



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Grant Yates, City Manager

Prepared by: Barbara Leibold, City Attorney

Date: February 12, 2019

Subject: Second Amendment to Amended and Restated Park Implementation Agreement for 24 Acre Park within the Eastlake Specific Plan

Recommendation

Staff recommends that the City Council approve the Second Amendment to Amended and Restated Park Implementation Agreement in substantially the form attached and authorize the City Manager to execute the Second Amendment in such final form as approved by the City Attorney.

Background

The East Lake Specific Plan originally contemplated the development of three parks in connection with the Summerly Project – an expansive 24 acre community park, an adjacent 6.7 acre park site, and an interior 4.8 acre neighborhood park site next to a proposed elementary school.

In 2012, the City and the developer forged an agreement that would return the smaller 4.8 acre site to the developer where it would later become the site for the homeowners association's community center and, critically, the developer also committed to provide a high amenity, turn-key park on the 24 acre park site, constructed over three phases.

The phased construction of the 24-acre park along with the resulting park fee credits were addressed in a Park Implementation Agreement that was approved by the City Council on April 10, 2012.

In 2015, the City Council approved an Amended and Restated Park Implementation Agreement ("Amended Agreement"). The Amended Agreement included a significantly improved park configuration and allowed the developer to receive up-front conditional park fee credits rather than pay park fees in advance and then seek reimbursement as the phased construction moved forward.

In 2018, the Council approved a First Amendment that substituted Van Daele Development Corporation for McMillin Real Estate Services, LP, as the contractor. It also made certain technical changes to the Amended Agreement.

Second Amended and Restated Park Implementation Agreement
February 12, 2019

Discussion

Last year, as the Summerly Park moved towards the development of Phase 3, staff determined that one of the planned amenities (the tennis courts) would likely be underutilized while the other primary amenity in Phase 3 (a dog park) would likely experience very high utilization. Moreover, staff concluded that additional sports field facilities would maximize the community's use of the park.

A concept plan was developed for Phase 3 that eliminates the tennis courts, expands the dog park, and leaves room for development of a future sports field. The developer agreed to these changes provided that the City pay for the increased costs for the expanded dog park and grading (estimated at \$110,549). The developer also agreed, upon completion of Phase 3, to pay to the City any savings achieved from the elimination of the tennis courts (estimated at \$258,718).

The net savings (about \$148,169) will go towards the partial funding of a future sports field amenity to be constructed by the City in the Phase 3 area.

The proposed changes are memorialized in the attached Second Amendment to Amended and Restated Park Implementation Agreement ("Second Amendment"). Exhibit A-1 changes the timeframe for completion of final park improvements to on or before January 31, 2021. Exhibit C-1 to the Second Amendment shows the redesign of the park with the elimination of the tennis courts and expansion of the dog park.

Fiscal Impact

The Second Amendment will result in approximately \$148,000 being available for future park amenities at Summerly Park.

Prepared by: Barbara Leibold, City Attorney

Approved by: Grant Yates, City Manager

Attachments: 1. Second Amendment to Amended and Restated Park Implementation Agreement
2. First Amendment to Amended and Restated Park Implementation Agreement
3. Amended and Restated Park Implementation Agreement