



## Legislation Details (With Text)

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**Title:** Action on Amending the Design Professional Services Agreement with Gates and Associates Landscape Architecture, Inc., Increasing Contingency in the Construction Contract with Robert A Bothman Construction for Unforeseen Conditions Associated with the Montague Park Rehabilitation Project and Related Budget Amendment

**Sponsors:**

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**Attachments:** 1. Amendment No. 3 to the Agreement with Gates & Associates

Date	Ver.	Action By	Action	Result
12/6/2022	1	City Council and Authorities Concurrent	Approved	Pass

## REPORT TO COUNCIL

### SUBJECT

Action on Amending the Design Professional Services Agreement with Gates and Associates Landscape Architecture, Inc., Increasing Contingency in the Construction Contract with Robert A Bothman Construction for Unforeseen Conditions Associated with the Montague Park Rehabilitation Project and Related Budget Amendment

### COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure and Enhance Community Sports, Recreational and Arts Assets

### BACKGROUND

On August 29, 2017, Council approved a design professional services agreement with Gates and Associates Landscape Architecture, Inc. (Gates & Associates) for the Montague Park Rehabilitation Project (Project). The Project includes all elements identified during the community input process and shown in the Council-approved schematic design, which consists of a new play area providing age-appropriate play structures for ages 2-5 and 6-12, group picnic areas, fitness areas, a half-size basketball court, walkways and hardscape area including both non-pervious and pervious paving materials, preservation of existing meadows and trees, site furnishings, landscaping, and irrigation system. The Project also includes the renovation of an existing community building to add a restroom, kitchen, and storage facility.

On June 25, 2019, Council approved the Montague Park and Playground Schematic Design Update for the Project. Following Council’s approval of the schematic design, Gates & Associates prepared construction documents (plans, specifications, and engineer’s estimate) for Public Works bidding of the Project.

On May 24, 2022, Council awarded the construction contract to the lowest responsive and responsible bidder, Robert A Bothman Construction (Bothman), in the amount of \$5,634,785. Additionally, City Council authorized the City Manager or Designee to execute change orders up to approximately 10 percent of the original contract price, or \$563,479, for a total not-to-exceed amount of \$6,198,264.

## **DISCUSSION**

Construction on the Project began in July 2022 and in October during the demolition of the roof and soffit around the Montague Park building, the contractor exposed the existing beams and discovered termite and water damage to various beams that supported the roof. This unforeseen damage was not visible during the design process and was only exposed after the existing roof was removed during construction. City staff reached out to the project designer, Gates & Associates, and requested a structural assessment of the beams. The Project structural engineer inspected the beams and confirmed there was extensive damage to various roof beams and determined that the structural integrity of the building roof has been compromised due to extensive dry rot and termite damage. Because of the extent of the visible damage and the potential for other dry rot or termite damage that may still remain hidden, the structural engineer recommends that the damaged beams, roof structure, and soffit be removed and replaced. The design and construction for this unforeseen work was not part of the original Project and additional funds for design and construction is necessary.

To complete the roof replacement at the Montague Park building, the City must engage Gates & Associates to design and develop construction plans for the new roof structure and provide additional support services during construction. Gates & Associates provided a proposal for the design and construction support services for the new roof design in the amount of \$44,800. An additional amount of \$20,000 may be required for potential additional structural design in the remainder of the building due to building code requirements that may be triggered by the initial structural repairs. Based on that, the total additional services for design and construction support required for Gates & Associates is \$64,800, increasing the contract's not-to-exceed amount from \$610,815 to \$675,615.

The City, Gates & Associates, and Bothman have met multiple times to discuss the scope of the repair. Based on those discussions, Bothman has developed an initial estimate of the total costs associated with making the repairs and it is estimated that it could cost up to \$600,000. Staff will utilize \$100,000 from the current Project contingency and therefore, is asking for Council to approve an additional \$500,000 to increase the contract's not-to-exceed amount from \$6,198,264 to \$6,798,264.

In order to keep the project moving and to avoid additional delays due to these unforeseen conditions, Staff is requesting that Council authorize an increase of the additional services in the design contract with Gates & Associates and in the contingency amount in the construction contract with Bothman. This approval will allow funding for the additional design work for the repair to progress and will also allow staff to execute a change order with Bothman once a final construction cost is agreed upon for the repair. Staff is requesting to increase the Additional Services amount with Gates & Associates by \$64,800. Staff is also requesting Council increase the construction contingency with Bothman by \$500,000.

## **ENVIRONMENTAL REVIEW**

This action being considered is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15302 (c), Replacement or Reconstruction because the proposal consists of the replacement or reconstruction of existing facilities involving negligible or no expansion of capacity.

**FISCAL IMPACT**

The Capital Improvement Program Montague Park Enhancement Project has a current FY 2022/23 budget of \$6,896,480 to rehabilitate existing playground equipment, concrete pathways, turf, landscaping, community building, and other site furnishings and amenities. Using Mitigation Fee Act funds, the recommended budget amendment is \$564,800 for a total budget of \$7,461,280 to cover the Gates & Associates and Bothman increased contract not-to-exceed amounts.

**Budget Amendment  
FY 2022/23**

<b>Parks and Recreation Capital Fund</b>	<b>Current</b>	<b>Increase/ (Decrease)</b>	<b>Revised</b>
<u>Fund Balance</u>			
Mitigation Fee Act	\$19,592,718	(\$564,800)	\$19,027,918
<u>Expenditures</u>			
Montague Park Enhancement	\$6,896,480	\$564,800	\$7,461,280

**COORDINATION**

This report has been coordinated with the Parks & Recreation Department, the Finance Department, and the City Attorney’s Office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**RECOMMENDATION**

1. Authorize the City Manager to amend the design professional services agreement with Gates and Associates Landscape Architecture, Inc. for the Montague Park Rehabilitation Project to increase the Additional Services by \$64,800 to a total contract amount not-to-exceed \$675,615;
2. Increase the contingency amount in the Construction Contract with Robert A. Bothman Construction for the Montague Park Rehabilitation Project from \$563,479 to 1,063,479 and authorize the City Manager to execute change orders up to approximately 20 percent of the original contract price, or \$1,063,479, for a total not-to-exceed amount of \$6,698,264; and
3. Approve the following FY 2022/23 budget amendment to increase the Montague Park Enhancement project appropriation by \$564,800 (from \$6,896,480 to \$7,461,280) and decrease the Parks and Recreation Capital Fund Mitigation Fee Act fund balance by the same amount **(five affirmative Council votes required for the use of unused balances)**.

Reviewed by: Craig Mobeck, Director of Public Works  
Approved by: Rajeev Batra, City Manager

**ATTACHMENTS**

1. Amendment No. 3 to the Agreement with Gates & Associates