487.38	\$92,536.00	\$92,536.00	\$88,966.00

2023-24 CDBG Public Service Funds (Two-Year Funding Cycle)

An estimated total of \$55,028.10 is available to be used for eligible CDBG public service activities, and this falls under Budget Unit 260-72-710, CDBG Public Service Grants. These activities include youth, senior and homeless services as well as other services that benefit low- and moderate-income persons and households. The City received three applications in this category, totaling \$121,536.00, one of which was not eligible, for the reasons stated, below. The two eligible applications totaled \$63,536, resulting in a shortfall of \$8,507.90. Funding was decreased proportionally based on the City's Contingency Plan. Funding recommendations are listed in the table below.

The God's Promise – Community Hub application was deemed ineligible for the following reasons: 1) the application doesn't leverage any other funding sources; 2) the proposal doesn't serve at least 51% low-moderate income (LMI) persons; 3) the project description and milestones were not clearly defined; 4) inadequate organizational capacity and lack of past performance measures; 5) the majority of the project budget goes to administrative costs rather than direct service costs; and 6) the proposal doesn't fall within an eligible CDBG category.

City staff will make themselves available to God's Promise to provide technical assistance on future applications. The applications for Live Oak Adult Day Services and West Valley Community Service's CARE program are qualified for funding because they meet the CDBG eligibility criteria that's established by HUD, and they scored well on the evaluation criteria that the Housing Commission uses to assess the applications.

2 CDBG Public Services					
	FY 23-24 Application Summary	Funds Available	Funding Requests	Funding Recommendations	FY 22-23 Funding Allocations
a	Live Oak Adult Day Services		\$22,000.00	\$19,054.05	\$21,405.76
b	West Valley Community Services (WVCS) – Community Access to Resources and Education Program (CARE)		\$41,536.00	\$35,974.05	\$38,054.69
c	God's Promise – Community Hub		\$58,000.00	<i>Not eligible</i>	N/A
Sub-Total		\$55,028.10	\$121,536.00	\$55,028.10	\$59,460.45

2023-24 BMR AHF Public Services (Two-Year Funding Cycle)

The BMR AHF receives its revenue from the payment of housing mitigation fees from both non-residential (commercial, retail, hotel, research and development (R&D) and industrial) and residential development projects. Formal agreements and monitoring are

required for this program, but the requirements are less stringent than federal funding. A total of \$50,000 is available to be used for eligible BMR AHF public services, and this falls under Budget Unit 265-72-711, BMR Affordable Housing Fund. The City received one application in this category totaling \$50,000.00. Funding recommendations are listed in the table below.

3	BMR AHF Public Services				
	FY 23-24 Application Summary	Funds Available	Funding Requests	Funding Recommendations	FY 22-23 Funding Allocations
a	Project Sentinel – Fair Housing Activities		\$50,000.00	\$50,000.00	\$50,000.00
	Sub-Total	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00

2023-24 BMR AHF Capital Housing Project Funds (One-Year Funding Cycle)

The City estimates up to \$4,900,000.00 will be available to fund eligible BMR AHF capital housing projects for FY 23-24 after accounting for administrative and other expenses, and this falls under Budget Unit 265-72-711, BMR Affordable Housing Fund. Over the course of the year, staff met with multiple developers and non-profits to provide technical assistance in order to generate affordable housing. The City did not receive any applications for FY 23-24 BMR AHF Capital Housing Projects due to barriers such as the high cost of land and lack of adequate funding available to leverage the development of affordable housing. However, staff will continue to provide outreach and technical assistance to interested affordable housing developers and non-profits throughout the year.

2023-24 General Fund HSG Public Services (Two-Year Funding Cycle)

The General Fund HSG program is funded by the City's General Fund. Formal agreements and monitoring are required for this program, but the requirements are less stringent than the requirements for federal funding. A total of \$125,000 is available to be used for eligible General Fund HSG public service activities, and this falls under Budget Unit 100-72-712, Human Service Grants. Eligible public service activities are similar to those under the CDBG program and include services that benefit seniors, homeless persons and other low- and moderate-income persons and households. The City received five applications in this category totaling \$251,500, one of which was not eligible. The four eligible applications totaled \$126,500, resulting in a slight shortfall of \$1,500. Funding was decreased proportionally based on the City's Contingency Plan. Funding recommendations are listed in the table below.

As with the CDBG Public Service funds, The God's Promise – Homeless Services application was deemed ineligible for the following reasons: 1) the application doesn't leverage any other funding sources; 2) the project description and milestones are not

clearly defined; 3) inadequate organizational capacity and lack of past performance measures; and 4) the majority of the project budget goes to administrative costs rather than direct service costs.

4	General Fund HSG Public Services				
	FY 23-24 Application Summary	Funds Available	Funding Requests	Funding Recommendations	FY 22-23 Funding Allocation
a	Catholic Charities of Santa Clara County – Long Term Care Ombudsman Program		\$10,000.00	\$10,000	\$10,000.00
b	Maitri – MTH-Direct Client Services		\$25,000.00	\$24,678.11	\$25,000.00
c	Senior Adults Legal Assistance (SALA) – Legal Assistance to Cupertino Elders		\$16,500.00	\$16,287.55	\$15,000.00
d	West Valley Community Services – Haven to Home		\$75,000.00	\$74,034.34	\$65,780.00
e	God’s Promise – Homeless Services		\$125,000.00	<i>Not eligible</i>	N/A
Sub-Total		\$125,000.00	\$251,500.00	\$125,000.00	\$115,780.00

Sustainability Impact

Authorization of the housing funding agreements will not result in a sustainability impact.

Fiscal Impact

CDBG programs and projects are funded by HUD grant funds. BMR AHF public services and projects are funded by housing mitigation fees collected from residential and non-residential development projects. General Fund HSG activities are funded through the City’s General Fund. Budget allocations for approved funding allocations will be included for City Council’s approval as part of the proposed and final budget.

California Environmental Quality Act

Authorization of the housing funding agreements is not a project subject to the California Environmental Quality Act (CEQA).

<u>Prepared by:</u>	Alec Vybiral, Assistant Housing Planner
<u>Reviewed by:</u>	Kerri Heusler, Housing Manager
	Luke Connolly, Interim Assistant Director of Community Development
	Benjamin Fu, Director of Community Development

Approved for Submission by: Matt Morley, Assistant City Manager
Pamela Wu, City Manager

Attachments:

- A - FY 2023-24 NOFA/RFP
- B - Housing Commission Resolution 17-02 (CDBG Contingency Plan)
- C - FY 2023-24 CDBG, BMR AHF, and HSG Funding Application Summary



HOUSING DIVISION

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3308 • CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: June 2, 2020

Subject

2020-25 CDBG Consolidated Plan and the FY 2020-21 CDBG Annual Action Plan

Recommended Action

Conduct Public Hearing; and

1. Adopt Draft Resolution approving the 2020-25 CDBG Consolidated Plan and the FY 2020-21 CDBG Annual Action Plan

Discussion

CDBG Funding

The United States Department of Housing and Urban Development (HUD) annually allocates grants such as CDBG, Home Investment Partnerships Program (HOME), Housing Opportunities for People with AIDS (HOPWA), and Emergency Shelter Grants (ESG) to local jurisdictions for community development activities. Cupertino is one of seven entitlement jurisdictions within Santa Clara County. Entitlement jurisdictions typically must have a population of 50,000 or more to qualify as an “entitlement jurisdiction” that receives grant funding directly from HUD. Entitlement grants are allocated on a formula basis, to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low-and moderate-income persons. Funds are then allocated to jurisdictions based on several objective measures of community needs, including the extent of poverty, populations, housing overcrowding, age of housing, and extent of population growth lag in relationship to other metropolitan areas. This is Cupertino’s nineteenth year as an entitlement jurisdiction receiving a CDBG grant directly from HUD. On February 25, 2020, HUD released FY 2020-21 CDBG amounts and the City was notified that it will receive \$389,308 in funds.

HUD regulations require that eligible activities selected for funding meet one of the three national objectives: to benefit low- and moderate- income households;

to aid in the prevention or elimination of a blighted area; or to address an urgent community need , such as when conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs. In addition, only certain types of eligible activities qualify under the CDBG regulations. Examples of eligible activities are:

- Public facilities and improvements
- Public service activities
- Affordable housing developments
- Property acquisition for affordable housing
- Rehabilitation of affordable units
- Fair housing services
- Economic development activities
- Planning and administration of the CDBG program

Housing Commission Recommendation

The Housing Commission held a public hearing on May 14, 2020 to review and approve the 2020-25 CDBG Consolidated Plan and the FY 2020-21 CDBG Annual Action Plan. The Commission recommended the following changes, which are reflected in the updated Plan:

- Review the goals and expand upon the language
 - Goal 3: Update goal description for “Frail elderly/elderly services” to include a variety of services
 - Goal 4: Change name from “Self-sufficiency services” to “Services for low-income families and homeless population”

2020-2025 Consolidated Plan

The Consolidated Plan is comprised of six sections which include Executive Summary, the Process, Needs Assessment, Market Analysis, Strategic Plan, and Annual Action Plan.

Executive Summary Section

This section is an introduction to the Consolidated Plan including an evaluation of the previous five-year Consolidated Plan period. The Consolidated Plan serves three functions; as a planning document for the City of Cupertino, which builds on a participatory process, as an application for federal funds under HUD’s CDBG formula grant program, and as a strategy for carrying out the CDBG program.

During the previous 2015-2020 five-year Consolidated Plan period, the City was successful in meeting its four goals, and added a fifth goal of supporting special needs populations.

Goal 1: Assist in creation and preservation of affordable housing for low-income and special needs households – 51 low-income rental units were rehabilitated, 62 homeowner households were rehabilitated, and a 19-unit affordable housing property for seniors was built with City Below Market Rate (BMR) Affordable Housing Funds, HOME funds, and Santa Clara County Measure A funding.

Goal 2: Support activities to prevent and end homelessness – supportive services were provided through West Valley Community Services' (WVCS) Community Access to Resources and Education (CARE) program to homeless households transitioning to permanent housing.

Goal 3: Support activities that strengthen neighborhoods through the provision of community services and public improvements to benefit low-income and special needs households – the CARE program provided supportive services, links to mainstream resources, and emergency rental assistance the households at risk of homelessness, and the Live Oak Adult Day Care Services program provided recreation, mental stimulation, companionship, and meals to elderly and frail elderly persons who are at risk of institutionalization.

Goal 4: Fair housing choice – fair housing counseling, case investigation, services and outreach, educational activities to increase community awareness of fair housing, and landlord/tenant counseling was provided.

Goal 5: Supporting special needs populations – funds were used by Maitri to preserve housing for survivors of domestic violence and their children.

Public comments received during various community engagement efforts identified the need to acquire, repurpose, and rehabilitate local housing to provide sustainable affordable housing in the City; increase economic opportunities such as transportation and accessibility, workforce development; subsidized auto repair and medical services, increase family income, and other and vital services for homeless prevention that could ultimately prevent an episode of homelessness; create/sustain public service activities for special needs populations, particularly elderly persons and persons with mental health needs; provide more restrooms for the unsheltered homeless, assistance for families and individuals in transition; improve aging community facilities and public infrastructure; and provide fair housing services.

Process Section

This section outlines the process used to solicit the community input for the Consolidated Plan. Community engagement is a key piece of the Consolidated Plan and the City participated in a countywide effort to collect data and information from residents and stakeholders across the county as well as within the City to identify both local and regional trends. The jurisdictions that participated in this effort include the cities of Cupertino, Gilroy, Mountain View, Palo Alto, Sunnyvale, San Jose, Santa Clara and the County of Santa Clara representing unincorporated areas of Campbell, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill and Saratoga.

The collaborative effort of Santa Clara County entitlement jurisdictions included an extensive public outreach process. Twenty-two stakeholder interviews were conducted with entities, organizations, agencies, and persons who are directly engaged via community outreach efforts. The stakeholders were also asked to share materials with their beneficiaries, partners, and contacts, and encouraged to promote attendance at the public forums and to solicit responses to the Regional Needs Survey. Community engagement included phone calls, targeted emails, newspaper announcements, social media posts, and personalized requests from jurisdiction staff. Throughout September and December of 2019, the entitlement jurisdictions hosted four Consolidated Plan regional workshops in the cities of Cupertino, Morgan Hill, Palo Alto, and San Jose to engage the public and local stakeholders in the planning process. In addition, two community meetings that sought combined input on the Consolidated Plan and Assessment of Fair Housing were held in San Jose and in Gilroy. Two focus groups were held in Santa Clara and Gilroy, where a total of seven agencies participated. Four pop-up events were held, two in Sunnyvale, one in Santa Clara, and one in Palo Alto. These events were held during farmer's markets and had provided the public with general information and awareness of the Consolidated Plan process and how to participate in the community survey. Translators were provided at each workshop for common languages spoken in the area. Outreach materials announcing the regional and community outreach workshops along with Consolidated Plan surveys were distributed countywide and published in four languages (English, Spanish, Vietnamese, and Chinese). The City also offered the Consolidated Plan survey on the City's housing website, as well as paper copies available at City Hall, Cupertino Library, Cupertino Senior Center, and Quinlan Center. A total of 16 residents participated and a total of 1,950 Consolidated Plan surveys were collected countywide. At the workshops, staff and the consultant outlined the Consolidated Plan process and the purpose of the document. Participants disbursed into smaller break-out groups to discuss needs associated

with community services, housing, economic development and community facilities and infrastructure. After the break-out session, participants reconvened to discuss these issues as a single group.

Needs Assessment Section

This section incorporates quantitative data from a variety of sources and qualitative information from various organizations and community stakeholders. Quantitative data sources include HUD, United States Census Bureau, HIV Epidemiology Annual Report for the County of Santa Clara, the Center for Disease Control and Prevention, Santa Clara County Homeless Census and Survey, and other scholarly private demographic vendors.

Information in this section analyzes the impact that housing problems have on low- and moderate-income households, racial and ethnic groups, and special needs populations. Housing problems include substandard conditions, overcrowding, and housing cost burden. When the members of a particular racial/ethnic group experience housing problems at a greater rate (10 percentage points or more) than the jurisdiction as a whole, then they have a disproportionate need. Hispanic, Asian, and Pacific Islander households are disproportionately affected by housing problems in the City.

Additionally, this section addresses the public service needs of the homeless population, special needs populations, and public housing participants in the City. The City has no public housing units; however, 28 Cupertino households have a Housing Choice Voucher (HCV) that they can use at approved sites. Across the County, HCV holders have difficulty locating a housing unit that will accept a HCV, that is at the fair market rent, and meets the housing quality standards required by HUD. The number of homeless people living in the City increased between 2017 and 2019 by approximately 25 percent, from 127 to 159 unsheltered homeless persons.

Lastly, data and community engagement feedback were used to determine priority needs related to public facilities and public improvements in the City.

Housing Market Analysis Section

This section discusses the housing stock in the City and the multiple factors that impact housing. The majority of the City's housing stock is of single-family housing units (1-unit detached structures), in which the owner currently inhabits the home. The median home value in 2015 was \$1,140,200, and continues to rise, which makes buying a home unaffordable to low-income households. In addition

to the lack of affordability for low- and moderate-income families to purchase a home, there is a gap of 795 affordable units for renter households.

This section also analyzes the need for homeowner rehabilitation and lead-based paint remediation. Low-income homeowners need assistance in rehabilitating their homes to address health and safety issues, that may otherwise cause the home to become uninhabitable. Additionally, there are approximately 2,115 households with children that could be living in housing with lead-based paint hazards.

Internet access is extremely important to access education and job search activities. To assist with this need, the City's Senior Center offers public Wi-Fi, drop-in and appointment-based technology. There are two providers in the City, both Xfinity and AT&T that offer discounts to low- and moderate-income households, and Xfinity also offers low-cost computers as part of an Internet Essentials program.

The City does not offer any emergency shelters or transitional housing for homeless persons; however, homeless persons in the City are eligible for countywide mainstream services. The City has 943 residential care facility beds for the elderly, which are non-medical facilities. All other special needs housing is not located within the City.

The City continues to prepare residents for natural and human-caused disasters through social media, radio, TV, and Cupertino.org. Low- and moderate-income households face many challenges, as discussed above in the Needs Assessment and Market Analysis, yet these challenges are intensified when faced with a natural disaster or other types of emergency.

Strategic Plan

This section serves as a blueprint for addressing the needs identified in the Needs Assessment and Market Analysis sections. The Strategic Plan establishes a work plan with goals and strategies to guide the allocation of entitlement grant funds and the implementation of HUD programs over the next five years. The goals and strategies listed in the five-year strategic plan compliment the policies, programs, and objectives described in the City's General Plan Housing Element. The goals and strategies also reflect input from community stakeholders, local service providers, and staff. The goals and strategies within the Strategic Plan are organized into multiple categories to help the City determine the priority needs, funding available, goals sought, potential barriers, increasing economic opportunities, and abiding by all HUD requirements. Not every need identified in the Plan can be met and sufficiently addressed in the next five years. Some of the needs are not feasible, some require much more funding than the City

currently receives, and some are simply too large to be addressed in just five years. Per HUD requirements, the Strategic Plan addresses how the City works with the local public housing authorities, and is mitigating barriers to address affordable housing, addressing poverty and coordinating with the public and private sector on community development efforts.

Priority needs are determined through community engagement, data provided in the housing needs assessment, and market analysis. Priority needs for the 2020-25 Consolidated Plan period include affordable housing through both homeowner and rental unit rehabilitation, preventing and assisting those experiencing homelessness, providing community services for frail elderly/elderly persons, and promoting fair housing choice.

The City anticipates the following funding over the five-year 2020-2025 Consolidated Plan cycle:

- CDBG Entitlement funds \$1,946,540 *anticipated* (\$389,308 annually) plus program income of \$39,720 (\$7,944 annually)
- BMR AHF Public Services- \$250,000 (\$50,000 annually)
- General Fund Human Services Grant- \$625,000 (\$125,000 annually)

The City participates in the Santa Clara HOME Consortium and does not receive HOME funds directly but does provide a match for affordable housing developers that wish to apply for HOME funds. The match is provided through the City's BMR AFH. The City's BMR AHF has a current balance of \$6,000,000.

Goals are determined based on priority needs and anticipated resources. Five goals were created for the 2020-25 Consolidated Plan cycle: 1) homeowner rehabilitation; 2) affordable rental unit rehabilitation; 3) frail elderly/elderly services; 4) services for low-income families and homeless population; and 5) fair housing.

Although the City has identified the need for additional affordable housing as a priority need through public engagement, the City faces many of the same affordable housing barriers as the rest of the Bay Area. The high cost of labor and development constrains the development of affordable housing units in favor of higher-end units, lack of developable land prevents development and increases the price of land, and there is a lack of funding available for the development of affordable housing.

Annual Action Plan Section

This section is a one-year plan that describes the eligible activities that the City intends to undertake in FY 2020-21 to address the needs and implement the

strategies identified in the adopted 2020-25 Consolidated Plan. The Annual Action Plan describes the activities that the City will fund to address the priority needs of affordable housing, non-housing community services, homelessness, and fair housing choice. The City has five projects planned during FY2020-21 to address priority community needs, which will be funded through CDBG. The fair housing project will be funded by the City's BMR AFH funds. All projects are to benefit low- and moderate-income households throughout the City and there is no geographic area targeted for the projects. Due to the impacts of COVID-19, the City may be unable to conduct activities, either all or in part, related to the Homeowner Rehabilitation and Frail Elderly Services goals. The City estimates that this inability will create a carryover budget of approximately \$20,000 to the FY21-22 Consolidated Plan year.

On May 5, 2020, the City Council approved the FY 2020-21 CDBG funding allocations. Public Service funds are awarded on a three-year grant funding cycle. Capital Housing funds are on a one-year funding cycle. The following tables provide a breakdown of FY 2020-21 CDBG funding.

FY 2020-21 CDBG Budget	
Entitlement Amount	\$389,308.00
Program Income FY 2019-20	\$7,944.00
Sub-Total	\$397,252.00
Program Administration (20%)	\$79,450.40
Public Service (15%)	\$59,587.80
Capital/Housing Projects (65%)	\$258,213.80
Total	\$397,252.00

CDBG Capital Housing Projects		
1	Rebuilding Together Silicon Valley- Housing Repair and Rehabilitation Project	\$83,363.40
2	West Valley Community Services (WVCS) - Vista Village Renovation Project*	\$174,850.40
	Total	\$258,213.80

CDBG Public Services		
1	Live Oak Adult Day Services- Senior Adult Day Care / Caregiver Respite	\$21,155.73
2	WVCS- Community Access to Resource and Education	\$38,432.07
	Total	\$59,587.80

The 2020-25 CDBG Consolidated and FY 2020-21 Annual Action Plan were made available for public comment from May 5 – June 5, 2020. The City will document any input received. The 2020-25 CDBG Consolidated and FY 2020-21 Annual Action Plan will be submitted to HUD by the June 29, 2020 deadline.

Sustainability Impact

None

Fiscal Impact

Sufficient funding will be available and budgeted for FY 2020-21 CDBG funding allocations. CDBG programs and projects are funded by HUD grant funds.

Process

This is the second of two public hearings required by HUD for CDBG. The first public hearing was held by the Housing Commission on May 14, 2020. All required HUD notices are published in the Cupertino Courier newspaper in advance announcing upcoming CDBG public hearings.

Prepared by: Kerri Heusler, Housing Manager

Reviewed by: Benjamin Fu, Director of Community Development

Approved by: Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Resolution

CC 05-02-2023

#6

Household Hazardous
Waste (HHW)

Desk Item



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

DESK ITEM

Meeting: May 2, 2023

Agenda Item # 6

Subject

Consider approval of the second amendment to the Countywide Household Hazardous Waste (HHW) Collection Program agreement between the City of Cupertino and the County of Santa Clara (County) to augment funding up to an additional \$90,705 to the Countywide HHW Program during Fiscal Year (FY) 2023/24 using earmarked funds within the Resource Recovery Fund 520.

Recommended Action

Authorize the City Manager to execute the second amendment to the Countywide HHW Collection Program agreement between the City of Cupertino and the County of Santa Clara to augment funding up to an additional \$90,705 to the Countywide HHW Program during FY 2023/24 for the purpose of attaining or increasing household participation, raising the not to exceed amount of the three-year 2022-2024 agreement to \$198,885.

Background:

Staff's responses to questions received from councilmember are shown in italics.

Q1: The staff report states there are funds available for the additional amount of \$90,705 in the Recovery fund. Will funds be available in ongoing years, or just for this one year? (Vice Mayor Mohan)

Staff Response: Yes, funds will be available in future years. The Resource Recovery Fund has about \$475,000 earmarked for uses related to management of HHW, which will be available to fund future year augmentations.

CC 05-02-2023

#8

Art In-Lieu Fees for
Jollyman All-Inclusive
Playground

Desk Item



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

DESK ITEM

Meeting: May 2, 2023

Agenda Item # 8

Subject

Consider approving the use of funds from the Art In-Lieu Fees for the Jollyman All-Inclusive Playground (AIPG) Capital Improvement Programs (CIP) project.

Recommended Action

1. Approve the use of appropriations of \$338,146.86 from the Art In-Lieu Fee in the General Fund, for artwork within the Jollyman AIPG CIP project;
2. Adopt Resolution No. 23-XXX (Attachment A) approving budget modification no. 2223-274 increasing appropriations and revenue by \$338,146.86 in the Capital Improvement Program Capital Projects Fund and increasing apportionments in the General Fund to transfer out restricted funds for the Jollyman All-Inclusive Playground Project (budget unit 420-99-051, PVAR 007); and
- ~~3. Authorize the City Manager to execute any necessary contract amendments for a contingency of \$100,489 for a total contract amount of \$490,000 on the professional design services agreement between the City of Cupertino and MIG, Inc. for the Jollyman AIPG Project (Project 2019-15).~~

Staff's responses to questions received from councilmember are shown in italics.

Q1: How will you make sure that Jollyman Park improvements are art, and not just needed playground equipment. Will Arts Commission sign off on artwork? (**Mohan**)

The project team will adhere to CMC 19.148.030-Permitted Artwork. If the art in-lieu funds are approved for use within the project, a selection of art concepts will be presented to the Art and Culture Commission on May 22 for approval. Attachment B of the staff report has images of the current artwork concepts.

CC 05-02-2023

#8

Art In-Lieu Fees for
Jollyman All-Inclusive
Playground

Supplemental Report



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

SUPPLEMENTAL 1

Meeting: May 2, 2023

Agenda Item # 8

Subject

Consider approving the use of funds from the Art In-Lieu Fees for the Jollyman All-Inclusive Playground (AIPG) Capital Improvement Programs (CIP) project.

Recommended Action

1. Approve the use of appropriations of \$338,146.86 from the Art In-Lieu Fee in the General Fund, for artwork within the Jollyman AIPG CIP project;
2. Adopt Resolution No. 23-XXX (Attachment A) approving budget modification no. 2223-274 increasing appropriations and revenue by \$338,146.86 in the Capital Improvement Program Capital Projects Fund and increasing apportionments in the General Fund to transfer out restricted funds for the Jollyman All-Inclusive Playground Project (budget unit 420-99-051, PVAR 007); and
- ~~3. Authorize the City Manager to execute any necessary contract amendments for a contingency of \$100,489 for a total contract amount of \$490,000 on the professional design services agreement between the City of Cupertino and MIG, Inc. for the Jollyman AIPG Project (Project 2019-15).~~

Supplemental information:

Recommended Action #3 in the staff report has been modified to delete the request for additional contingency (see Attachment C).

Staff's responses to questions received from Councilmembers are shown in italics.

Q1: Councilmember question (Chao)

Where are these numbers coming from to get to \$490,000? Below are the most recent agreements with MIG regarding the All-Inclusive Playground at Jollyman Park and the most recent plans I could find. It would have been nice to have had this included as attachments to Agenda Item #8. The reference in the Staff Report to "Project 19-

015" was no help in locating this agreement and the subsequent amendment or the plans! I had to brute force go through every year to find these so I'm hoping to save y'all time if you are interested in reviewing them.

IMPORTANT...Please note that in the Staff Report Recommended Action #3 "Authorize the City Manager to execute contract amendments for contingency of \$100,489 for a total contract amount of \$490,000" ...I don't see how they got that number. If you look at Amendment #1, I took the max allowed amount to \$401,511.00. If you add \$100,489 to that amount it takes it to \$502,000!

Staff response:

At the December 7, 2021 City Council meeting (Item #21), the Design Professional Services Agreement with MIG was approved in the amount of \$389,511, and City Council approved an additional \$77,900 for contingency for design services for a total budget for design services of \$467,411. Amendment 1 to the design professional services contract utilized \$12,000 of the contingency to add design of the Adult-Assistive Bathroom Facility to the project scope. This leaves \$65,900 contingency for the MIG contract.

Upon review, the Recommended Action #3 in the staff report has been modified to delete the request for additional contingency (see Attachment C).

Q2: Councilmember question (Chao)

Based on Agreement 21-272, Amendment 1, it has a schedule on page 38 of 54 (see in RED below).

Q2A: Where is MIG on this project now?

Q2B: Are they within their budget? If not, how much are they over now?

Staff response: MIG has completed the conceptual design and 50% construction documents. MIG has invoiced \$212,600 to date and is within budget.

Q3: Councilmember question (Moore)

What is the price breakdown of the individual components of this \$338,146.86? This is a very exact number so please show each line item and how it totals to this amount.

Based on Agreement 21-272 MIG, Amendment1 – All-Inclusive Playground at Jollyman Park, Page 38 of 54 below:

EXHIBIT B: Schedule

Jollyman Park All-Inclusive Playground

Task 1: Project Initiation and Ongoing Project Management – January 2022 (0.5 month)

Task 2: Data Collection and Existing Conditions – Jan -Feb 2022 (1.5 months)

Task 3: Concept Design – Mar – June 2022 (4 months)

Task 4: Construction Documents – June 2022 – Mar 2023 (7 months)

Task 5: Bidding Support – Apr.-June 2023 (2.5 months)

Task 6: Construction Administration – June 2023 – Mar. 2024 (9.5 months)

Project schedule is subject to refinement at the kickoff meeting and will be regularly updated during the course of the project, working with City staff, to better reflect project needs and City review times.

Staff response:

Each item is listed below with estimated costs:

<i>Create a Presentation and attend one Art Commission Meeting</i>	<i>\$3,550</i>
<i>Kaleidoscope Installation at Slide Hill</i>	<i>\$83,000</i>
<i>Colorful Peeking Windows</i>	<i>\$18,500</i>
<i>Viewing Binoculars</i>	<i>\$26,200</i>
<i>Musical Bench</i>	<i>\$63,000</i>
<i>Bird Scavenger Hunt</i>	<i>\$23,000 - \$43,000</i>
<i>Multilingual Tactile Sign</i>	<i>\$46,000</i>
<i>Stair Mural</i>	<i>\$8,000</i>
<i>Contingency</i>	<i>\$50,500 - \$54,500</i>
<i>Total w/ Contingency (*any unused funds get transferred back to the current account)</i>	<i>\$315,200 - \$339,200</i>

Q4: Councilmember question (Moore)

A) Based on the above schedule, is Task3 Concept Design completed? If so, where is it posted?

B) Based on the above schedule, is Task 4 Construction Documents completed? If so, have they gone out to bid? If not, why not?

Staff response:

The conceptual design is posted on the project websites:"

- <https://www.cupertino.org/our-city/departments/public-works/capital-improvement-program-projects/all-inclusive-playground-at-jollyman-park>*

- https://engagecupertino.org/jollyman?tool=forum_topic#tool_tab

The project has not been released for bid as it is still in the design process. The outreach and conceptual phases were completed in November 2022. The projected date for release of the bid documents is August 2023.

Q5: Councilmember question (Moore)

The Staff Report says that there are no guidelines BUT our municipal code is VERY CLEAR on what is considered “ArtWork in Public and Private Developments”. It defines exactly what it can and cannot be! How can you go against a clear definition in our municipal code?

Staff response:

The art features for Jollyman All-Inclusive Playground will be unique features commissioned by artists or custom designed and fabricated and will not be mass-produced from a standard design.

Q6: Councilmember question (Moore)

Is the Art in-Lieu of funding in a Special Revenue Fund? I do not see one named something which would account for this designated funding.

Staff response: Art in-Lieu funding is a restricted fund balance in the General Fund. The account was created this year, so it wasn't shown separately in last year's budget.

Q7: Councilmember question (Moore)

Why is municipal code CMC Section 19.148 not mentioned in agenda item #8 staff report?

Staff response: The staff report was focused on the use of art in-lieu fees for purposes consistent with the Municipal Code.

Q8: Councilmember question (Moore)

Why has there not been an effort, before now, to develop a policy on how Art-In-Lieu dollars is to be used?

Staff response:

Due to infrequent payment of art-in-lieu fees, a policy for use of art in-lieu fees was not established as a priority. Staffing resources have been focused on other City priorities.

Q9: Councilmember question (Moore)

During the November 22, 2021, commission meeting, there were questions asked of Staff about how the large in-lieu fee would be handled. The same questions have been asked since that time. Why wasn't a policy put in place when 'in-lieu' fees became an alternative for private projects? Or at the very least, once this large amount of 'in-lieu' \$ was approved by Arts and Culture Commission, why was a policy not discussed and drafted for presentation to Arts and Culture Comm and City Council?

Staff response:

Due to infrequent payment of art-in-lieu fees, a policy for use of art in-lieu fees was not established as a priority. Staffing resources have been focused on other City priorities.

Q10: Councilmember question (Moore)

Is it likely that the city will again have a sizable amount of funds in this art-in-lieu bucket?

Staff response: Unknown, but the municipal code discourages the payment of art in-lieu fees.

Q11: Councilmember question (Moore)

Is it reasonable to deplete the bucket without a true policy/procedure adopted? How would the city judge/determine a project's successes and lessons learned?

Staff response: Staff recommendation is based on the belief that including public art features within this unique project are an appropriate use of the art in-lieu funds. City Council is being presented with this opportunity for consideration.

Successes and/or failures can be measured against the goals and policies of the General Plan, or other measures determined by the Council or Commissions.

Q12: Councilmember question (Moore)

Why does the Staff report refer to the suggested five bulleted AIPG elements as 'art', when the municipal code explicitly states that they are not 'art'? See CMC 19.148?

Staff response:

All the proposed art elements would be artist commissioned and/or custom designed and fabricated. None of the proposed elements would be mass-produced from a standard design. The assumptions the question makes about the requirements of the Municipal Code and/or the nature of the proposed installation are incorrect.

Q13: Councilmember question (Moore)

What is the breakdown of bid costs for each of the five elements being considered?

Staff response:

This project has not been released for bid to date. The items listed below are estimated design and construction costs.

Create a Presentation and attend one Art Commission Meeting	\$3,550
Kaleidoscope Installation at Slide Hill	\$83,000
Colorful Peeking Windows	\$18,500
Viewing Binoculars	\$26,200
Musical Bench	\$63,000
Bird Scavenger Hunt	\$23,000 - \$43,000
Multilingual Tactile Sign	\$46,000
Stair Mural	\$8,000
Contingency	\$50,500 - \$54,500
Total w/ Contingency (*any unused funds get transferred back to the current account)	\$315,200 - \$339,200

Q14: Councilmember question (Moore)

Fiscal Impact Chart p. 3 of Staff report - "Fully funded" so why allocate \$338K to include something not in approved design?

Staff response:

While developing the project design, the project team identified and deemed the opportunity to utilize the art in-lieu fees for this project as appropriate to present to the Council for consideration. To include the proposed art elements within the project design, the additional funding allocation is necessary to facilitate the design, fabrication, and installation.

Q15: Councilmember question (Moore)

Do the County and State funds totaling \$2,448,201 have required project milestones and completion date that, if not met, would result in forfeiture of grant funds? If so, what are those dates and is the project on track to meet deadline?

Staff response:

Yes, both county and state funding have target completion dates. Santa Clara County All-Inclusive Playground Grant is June 2024. State of California Specified Grant is June 2026. The County grant is the critical path.

Q16: Councilmember question (Moore)

The city has two other large park projects in the works. Memorial Park and 'Lawrence Mitty' Park have both taken many years to get where they are at this point. Why would they not be considered as projects that would benefit from all, or a portion of, the \$338K? With 'art' that would truly meet the criteria of the municipal code?

During the last 12 months or more, there have been public comments made to the city's consultants in reference to the use of these in-lieu fees for sound wall 'art', enhanced entrance 'art', and cultural 'art'. The suggestions could satisfy the municipal code definition of approved art.

Staff response:

At this time, no other projects are currently aligned for the use of these funds. The public requested more art features, including sensory art & color, during the outreach phase.

Q17: Councilmember question (Moore)

Why is the total amount of \$338K being proposed for only one location in the city, as opposed to 'sharing the wealth'? The \$338K was calculated as 1.25% of the construction valuation of one single project (Public Storage). That amount of \$338K is over 16% the city funded amount of \$2,084,034. And for something that will go above and beyond the current design that took a very long time to arrive at.

Staff response:

The new playground was designed to meet the current budget. The addition of custom art features could not be accommodated with the existing budget. The proposed art features add a layer of inclusivity, as they go beyond providing just physical play features by offering intergenerational appeal and more sensory opportunities.

Q18: Councilmember question (Moore)

How is it fiscally responsible to spend an additional \$100K(+) on 'contract amendments' when the in-lieu funds could be applied to project(s) not already fully designed or fully funded?

Where is that \$100+K cost shown as being added to the existing budget for the AIPG project?

Staff response:

The art in-lieu funds are restricted to uses of public art and cannot be used for other elements of a project, therefore the funds cannot be used to solve funding gaps for other projects.

The funding will be reflected in the project should it be approved by Council.

Q19: Councilmember question (Moore)

Could the Torre Ave Annex project benefit from the \$338K bucket with art that fulfills the requirements of the municipal code? Was that project/site considered? Were any other projects considered?

Staff response:

Opportunities for art at other City facilities have not been evaluated.

Q20: Councilmember question (Moore)

Has the Budget for the Jollyman AIPG increased from the stated \$4,532,235? This is stated to be a fully funded project with some dollars to spare (\$4,557,235 is total of the existing 4 Funding Sources. This is \$25,000 over the Budget total).

Staff response:

The project budget has not increased. Staff requests that the Council increase the funding for the Jollyman AIPG project by \$338,146.86 for art-related expenses. The new playground was designed to meet the current budget. The addition of custom art features could not be accommodated with the existing budget. The proposed art features add a layer of inclusivity, as they go beyond providing just physical play features by offering intergenerational appeal and more sensory opportunities.

Attachments Provided with Original Staff Report:

- A. Draft Resolution
- B. Art Concept Options

Attachments Provided with Supplemental 1:

- C. *Redlined Staff Report with Change*



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: May 2, 2023

Subject

Consider approving the use of funds from the Art In-Lieu Fees for the Jollyman All-Inclusive Playground (AIPG) Capital Improvement Programs (CIP) project.

Recommended Action

1. Approve the use of appropriations of \$338,146.86 from the Art In-Lieu Fee in the General Fund, for artwork within the Jollyman AIPG CIP project;
2. Adopt Resolution No. 23-XXX (Attachment A) approving budget modification no. 2223-274 increasing appropriations and revenue by \$338,146.86 in the Capital Improvement Program Capital Projects Fund and increasing apportions in the General Fund to transfer out restricted funds for the Jollyman All-Inclusive Playground Project (budget unit 420-99-051, PVAR 007); and
3. ~~Authorize the City Manager to execute any necessary contract amendments for a contingency of \$100,489 \$75,000 for a total contract amount of \$490,000 \$542,411 on the professional design services agreement between the City of Cupertino and MIG, Inc. for the Jollyman AIPG Project (Project 2019-15).~~

Reasons for Recommendation

Per Cupertino Municipal Code (CMC) Section 19.149.020(A), private development projects are required to provide public artwork in any development of 10,000 square feet or more for the construction of new buildings, and/or the expansion of existing buildings. In some instances, the placement of artwork on a particular property may not be feasible. The applicant may then apply to the Arts and Culture Commission for an in-lieu alternative if the development lacks an appropriate location for public art. In certain cases, an in-lieu payment of 1.25% of the construction valuation may be made to the City pursuant to the approval authority provisions of CMC Section 19.148.090.

Art and Culture commissioners approved the in-lieu payment for artwork at the "Public Storage" development site on November 22, 2021, at the Art and Culture Commission meeting. As this is the first art in-lieu fee received by the City, no policy has been developed, and the CMC does not provide guidance. Staff recommends that these funds be used for commissioning artwork within the Jollyman Park AIPG CIP project. Staff placed the restricted funds in the General Fund in Fiscal Year (FY) 2022-23 in a

Restricted Fund balance category. Restricted fund balance means that the use of these funds has been restricted by the governing board of the organization. Jollyman AIPG would be a pilot project involving the art in-lieu fee and could serve as a model for future projects. At a future date, a policy and procedural document, which could be based on this project's successes and lessons-learned, will be developed for ongoing use and application of this fund.

Staff recommends that the art in-lieu funds be applied to the Jollyman AIPG project because the opportunity to apply these funds to this project is limited by the grant-driven schedule. The Jollyman AIPG project must meet the schedule requirements set forth in our grant agreement. If Council prefers to appropriate the funds after a policy can be considered and initiated, the AIPG can continue its current schedule and scope definition without the public art element. Using the developer-paid art in-lieu fee/funding for Jollyman AIPG as a public art consignment is a single effort that produces two returns. First, adding public-facing interactive art on an easily accessible City-owned site enhances a sense of place and discovery. Second, the City can capitalize on construction and site preparation already in place with the established CIP project, which should allow for the art-in-lieu funds to be utilized more effectively than they might if the Jollyman AIPG project were not in place.

If the use of funds from the Art in-lieu Fee for the Jollyman AIPG is approved, it will be used to fund the following interactive art elements as part of the project:

- Decorative sun kaleidoscope feature
- Interactive Musical Bench
- Nature-related art, such as a bird-watching scavenger hunt, viewing binoculars, and colorful peeking windows
- Multilingual Tactile Sign
- Stair Mural

Examples of the art concept options can be seen in Attachment B.

If Council approves the use of the art in-lieu fee/funding, the next steps will include:

1. Project Team/Design consultant develops the artwork concepts and proposal within the context of the AIPG's design, visual style, and site constraints.
2. Project Team/Design consultant presents the artwork proposal to the Arts and Culture Commission for their review.
3. After Art and Culture Commission approval of the artwork proposal, the Project Team/Design consultant will finalize the designs and proceed with fabrication and installation of the artwork in conjunction with the construction of the Jollyman AIPG. (The art will be included in the City's ARTour program which catalogs and displays art inventory throughout the City.)
4. Create a policy and procedure document for this fund based on the project's successes and lessons learned.

If City Council does not approve the transfer of the art-in-lieu funds to the Jollyman AIPG budget, the funds will stay in the current account, and the fully funded project will move forward without these unique art features. Since the Jollyman AIPG project is on a set schedule to meet grant requirements, the City would need to continue to advance the project without the public art element.

Sustainability Impact

No sustainability impact.

Fiscal Impact

The restricted fund balance category for art in-lieu totals \$338,146.86. Staff recommends an appropriation of all the funds to a general fund non-departmental transfer out, and then transferring these funds into the Jollyman Park All-Inclusive Playground budget unit. This will result in a transfer in of revenue to the project. In addition, the project budget will be increased by a corresponding amount.

The Jollyman AIPG Project Budget (budget unit 420-99-051) has \$4,532,235. The City has encumbered \$554,428 to date, leaving a remaining budget of \$3,977,807. The City is a recipient of two grants. The first was \$1,448,201 from the AIPG Grant Funds from Santa Clara County. The second was \$1,000,000 from the Specified Grant Funds from the State of California. The City has also funded \$2,084,034 for the project. The City also received a \$25,000 donation from Pacific Gas & Electric. With the approval of the recommended actions, the overall project funding would increase by \$338,146.86 for the artwork features.

SOURCE	AMOUNT
City funds	\$2,084,034.00
County of Santa Clara AIPG	\$1,448,201.00
State Allocation (Specified Grant Funds)	\$1,000,000.00
PG&E Donation	\$25,000.00
<i>Art in-lieu Fee</i>	<i>\$338,146.86</i>
TOTAL	\$4,895,381.86

California Environmental Quality Act (CEQA)

The project is categorically exempt from CEQA per CA type and section numbers: 15301(c), 15302(c), and 15304(a), (b), (e), and (f).

Prepared by: Evelyn Moran, Project Manager

Reviewed by: Chad Mosley, Interim Director of Public Works

Reviewed by: Matt Morley, Assistant City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Resolution

B – Art Concept Options

CC 05-02-2023

#9

Service Center Security
Gate

Desk Item



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT DESK ITEM

Meeting: May 2, 2023

Agenda Item #9

Subject

Consider award of a construction contract for the Service Center Security Gate Project (Project No. 2023-103) for the construction of a new motorized security gate, including associated improvements.

Recommended Action

1. Award a construction contract for the Service Center Security Gate Project and authorize the City Manager to execute a contract in the amount of \$365,750 with VNH Builders;
2. Authorize the Director of Public Works to execute any necessary change orders up to a construction contingency amount of \$36,575 (10%) for a total authorized contract amount of \$402,325; and
3. Adopt Resolution No. 23-xxx approving budget modification #2223-266 increasing appropriations in the General Fund Service Center Facilities Maintenance Fund (budget unit 100-87-829) by \$249,001.

Background:

Staff's responses to questions received from councilmember are shown in italics.

Q1: Since incident at the Maintenance Yard took place in August 2021, were other interim security enhancements put in place to prevent recurrence. **(Mohan)**

After the incident that took place at the Service Center in August 2021, the City installed additional security cameras at the Service Center. To facilitate efficient maintenance operations, the gate has remained open during the day as it is burdensome to open, close, and lock to facilitate consistent City vehicle access. Currently the gate is closed and locked at night and unlocked and opened in the morning.



Attachments Provided with Original Staff Report:
A. Draft Contract - from published agenda

CC 05-02-2023

#10

Concrete Reconstruction Project

Desk Item



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

DESK ITEM

Meeting: May 2, 2023

Agenda Item #10 - Consider Award of a construction contract for the 2023 Concrete Reconstruction Project

Subject

Consider award of a construction contract for the 2023 Concrete Reconstruction Project (Project No. 2023-104) for the reconstruction of curbs, gutters, sidewalks and Americans with Disabilities Act (ADA) ramps at various locations throughout the City of Cupertino.

Recommended Action

1. Award a construction contract for the 2023 Concrete Reconstruction Project and authorize the City Manager to execute a contract in the amount of \$1,378,793.40 with R&S Construction Management, Inc.; and
2. Authorize the Director of Public Works to execute any necessary change orders up to a construction contingency amount of \$137,879.00 (10%) for a total authorized contract amount of \$1,516,672.40.

Background:

Staff responses to questions received from council members are shown in italics.

Question (Mohan): Staff report mentions "various locations" for improvements. Have these been identified already by Staff? I understand Contractor does not need this information for now, but wanted to know if Staff has specific locations in mind.

Staff Response: Yes, all work locations have been identified and are being managed through the City's Asset Management System, CityWorks.

CC 05-02-2023

#10

Concrete Reconstruction Project

Supplemental Report



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

SUPPLEMENTAL 1

Meeting: May 2, 2023

Agenda Item # 10 – Consider Award of a construction contract for the 2023 Concrete Reconstruction Project

Subject

Consider award of a construction contract for the 2023 Concrete Reconstruction Project (Project No. 2023-104) for the reconstruction of curbs, gutters, sidewalks and Americans with Disabilities Act (ADA) ramps at various locations throughout the City of Cupertino.

Recommended Action

1. Award a construction contract for the 2023 Concrete Reconstruction Project and authorize the City Manager to execute a contract in the amount of \$1,378,793.40 with R&S Construction Management, Inc.; and
2. Authorize the Director of Public Works to execute any necessary change orders up to a construction contingency amount of \$137,879.00 (10%) for a total authorized contract amount of \$1,516,672.40.

Background:

Staff responses to questions received from council members are shown in italics.

Q1 (Chao): Given that the city might be facing a loss of revenue of \$30M and may even have to pay back some tax revenue received in past years... I would like to know why we are awarding \$1.5M for a non-essential project at this point?

The staff report states "the removal and replacement of uplifted City owned sidewalks, curbs and gutters which can lead to pedestrian trip hazards or impede the flow of storm water" => This portion is essential.

The report also states "The project also provides for installation and/or replacement of pedestrian curb ramps to meet ADA requirements." This portion is not essential.

Have we considered possibly reducing the scope of the work to save money?

Staff Response: The project is fully funded in the FY22-23 budget and consists of work that mitigates pedestrian trip hazards, stormwater flow issues, and accessibility improvements. The

City is required by law to install new ADA ramps or bring existing ADA ramps into compliance when a street is repaved or micro-surfaced. ADA ramps can be considered essential as they are necessary in order to provide disabled access to pedestrian facilities. The portion of the contract dedicated to ADA improvements is approximately \$255,500. The remaining budget addresses access issues such as the aforementioned pedestrian trip hazards and stormwater flow line corrections.

Q2 (Chao): The staff report states "Award of this project will result in a fiscal impact up to \$1,516,672.40. Sufficient funds of \$1,636,087.90 are budgeted in 270-85-820 750 020 (Special Projects -Annual Sidewalk Curb and Gutter)."

So, is this one of the budgeted "Special Projects"? Is it not one of the projects in the CIP list?

Staff Response: This project is not included in the Capital Improvement Program (CIP). Account 270-85-920 750 020 is a special project account for concrete work that consists of repair, maintenance, and improvement of concrete assets. It typically includes two annual projects. One project for reconstruction of existing assets, and the other for remediation or repair of concrete assets that don't rise to the level of full reconstruction. The purpose of this project is to reconstruct and improve existing concrete assets and is funded by the Transportation Fund (fund 270). The Transportation Fund is appropriated exclusively for street and road purposes including related engineering and administrative expenditures.

Q3 (Chao): What other "Special Projects" are there and still not complete? What are their budgeted amounts?

Staff Response: There are a number of Special Projects unrelated to this agenda item that are in progress. The appropriate time to discuss special projects is with the annual budget. The only other "Special Project" in account 270-85-920 750 020 is the 2023 Sidewalk Repair Project. The project includes remediation and repair of concrete assets that don't rise to the level of full reconstruction, such as saw cutting of concrete sidewalk uplifts. This is an annual project typically budgeted at around \$120,000. This second special project will be released for bid later this year.