



Council Date: February 7, 2012

SUBJECT: Approval of Second Amendment to Agreement with the Sunnyvale Historical Society and Museum Association

REPORT IN BRIEF

On September 27, 2011, City Council approved the proposed site plan of Orchard Heritage Park (RTC 11-216) as depicted in Attachment A. The site plan included converting the current use of the multi-purpose building to exclusive use by the Sunnyvale Historical Society and Museum Association (SHSMA) for storage of museum archives, artifacts and related uses. This report seeks Council approval of a Second Amendment (Attachment B) to the Agreement between City of Sunnyvale and the Sunnyvale Historical Society and Museum Association. This amendment provides details pertaining to design, development, construction and lease of a Heritage Museum at the Sunnyvale Heritage Center consistent with City Council's approval of the Orchard Heritage Park Master Plan in September 2011. The amendment provides the details and obligations of the City and the SHSMA concerning their exclusive use of the multi-purpose building.

The draft of this report was reviewed by the Parks and Recreation Commission on January 11, 2012. The Commission voted unanimously to recommend that Council approve Alternative No. 1: Approve the proposed Second Amendment to the agreement with the SHSMA.

BACKGROUND

On June 21, 2004, City Council approved a 50-year agreement between the City of Sunnyvale and the Sunnyvale Historical Society and Museum Association (SHSMA) for the design, development, construction and lease of a Heritage Museum to be located within Orchard Heritage Park. The Heritage Museum was completed and dedicated to the City on September 27, 2008. Prior to the opening of the new Museum, the SHSMA continued to operate its museum programs off-site at the Murphy Park Building where, under agreement with the City, it continued to have use of a large storage area for their artifacts and rotating exhibits. When the new museum opened in Orchard Heritage Park, the agreement allowed SHSMA to continue its use of the Murphy Park storage area for at least one year or until the City had a need for it.

In August of 2010, the City notified the SHSMA of its desire to renovate the Murphy Park Building and the eventual need to take back the storage space. The SHSMA submitted an initial proposal to construct a storage building

behind the museum and on the edge of the orchard that would meet their current and future storage needs. The proposal also required the removal of several orchard trees and would have had an additional impact upon the maintenance of the orchard. Staff met with Charlie Olson, the orchardist, and Laura Babcock, of SHSMA, and concluded that alternative solutions should be sought. Upon further investigation, including more discussions with the stakeholders, staff proposed the SHSMA be given exclusive use of the Sunnyvale Heritage Center multi-purpose building for storage and other purposes in support of the museum. In exchange, the SHSMA would provide for improvements to the façade and infrastructure of the building so that its appearance would be similar to the museum building. Both Charlie Olson and the SHSMA agreed that this would be a viable way to meet the museum's storage needs without impacting the orchard.

On September 27, 2011 City Council considered and approved an update to the Orchard Heritage Park Master Plan (Attachment A). The updated Master Plan shows conversion of the existing multi-purpose building to storage space for the museum. The proposed Second Amendment to the City's agreement with SHSMA implements Council's prior direction on this matter.

EXISTING POLICY

Open Space and Recreation Sub-Element:

2.2.C. Regional Approach

The City embraces a regional approach to providing and preserving open space and providing open space and recreational services, facilities and amenities for the broader community. It is the City's policy, therefore, to:

- 2.2C.4 Provide, develop and maintain Special Use Parks and Facilities.
- 2.2C4.c. Provide for a balance between general recreation uses and special interest uses in parks and facilities
- 2.2C.4.e. Consider the designation, development and management of an Orchard Heritage Park at the Community Center site consistent with an overall plan and in cooperation with the Sunnyvale Historical Society.

Orchard Heritage Park Master Plan

Action Statements:

5. Assist the Sunnyvale Historical Society per written agreements, and to the greatest extent practical, in developing a Heritage Museum facility at Orchard Heritage Park consistent with City Council direction.

DISCUSSION

The proposed Second Amendment is bound by all of the applicable requirements of the master agreement between the City and the SHSMA including the length of term that ends on June 20, 2054. One example is the obligation to review the terms and conditions every 5 years to consider mutually agreeable revisions. The SHSMA will receive exclusive use of the multi-purpose building for approximately 43 years and will not have to pay rent. They are obligated to make aesthetic and functional improvements within certain timeframes that include installing energy efficient windows, energy efficient heating system, exterior horizontal siding and a composition shingle roof. These improvements are the responsibility of the SHSMA at an estimated cost of \$75,000 - \$100,000. All improvements that can be viewed from the outside will be designed to be very similar in appearance to the architecture of the museum.

FISCAL IMPACT

There is no expected net fiscal impact to the General Fund. Any revenue lost to the General Fund as the result of granting exclusive use of the multi-purpose building to the SHSMA is expected to be recouped by renting other facilities to those groups currently using that building. All design and construction costs related to improvements of the multi-purpose building will be the responsibility of the SHSMA.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center, and Department of Public Safety; posting the agenda and report on the City's Web site; posting of the Parks and Recreation Commission's agenda; and the availability of the agenda and report in the Department of Community Services Administration.

Notice of Commission and Council meetings regarding this report was also distributed to the "Friends of Parks and Recreation" mailing list (a list of organizations and individuals who have expressed an interest in parks and recreation issues).

The Parks and Recreation commission conducted a public hearing on this item at their meeting on January 11, 2012.

ALTERNATIVES

1. Approve the proposed Second Amendment to the agreement with the SHSMA.

2. Do not approve the proposed Second Amendment to the agreement with the SHSMA.
3. Provide other direction to staff as Council deems appropriate.

RECOMMENDATION

Staff recommends Alternative No. 1: Approve the proposed Second Amendment to the agreement with the SHSMA. The proposed Second Amendment is a mutually beneficial agreement that provides the City with aesthetic and functional improvements to the multi-purpose building at no cost and provides the SHSMA with adequate storage close to the Heritage Museum.

The draft of this report was reviewed by the Parks and Recreation Commission on January 11, 2012. The Commission voted unanimously to recommend that Council approve Alternative No. 1: Approve the proposed Second Amendment to the agreement with the SHSMA. Reasons given for this action included support for the SHSMA in general and specifically of their need to have museum archives and artifacts in close proximity to the museum, study and analysis of the report and because it benefits both the City and the SHSMA.

Reviewed by:

Kent Steffens, Director of Public Works
Prepared by: Scott Morton, Parks/Golf Superintendent

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Sunnyvale Orchard Heritage Park Master Plan and Proposed Master Plan.
- B. Second Amendment to agreement between City of Sunnyvale and Sunnyvale Historical Society and Museum Association pertaining to design, development, construction and lease of a Heritage Museum at the Sunnyvale Heritage Center.
- C. Excerpt from Draft Minutes of Sunnyvale Parks and Recreation Commission January 11, 2012.

Orchard Heritage Park Master Plan – Annotated Site Plan



SECOND AMENDMENT TO AGREEMENT BETWEEN CITY OF SUNNYVALE AND SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION PERTAINING TO DESIGN, DEVELOPMENT, CONSTRUCTION AND LEASE OF A HERITAGE MUSEUM AT THE SUNNYVALE HERITAGE CENTER

THIS SECOND AMENDMENT is entered into on _____, by the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and the SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION ["SOCIETY"].

RECITALS

On September 12, 2006, CITY and SOCIETY entered an agreement pertaining to the design, development, operation, and maintenance of a Heritage Museum at Sunnyvale Heritage Center at the Sunnyvale Community Center ("the Agreement"). A First Amendment was entered into October 2007. By this Second Amendment, the Society will assume exclusive control of the Multi-Purpose Building located near the premises.

NOW THEREFORE, the parties agree that the Agreement dated September 12, 2006, will be amended by the addition of the following amendment.

Section 2. Use of City Park Facilities is replaced with the following amendment:

Section 2. Exclusive use of Multi-Purpose Building at Sunnyvale Heritage Center

Obligations of CITY

(a) CITY shall provide SOCIETY, exclusive use of the Multi-Purpose Building ("building") at Sunnyvale Heritage Center (minus public bathrooms) for storage and other purposes by Society in support of the Sunnyvale Historical Museum project. The location of the Multi Purpose Building is shown on Attachment 1.

(b) CITY shall provide exclusive use rent-free for a period to coincide with the termination of the master agreement on June 20, 2054.

(c) CITY shall provide the building to the SOCIETY in an as-is condition on the day of signing of this amendment except for the removal of all portable furniture including tables and chairs.

(d) CITY shall maintain the building except for those improvements made by the SOCIETY.

- (e) CITY shall pay for water and sewer utility costs for the building and electrical costs for the bathrooms.
- (f) CITY shall waive all permit fees for improvements to the building for Society uses.
- (g) CITY shall allow the SOCIETY to utilize the current storage space they occupy at the Murphy Park Recreation building for a period of ten (10) months from the date of the signing of this Second Amendment.
- (h) CITY shall continue to maintain and operate the public bathrooms located on south side of building, providing water, sewer, and power at the City's expense.
- (i) CITY shall maintain all locks on exterior building doors and provide SOCIETY with three (3) sets of keys.
- (j) CITY shall provide reasonable notification to SOCIETY when accessing the building.
- (k) CITY shall, at the expense of the City, continue to provide the City's Property Coverage insurance policy. SOCIETY shall provide insurance coverage, at Society's expense, for contents or any valuable artifacts. CITY shall not be responsible for the replacement of contents or any valuable artifacts that are damaged or stolen from the building.

Obligations of SOCIETY

- (a) SOCIETY shall make improvements to the building at no cost to the City.
- (b) SOCIETY shall prepare plans and specifications in consultation with CITY.
- (c) SOCIETY shall receive approval of all plans and specifications by the Director of Public Works and/or his designee(s) prior to filing of final plans and specifications. City shall be provided with two complete sets of final plans and specifications before construction begins and two complete sets of "as-built" plans and specifications at the completion of construction.
- (d) Prior to construction, SOCIETY shall have obtained all necessary permits authorizing construction of the Project from CITY and other public agencies having jurisdiction over the Project, in compliance with all applicable laws, regulations, codes and the permitting process.
- (e) Scope of work of Project to include but not be limited to the following:
 - 1. Clad the masonry exterior with painted horizontal siding to match the museum.

2. Remove aluminum/steel windows and replace with energy efficient windows (two in each of the existing masonry window opening) with exterior shutters for each new window to match the museum shutters.
3. Remove the aluminum/glass doors and frames and replace with frames and doors to closely match those on the museum.
4. Remove the baseboard heaters at the base of the windows and install a new heating system.
5. Remove plywood soffit under the exterior eaves and the square surface light fixtures. Replace the soffit and light fixtures to closely match those of the museum.
6. Install appropriate directional and informational signage on exterior walls.
7. Install interior shelving and other improvements to facilitate storage and other use needs.
8. Install security system/improvements to maintain safety of archives and artifacts.
9. Removal of all cooking appliances in the kitchenette.
10. Install a breakout meter for Society electrical usage.
11. Relocate the electrical panel to the west wall of the storage room located in the southeast corner of the building. Remove the window in the south wall of the same room and install a double-door.
12. Remove wood roof shakes and replace with composition shingles to match the museum shingles. Add insulation over the existing sheathing.

(f) Improvements #1-11 shall be completed by SOCIETY within 10 months of the signing of this addendum. Improvement #12 shall be completed within 3 years of the signing of this addendum.

(g) All improvements to the building shall become the property of the CITY except for interior improvements, including but not limited to shelving and other structures, made to facilitate the storage of SOCIETY archives and artifacts. These interior improvements shall be removed by SOCIETY and at their cost at the termination of this agreement.

(h) SOCIETY shall maintain all improvements made by SOCIETY over the duration of this Second Amendment.

(i) SOCIETY shall pay for all electrical costs (minus the bathrooms).

(j) SOCIETY shall maintain building (minus the bathrooms) in good condition by providing custodial care and light maintenance of building interior and exterior. This includes cleaning, washing, painting and the repair and/or replacement of miscellaneous fixtures including but not limited to door stops and electrical outlet and switch covers.

(k) SOCIETY shall allow access by City Staff at all times with reasonable notification.

(l) SOCIETY shall repair/replace or pay for damage to City facilities or equipment furnished by CITY, at the discretion of the CITY, if damage occurred during use by SOCIETY.

(m) SOCIETY is specifically prohibited from re-permitting any City facility provided within this agreement to any other organization without first obtaining written approval from the CITY.

Termination and review of amendment

This amendment shall become operative upon its execution by the parties and provided the conditions as noted in the master agreement are fulfilled by SOCIETY, which shall remain operative and continue in full force and effect until June 20, 2054. Within six (6) months following the five (5) year anniversary of the execution of this amendment, both parties shall meet to thoroughly review its terms and the condition of the multi-purpose building and shall consider mutually agreeable revisions to this amendment. Similar actions shall be taken by both parties within six (6) months every five (5) years after the initial and each subsequent review until the termination of the amendment.

IN WITNESS WHEREOF, the parties have executed this Second Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")

City Clerk

By _____
City Manager

APPROVED AS TO FORM:

"SOCIETY"

City Attorney

By _____
Larry Klein
SHSMA President



**EXCERPT FROM DRAFT MINUTES
SUNNYVALE PARKS AND RECREATION COMMISSION
JANUARY 11, 2012**

The Sunnyvale Parks and Recreation Commission met in regular session in City Hall West Conference Room, 456 W. Olive Avenue, Sunnyvale, CA 94086 at 7:05 p.m. with Acting Chair Kinder presiding.

CALL TO ORDER

Acting Chair Kinder called the meeting to order at 7:05 p.m.

SALUTE TO THE FLAG

Acting Chair Kinder led the salute to the flag.

ROLL CALL

Commissioners Present: Chair Robert Pochowski (arrived 7:13 p.m.)
Vice Chair Robert Kinder
Commissioner Howard Chuck
Commissioner Robert Harms
Commissioner Craig Pasqua

Commissioners Absent: None

Staff Present: Superintendent of Community Services Nancy Bolgard Steward
Superintendent of Parks/Golf Scott Morton
Community Services Manager Gerard Manuel
Admin Aide Karen Smith

Chair Pochowski arrived at 7:13 p.m.

PUBLIC HEARINGS/GENERAL BUSINESS

2. Draft Report to Commission – Approval of Second Amendment to Agreement with the Sunnyvale Historical Society and Museum Association (SHSMA)

Scott Morton, Superintendent of Parks, presented the staff report. In response to Commissioners' questions, he stated that he would closely oversee the conversion of the existing multi-purpose building to museum storage space, along with the Planning Division. Commissioners' questions were answered about aesthetic and functional improvements made to the multi-purpose building by SHSMA becoming property of the City, exclusive use of the multi-purpose building by the SHSMA for 43 years for storage of museum archives, artifacts and related uses in support of the museum such as staging for the Centennial in August 2012.

The Public Hearing was opened.

Laura Babcock, Sunnyvale Historical Society and Museum Association (SHSMA), said it would be a beneficial agreement and project for both the City and SHSMA. She showed a conceptual design of the building which will be very similar in appearance to the architecture of the museum. Commissioners' questions were answered regarding funding for the improvements to the storage building.

The Public Hearing was closed.

MOTION: Commissioner Harms moved and Acting Chair Kinder seconded to recommend that Council accept staff recommendation No. 1: Approve the proposed Second Amendment to the agreement with the SHSMA.

VOTE: 5-0 motion passed unanimously

Acting Chair Kinder voted in favor of the motion because he is a tremendous supporter of the SHSMA.

Commissioner Pasqua voted in favor of the motion after study and analysis of the report.

Commissioner Harms voted in favor of the motion because it is important for the SHSMA to have museum archives and artifacts in close proximity to the museum.

Commissioner Pochowski voted in favor of the motion because it is a “win-win” for both the City and the SHSMA.