SUBJECT: Approve an Increase in the Construction Contingency for Morse Avenue Neighborhood Park Development Remedial Soil Excavation

BACKGROUND
Approval is requested to increase the project contingency in the amount of $300,000 for the Morse Avenue Neighborhood Park Development - Remedial Soil Excavation contract so that additional required soil remediation work can be accomplished. The contract work is Phase II of Capital Project 808352 Seven Seas Park Development that will ultimately provide a neighborhood park of over five acres located on Morse Avenue.

The quantity of soil removal necessary to achieve the site remediation goals is projected to exceed the quantity estimated by the City’s design consultant prior to project bidding. The difference in quantity can be attributed to a higher than anticipated quantity (tonnage) of soil export and the need for additional remediation to meet project goals based on confirmation soil sampling.

EXISTING POLICY
Land Use and Transportation Goal LT-2: Encourage nodes of interest and activity, such as parks, public open spaces, well planned development, mixed-use projects, and other desirable uses, locations, and physical attractions.

Open Space Goal LT-8: The City strives to provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the City to finance, construct, maintain, and operate these facilities now and in the future.

DISCUSSION
The Morse Avenue Neighborhood Park site was originally purchased in the early 1990’s and at the time the Fair Oaks Industrial Park complex was located on the site. When plans were underway to begin the design and construction phases for the future park, routine soils testing of the site showed greater than expected levels of lead and arsenic in the soil. This was most likely due to the use of lead-arsenate as a pesticide in previous use of the land as an orchard. Earlier this year, the buildings that were formerly the Fair Oaks Industrial Park complex were demolished under Phase I of the project and the site was readied for the next phase of work. On June 19, 2012, Council awarded a contract for
the soils remediation work to Evans Brothers, Inc., for $719,602 plus a 15% contingency of $107,940 to total $827,542 (RTC 12-151). The soils remediation work began on the site in August of this year.

The quantity of required soil removal was estimated based on pre-construction soil testing to determine the depth of excavation required to remove soil with an elevated level of arsenic, soil probing to determine the thickness of aggregate base (which gets stripped and stockpiled) over the soil and an estimated unit weight of the soil. The estimated quantity of soil removal was 18,000 tons. The contractor has completed excavation to the elevations shown on the plans and the amount of soil export to date is approximately 22,000 tons. The additional quantity of soil is likely due to multiple factors including variations in the depth of base rock that were not identified in the soil probing and a higher than anticipated soil unit weight. This excess quantity has utilized a large portion of the construction contingency, which was authorized in the amount of $107,940.

At this point in the project, the Remediation Action Workplan (RAW) for the site calls for the consultant to take confirmation samples of the remaining soil to verify arsenic levels are below threshold levels established in the RAW. Based on soil test results to date, it has been determined that additional soil will need to be removed in order to achieve project goals.

**FISCAL IMPACT**

The total budget for the Seven Seas Park Development project is approximately $9.5 million, which includes funding for environmental remediation at the site. When the soil remediation work was bid and subsequently awarded, the contract amount was lower than the engineer’s estimate by nearly $600,000. As such, there is no budgetary impact to increasing the construction contingency by $300,000, as the existing budget for the project, which utilized the engineer’s estimate for the environmental remediation costs, is sufficient to absorb this increase to the contingency.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City’s Web site.

**ALTERNATIVES**

1. Approve an increase in the project contingency by $300,000, from $107,940 to $407,940.

2. Do not approve an increase in the project contingency. In the event the contingency is not increased, remediation of the site cannot be completed and park construction cannot commence.
RECOMMENDATION
Staff recommends Council approve Alternative No. 1: Approve an increase in the project contingency by $300,000, from $107,940 to $407,940.

Reviewed by:

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Reviewed by:

Grace K. Leung, Director of Finance

Approved by:

Gary M. Luebbers
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