



CITY OF POMONA COUNCIL REPORT

June 19, 2017

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Meg McWade, Public Works Director

Subject: **Discussion and Possible Direction Whether to Change the Plans for “Phillips Paw Park,” Project No. 428-2590-XXXXX-71033, and Amend the Construction Contract with C. S. Legacy Construction, Inc., Accordingly**

OVERVIEW

Recommendation – That the City Council approve one of the following Alternatives:

1. Alternative One (1), which includes:
 - a. A change order to be negotiated by the City Manager, or her designee, in an amount not to exceed \$0 for the removal of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, from the award of the construction contract to C.S. Legacy Construction, Inc.;
 - b. Changes to be negotiated by the City Manager, or her designee, to the Los Angeles County Regional Park and Open Space District (LACRPOSD) parks grant and repay \$33,838 of Grant reimbursement, anticipated to-date, if the dog park is not constructed in a timely fashion within Phillips Ranch Park;
 - c. Changes to be negotiated by the City Manager, or her designee, to the California Conservation Corps (CCC) agreement for various parks projects; and
 - d. Provide direction to Staff for a new site selection process.
2. Alternative Two (2), which includes:
 - a. Modifying the configuration of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, to a smaller area, not to exceed an approximate 25% reduction from the original size, consolidated near Village Loop Road, with corresponding construction contract cost savings due to reduced quantities; and
 - b. A sole-source amendment, in an amount not to exceed \$17,000, with Community Works Design Group for the re-design/modification of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033.

3. Alternative Three (3), which includes:
 - a. Modifying the configuration of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, to a smaller area, not to exceed an approximate 25% reduction from the original size, consolidated within the most westerly flatter open field area north/west of the walk-way area, with corresponding construction contract cost savings due to reduced quantities;
 - b. A change order to be negotiated by the City Manager, or her designee, in an amount not to exceed \$60,000, for additional picnic-patio demolition and relocation, plus additional water service work as part of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, construction contract with C.S. Legacy Construction, Inc.;
 - c. A sole-source amendment, in an amount not to exceed \$25,000, with Community Works Design Group for re-design/modification of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033; and
 - d. Environmental/development impact costs to be determined.
4. Approve Alternative Four (4), which includes:
 - a. Modifying the configuration of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, to a smaller area, not to exceed an approximate 25% reduction from the original size, consolidated in its existing location (reducing the dog park length by approximately 60 feet on the west end), with corresponding construction contract cost savings due to reduced quantities; and
 - b. A sole-source amendment, in an amount not to exceed \$5,000 with Community Works Design Group, for re-design/modification of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033.
5. Approve Alternative Five (5), which includes proceeding “as-is” (originally proposed configuration) with the construction of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033.

Fiscal Impact – Please note that all of the fiscal impacts identified in this report are estimated based on City Council decision and direction at the June 19, 2017 City Council meeting.

As a recap, the fiscal impact of the four options provided include:

- Option #1 – City must reimburse grant funds of \$33,838
- Option #2 – Approximately \$17,000 will be used for the re-design/modification of “Phillips Paw Park”; however project will remain within budget
- Option #3 – Approximately \$25,000 will be used for the re-design/modification of “Phillips Paw Park”; however, project will remain within budget
- Option #4 – Approximately \$5,000 will be used for the re-design/modification of “Phillips Paw Park”; however, project will remain within budget
- Option #5 – There will be no fiscal impact

The delays in this project have created opportunity costs (such as additional staff time diverted from other projects) and fiscal impacts that are difficult to determine, and these costs have grown since the construction award date of March 15, 2015.

ALTERNATIVE 1

If City Council chooses to approve Alternative 1 (a change order to be negotiated by the City Manager, or her designee, for the removal of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, from the award of the construction contract to C.S. Legacy Construction, Inc.), then fiscal impacts are anticipated as follows:

- This change order cost will not exceed \$0* (without additional approval of City Council);
- Fiscal impacts to the LACRPOSD parks grant cannot be determined with full certainty at this time as further discussions are needed with the County, however:
 - Based on discussions with County grant representatives to-date, City staff forecasts that the County should cooperate to either use the grant funds for the other five park projects or may (or may not) allow a reasonable time extension period for the grant funds to be used for a separate dog/other park project;
 - The City will need to repay \$33,838 of Grant reimbursement, anticipated to-date, if the dog park is not constructed in a timely fashion within Phillips Ranch Park; and
 - The potential for loss of the \$500,000 LACRPOSD parks grant does exist (although the probability of this occurring is forecasted as low);
- Changes to be negotiated by the City Manager, or her designee, to the CCC agreement for various parks projects are not anticipated to have any significant fiscal impact at this time; however, some possibility of an impact in this regard is possible; and
- Various opportunity costs.

ALTERNATIVE 2

If City Council chooses to approve Alternative 2 (to modify the configuration of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, to a smaller area consolidated near Village Loop Road), then fiscal impacts are anticipated as follows:

- Corresponding construction contract cost savings (approximately \$60,000) due to reduced quantities;
- A sole-source amendment with Community Works Design Group for re-design/modification of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, will be required in an amount not to exceed \$17,000;
- Additional staff costs’ fiscal impacts will be incurred in the amount of approximately \$5,000; and
- Various opportunity costs.

ALTERNATIVE 3

If City Council chooses to approve Alternative 3 (to modify the configuration of “Phillips Paw

Park,” Project No. 428-2590-xxxxx-71033, to a smaller area consolidated within the most westerly flatter open field area, north/west of the walk-way area), then fiscal impacts are anticipated as follows:

- Corresponding construction contract cost savings (approximately \$60,000) due to reduced quantities;
- A change order to be negotiated by the City Manager, or her designee, in an amount not to exceed \$50,000 for additional picnic-patio demo and relocation plus additional water service;
- A sole-source amendment with Community Works Design Group for re-design/modification of Phillips Paw Park, Project No. 428-2590-xxxxx-71033, will be required in an amount not to exceed \$25,000,
- Additional staff costs’ fiscal impacts will be incurred in the amount of approximately \$5,000;
- Environmental/development impact costs to be determined. and,
- Various opportunity costs.

ALTERNATIVE 4

If City Council chooses to approve Alternative 4 (to reduce the size of Phillips Paw Park, Project No. 428-2590-xxxxx-71033 to a smaller area in its present location (reducing the dog park length by approximately 60 feet on the west end), then fiscal impacts are anticipated as follows:

- Corresponding construction contract cost savings (approximately \$54,000) due to reduced quantities;
- A sole-source amendment with Community Works Design Group for re-design/modification of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, will be required in an amount not to exceed \$5,000;
- Additional staff costs fiscal impacts will be incurred in the amount of approximately \$3,000; and
- Various opportunity costs.

ALTERNATIVE 5

If City Council chooses to proceed “as-is” with the construction of “Phillips Paw Park,” Project No. 428-2590-xxxxx-71033, then fiscal impacts are anticipated as follows:

- Various opportunity costs.

The following table summarizes the above described impacts of the potential City Council alternative actions:

Phillips Paw Park; Proj. No. 428-2590-xxxxx-71033	Alternative 1 (Stop)	Alternative 2 (Modify) (East, near Village Loop)	Alternative 3 (Modify) (West)	Alternative 4 (Modify) (reduce length 60 ft.)	Alternative 5 (“As-Is”)
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Beginning Budget	\$482,327	\$482,327	\$482,327	\$482,327	\$482,327
Alternative Action Budget Estimated Impact (Not to Exceed) (428-2590-xxxxx-71034)	(\$0)* (\$33,838 City repayment to County required if dog park not built soon in Phillips Ranch Park) (*Current Construction Contract cost Reduced by \$292,882)	\$38,000 savings	(\$20,000**) (cost plus** Environmental /development impact costs not included)	\$46,000 savings	(\$0)

*Note: Additional future costs (outreach, design, staff, etc.), to be determined, are expected to occur with Alternative 1; however, these costs will vary depending on subsequent separate actions. Other separate but related potential costs are also mentioned in the fiscal impacts above and discussion below.

Phillips Paw Park project financial summary, as of June 14, 2017:

- Current Budget is \$482,327 (= \$295,298 Series “W” Bonds + \$117,029 Excess Series “AX” Bond Proceeds + \$70,000 LACRPOSD Grant)
- Current Construction Contract Award Amount = \$292,882,
- Current Consultant Design Cost = \$43,585 (Total design Consultant contract \$59,860),
- Staff and other costs to date = \$20,843, and
- Remaining budget for Construction Management, contingencies, and inspection = \$125,017.

MBE/WBE – C. S. Legacy Construction, Inc. is not a MBE/WBE contractor.

Public Noticing Requirements – None required for this award.

Previous Related Action – On May 15, 2017, City Council adopted a Resolution amending the FY 2016-17 CIP Budget to provide \$605,271 in funding to complete various park projects; and awarded a construction contract in the amount of \$1,124,520 to C.S. Legacy Construction, Inc. for Park Improvements to six park projects included in the CIP FY 2016-17 as follows: “Kennedy Park – Field Improvements” 428-2590-xxxxx-71027 (\$288,315), “MLK Park –

Gazebo” 428-2590-xxxxx-71028 (\$66,641), “Esperanza y Alegria” 428-2590-xxxxx-71029 (\$401,194), “Garfield Park – ADA Ramps” 428-2590-xxxxx-71032 (\$11,888), “Phillips Paw Park” 428-2590-xxxxx-71033 (\$292,882), and “Ganesha Park Tree Grove” 428-2590-xxxxx-71034 (\$63,600). A summary of previous related Council actions is shown in Attachment 3 to this Report.

EXECUTIVE SUMMARY

If this matter is not resolved by June 19, 2017, costs for all of the grouped Parks Projects are expected to increase.

On May 15, 2017 City Council awarded a construction contract to C. S. Legacy Construction, Inc. in the amount of \$1,124,520 for work at six park projects that included, among others, Phillips Paw Park. Although prior community meetings had recognized significant support for this project, a community meeting on May 23, 2017 heard concerns of AYSO soccer (among others, see discussion below for more details). Immediate action is required by City Council, in order to minimize costs and/or damages to the City for any changes to Phillips Paw Park, in one of the following five alternative ways:

1. Approve a change order (in an amount not to exceed \$0*) for the removal of Phillips Paw Park from the award of the construction contract, repayment of \$33,838 to the County if dog park is not built in Phillips Ranch Park in a timely manner, and provide direction to Staff for a new site selection process; or,
2. Modify the configuration of Phillips Paw Park to a smaller area consolidated near Village Loop Road for an estimated savings of \$38,000; or,
3. Modify the configuration of Phillips Paw Park to a smaller area consolidated within the most westerly flatter open field area north/west of the walk-way, for an estimated cost of \$20,000, and pay undetermined environmental/development impact costs; or,
4. Modify the configuration of Phillips Paw Park to a smaller area in its present location (reducing the dog park length by approximately 60 feet on the west end) for an estimated savings of \$46,000; or,
5. Proceed ‘as-is’ with the construction of Phillips Paw Park.

Please note that various risks are associated with all of the alternatives above and are discussed further above and below.

DISCUSSION

The impacts to the AYSO soccer fields anticipated with the various alternatives are as follows:

Alternative 1: none

Alternative 2: none

Alternative 3: loss of 1 small field (only when Decker School field area is unavailable)

Alternative 4: loss of 1 small field, and reduce length of large field by 40 ft. from 241 ft. to 201 ft. (only when Decker School field area is unavailable; width remains 129 ft.)

Alternative 5: loss of 1 large field (only when Decker School field area is unavailable; and 2 small fields remain)

Please see alternative maps in Attachment 1.

Please note that Los Angeles County Regional Park and Open Space District Grant Funds were accepted by City Council in June 2015 for various park improvements, including the six projects included in the May 15, 2017 construction contract award:

- Kennedy Park – Field Improvements (428-2590-xxxxx-71027)
- Martin Luther King Park – Gazebo (428--2590-xxxxx-71028)
- Esperanza y Alegría Park, formerly Angela Chanslor (428-2590-xxxxx-71029)
- Garfield Park – ADA Ramps (428-2590-xxxxx-71032)
- Phillips Paw Park, formerly Phillips Ranch Park – Dog Park (428-2590-xxxxx-71033)
- Ganesha Park – Tree Grove (428-2590-xxxxx-71034)

Loss of the \$500,000 LACRPOSD Grant is possible if the City and Contractor do not proceed to complete the Grant work expeditiously. Staff will request an extension for completion beyond the current Grant Deadline of December 31, 2017. Although there is no guarantee that the County will approve this request, initial contact with the County regarding an extension is positive. Recent contacts with the County, as well as the grant language itself, indicate that the County will allow the City to use grant funds not already spent on the dog park for one of the other five parks. However, grant funds reimbursed by the County for the dog park will currently require repayment of \$33,838 to the County if the dog park is not built in Phillips Ranch Park in a timely manner. The budget for Phillips Paw Park project itself includes \$70,000 of LACRPOSD Grant funds, and since Phillips Ranch Park (Phillips Ranch Dog Park) was identified in the project description as the location for this park any change to its location will cause a loss of the portion of these funds used for the dog park and not used for the other five parks.

California Conservation Corps (CCC) costs may not be an issue directly (from communications thus far, they seem flexible in that regard); however, CCC youth services are required as part of the County Parks Grant conditions, and the dog park is a major part (\$60,000 out of approximately between \$102,000 to \$129,000 for all the parks) of the services to be provided by the CCC. Therefore, changes to the dog park that affect the CCC could have indirect spill-over effects on the LACRPOSD Grant.

Phillips Paw Park was grouped with the other 5 park projects to allow the City to capitalize on ‘economies of scale’, and if this dog park is de-coupled from the other 5 park projects, these cost efficiencies (savings due to ‘economies of scale’) will be lost. These savings are difficult to estimate but may be in the approximate range of roughly \$30,000 to \$90,000+ , and these resulting costs would need to be added to the costs below and would possibly affect some or all of the grouped parks projects.

In addition to the May 15, 2017 City Council construction contract award for Phillips Paw Park and the other 5 park projects to CS Legacy Construction, Inc. (Contractor), the Award Notice has been provided to the Contractor, and the Contractor has been provided a Conditional Notice to Proceed. All of these factors create liability to the City for additional costs for any changes after the award. The

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amount of any additional costs due the changes after the award, depend on the types of changes involved (generally: more changes = more costs, although, savings are sometimes possible, too), and generally the more time that goes by, the more the costs will increase.

Attachments: 1. Alternatives Maps
 2. Prior Council Actions

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