

Mayor and Council Communication

DATE: 06/22/21

M&C FILE NUMBER: M&C 21-0485

LOG NAME: 80FIRST FLIGHT PARK APPROPRIATION

SUBJECT

(CD 9) Authorize the Cleanup and Moving of Financial Transactions and Fund Balance in the First Flight Park Project for the Amount of \$500,000.00 from the Special Purpose Fund to the General Capital Projects Fund, Adopt Attached Appropriation Ordinance and Amend the Fiscal Years 2021-2025 Capital Improvement Program

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the cleanup and moving of financial transactions and fund balance in the First Flight Park project for the amount of \$500,000.00 from the Special Purpose Fund to the General Capital Projects Fund;
2. Adopt the attached appropriation ordinance increasing receipts and appropriations in the General Capital Projects Fund in the amount of \$34,500.00 for maintenance and repairs for First Flight Park project (City Project No. 102903); and
3. Amend the Fiscal Years 2021-2025 Capital Improvement Program.

DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to authorize the process for cleaning up and moving of financial transactions and fund balance in the First Flight Park project (City Project No. S00166) from the Special Purpose Fund in the amount of \$500,000.00 to the General Capital Projects Fund, appropriate funds for maintenance and repairs for the First Flight Park project (City Project No. 102903) and amend the Fiscal Years 2021-2025 Capital Improvement Program (CIP).

In this M&C, Council is being asked to authorize staff to take actions to balance and close an old, primarily completed, project for the Park & Recreation Department (PARD) within the Special Purpose Fund and to move remaining financial transactions and fund balance totaling \$500,000.00 to the General Capital Projects Fund. By appropriating within the new Fund, staff will be able to monitor expenditures to ensure compliance with the early termination agreement. The agreement is tracked by the PARD and procurement will be executed when the appropriation is authorized.

To more accurately retain the characteristics of these funds and their original sources, staff proposes moving the remaining financial transactions, and fund balances for projects that are not being closed to the new locations as identified. This approach is recommended because appropriating residuals and transferring them to the new funds would cause original characteristics and sources to be lost due to the money all being designated solely as "transferred funds". "Moving" the appropriations and transactions will allow staff to preserve the funds' original intent, and review processes have been put into place to ensure the proper use of the Fund is maintained going forward.

Pursuant to M&C C-26348, approved by City Council on July 16, 2013, the City entered into a ten-year tax abatement agreement (City Secretary Contract No. 44750) with Elan West 7th, L.P., (Company) for the construction of a multi-family development at 2726 Mercedes Avenue, consisting of apartments and townhomes with at least 374 units and a parking garage with at least 498 spaces (Development). As a condition to the zoning approval for the Development, the Company submitted a list of development standards to which it agreed to abide including adoption of the maintenance of First Flight Park.

On December 8, 2015, City Council approved M&C C-27547 that authorized the execution of a license agreement (City Secretary Contract No. 47367) with the Company to construct improvements in First Flight Park and Linwood-Jesse D. Sandoval Park. As a condition of the license agreement, the Company was required to execute an adopt-a-park agreement (City Secretary Contract No. 47359) for maintenance of First Flight Park until September 30, 2115. The adopt-a-park agreement required the Company to provide the City with a letter of credit in the amount of \$500,000.00 to guarantee that the improvements in First Flight Park will be maintained if the agreement is terminated.

On February 12, 2019, City Council approved M&C C-29031 to execute a consent to assignment of a tax abatement agreement (City Secretary Contract No. 44750-CA1) between the City and Elan West 7th, L.P. to AM INT West 7th Owner, LLC (Purchaser). As part of the Development sold to the Purchaser, the Company terminated the license agreement and the adopt-a-park agreement. The Purchaser paid the City \$500,000.00 in lieu of the City enforcing the letter of credit. City staff administratively executed the termination agreements for the license agreement and the adopt-a-park agreement. The \$500,000.00 early termination fee will be used for the continued maintenance of First Flight Park. Those funds have been received and deposited into the Special Purpose Fund (City Project No. S00166).

PARD staff is requesting the allocation and use of \$34,500.00 in FY2021 which includes \$21,500.00 for park benches, plumbing and irrigation re-route and maintenance cost of \$13,000.00.

Funding for this project was not included in the FY2021-2025 Capital Improvement Program. The action in this M&C will amend the FY2021-2025 Capital Improvement Program as approved in connection with Ordinance 24446-09-2020. Funding request for FY2022 and beyond will be submitted in the annual five-year Capital Improvement Program appropriation process.

This project is located in COUNCIL DISTRICT 9.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are currently available in the First Flight Park project within the Special Purpose Fund and upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available in the General Capital Projects Fund for the First Flight Park project. Prior to an expenditure being incurred, the Park & Recreation Department has the responsibility of verifying the availability of funds.

Submitted for City Manager's Office by: Valerie Washington 6192

Originating Business Unit Head: Richard Zavala 5704

Additional Information Contact: Sandra Youngblood 5755