

REPORT TO CITY COUNCIL

DATE: APRIL 27, 2022

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: AMY BRINK, DIRECTOR OF COMMUNITY SERVICES

SUBJECT: APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH ROTARY CLUB OF WESTLAKE VILLAGE FOR THE MORRISON PARK PLAY EQUIPMENT RENOVATION PROJECT

During the budget process in Fiscal Year 2021/22, the community publicly addressed the City Council to express interest in seeing the City replace existing play equipment at Morrison Park, which was installed almost thirty years ago. Although there is a strong desire to upgrade the City's park infrastructure, the availability of limited funds requires the City to prioritize improvements. The community continued through the year to show a strong desire for the City Council to not only replace the equipment, but to consider replacing the existing set with one that was more innovative, more accessible to children, and more inclusive equipment. The community formed a group of stakeholders centered around the goal of an inclusive set of play equipment to be replaced with donations made through a targeted fundraising effort.

This community group entered into a collaboration with the Rotary Club of Westlake Village (Rotary Club) to assist with the fundraising campaign. The Rotary Club would be the vehicle behind collecting donations, tracking donations, and eventually making the donation to the City once the total cost was covered. The cost of the project will include: 1) the removal of the existing play equipment; 2) site preparation work and infrastructure required to support and install new inclusive and accessible play equipment; 3) the purchase and installation of new inclusive and accessible play equipment; 4) purchase and installation of a new pour-in-place surface and related infrastructure. In exchange, the City would contract for the development of plans and specifications for the project, manage the purchase and installation of the project, be responsible for the creation of an ADA-accessible path of travel and walkway, all in order to complete the project called the "Morrison Park Play Equipment Renovation."

While most of the amenities in the new playground have been identified and reviewed by Community Services Subcommittee, the City Council will have an opportunity to comment on the final design prior to purchase and installation. The City intends to utilize a cooperative purchasing program, which allows the City to work with a local company to complete the work described in the proposed Memorandum of Understanding (MOU). With the total cost of the project estimated at \$500,000, the Rotary Club will be

responsible for the items identified in the MOU. In order to pay for the path of travel and walkway, the City will utilize Community Development Block Grant funds, which are being requested in the FY 2022/23 budget. The Rotary intends to begin the fundraising campaign upon execution of the MOU. The plan will commence with several months of grassroots outreach, which will include attending City-sponsored special events, hosting fundraiser events, implementing a strong social media presence, and meeting with prospective donors. While the MOU allows for the project to take place over the next two years, the Rotary Club has a strong interest in reaching its goal sooner. The proposed Morrison Park Play Equipment Renovation Project effort, which includes a MOU with the Rotary, has been discussed and reviewed with the Community Services Subcommittee.

RECOMMENDATION

Staff respectfully recommends the City Council review and approve the Memorandum of Understanding between the City of Agoura Hills and the Rotary Club of Westlake Village.

Attachment: Memorandum of Understanding with the Rotary Club of Westlake Village

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into as of April 27, 2022 (the “Effective Date”) by and between the City of Agoura Hills, a municipal corporation (“City”), and Rotary Club of Westlake Village (“Rotary Club”).

RECITALS

A. The City owns and operates Morrison Park, located in the City of Agoura Hills.

B. Rotary Club of Westlake Village, on behalf of The Westlake Village Rotary Foundation, a 501(c)(3), California public benefit nonprofit corporation, hereinafter referred to as “Rotary Club,” has offered to raise and donate funds to the City to improve Morrison Park by donating funds for: 1) the removal of existing play equipment; 2) site preparation work and infrastructure required to support and install new inclusive and accessible play equipment; 3) the purchase and installation of new inclusive and accessible play equipment; 4) purchase and installation of a new pour-in-place surface and 5) the purchase and installation of donor recognition signage and related infrastructure in exchange for the City developing plans and specifications for the Project and managing the purchase and installation of the Project, called the Morrison Park Play Equipment Renovation Project (hereinafter the “Project”). The Project is a cooperative collaboration with the City and Rotary Club.

C. The Project is projected to cost approximately \$500,000.

D. The City is willing to commit to developing plans, specifications and bid documents (if applicable) for the Project and managing the Project once Rotary Club has raised half of the projected costs, which are approximately \$250,000.

E. Once Rotary Club has raised the total projected project amount of \$500,000, the City will go out to bid for the Project and manage the purchase and installation of the Project.

F. City and Rotary Club desire to set clear fundraising goals and tasks for the Project.

NOW, THEREFORE the parties hereby agree as follows:

1. **Term of MOU**. This MOU shall remain in force from the Effective Date through April 27, 2024, unless sooner terminated as provided in Section 7 of this MOU. The term may be extended by mutual agreement for a period not to exceed one additional year.

2. **Project Costs**. The preliminary total estimated construction of the Project is projected to be approximately \$500,000 (“Project Costs”).

3. Rotary Club Tasks.

A. Rotary Club agrees to take reasonable efforts to fundraise to pay for the following items at Morrison Park:

- 1) Removal of the existing play equipment and play surface;
- 2) Site preparation work and infrastructure required to install and support new inclusive and accessible play equipment, including but not limited to: site preparation work tasks; which can include grading, purchasing and installing drains, removing existing footing, supplying and installing compacted base.
- 3) Purchase and installation of new inclusive and accessible play equipment to be located generally in the same location as the existing play equipment;
- 4) Purchase and installation of a new pour in place surface; and
- 5) Purchase and installation of signage recognizing Rotary Club and its donors' contributions to the Project and related infrastructure to support the signage.

B. Rotary Club acknowledges that the Project must be 50% funded before the City prepares any plans, specifications and/or bid documents (if applicable) for the Project.

C. Rotary Club acknowledges that the Project must be 100% funded before purchase, site work, and installation of equipment will occur.

D. Given supply chain issues arising from the COVID-19 global pandemic, the Russia-Ukraine War, and other potential events beyond the parties' control, Rotary Club acknowledges that Project Costs could later increase and exceed the estimated \$500,000 after the City prepares bid documents, and the City cannot complete the Project unless the Project is fully funded.

E. If the Project Costs later increase beyond the estimated Project Costs, the City will inform Rotary Club if the City receives proposals or bids or estimates reflecting increased costs for the Project beyond the estimated \$500,000, and the parties shall amend this MOU to address increased costs.

F. Once Rotary Club has fully funded the Project by remitting the full actual amount of the Project Costs to the City, Rotary Club will submit to the City a list of donors (and the various funding levels) so that the City can purchase and install the donor recognition signage.

4. City Responsibilities.

A. After Rotary Club provides City written evidence that Rotary Club has raised half of the projected Project Costs (\$250,000), the City shall develop plans, specifications and/or any bid documents (if applicable) for the Project. After Rotary Club provides written evidence that the Rotary Club has raised the full amount of the Project Costs (\$500,000) to the City, the City shall additionally manage the purchase and installation of the Project (including any applicable bid or proposal invitation process). The Rotary Club will donate the full amount of the Project Costs (\$500,000) to the City within five (5) days of the City Council awarding the contract for the Project.

B. Within sixty (60) days of the installation of the new play equipment, the City will install signage ("Donor Recognition Wall") recognizing Rotary Club and the donors who donated to the Project. The Donor Recognition Wall shall be installed at an agreed upon location.

5. **Non-Exclusive Arrangement.** Nothing in this MOU shall be construed to prohibit the City from accepting donations for the Project from sources other than Rotary Club. City will identify and support Rotary Club with seeking grant monies to help fund the Project. The City through its website and social media channels will assist with marketing the Project. City will allow Rotary Club to use the City's Event Center, its tables, and chairs to hold one (1) fundraiser solely to benefit the Project on a date mutually agreed upon by the Parties. City will allow Rotary Club to use Morrison Park for one (1) fundraiser solely to benefit the Project on a date mutually agreed upon by the Parties. City will allow Rotary Club to place a 10'x10' booth solely to promote fundraising efforts for the Project at the following City sponsored events: "Movie in the Park", "Concert in the Park" and "Reyes Adobe Days" events during term of MOU. Facility use fees will not be applied to Rotary Club's use of these City facilities for only the fundraising activities listed in this Section 5 and will be considered part of the City's contribution to the collaborative Project with Rotary Club.

6. **Notices.** Any notices that any party may desire to give to the other party under this MOU must be in writing and may be given either by (i) personal service; (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery; or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the other parties as set forth below or at any other address as the parties may later designate by Notice:

To City:

City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301
Attention: City Manager

To Rotary Club: Rotary Club of Westlake Village
P.O. Box 3331
Westlake Village, California 91359
Attention: Mike Dutra, President

7. **Termination.** This MOU may be terminated, with or without cause, by either party giving the other party no less than 30 days written notice before the termination is to be effective. Said notice of termination shall be sent to the other party in accordance with Section 6 of this MOU.

8. **Not an Employee or Agent.** At all times during the term of this MOU, Rotary Club shall be an independent entity and shall not be an employee or entity of the City. The City shall not have the right to control the means by which Rotary Club accomplishes its fundraising activities. Rotary Club shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Rotary Club shall have no authority, express or implied, pursuant to this MOU, to bind CITY to any obligation whatsoever.

9. **No Agency or Joint Venture.** The parties hereto understand and agree that this MOU does not make them an agent or legal representative of each other for any purpose whatsoever, and that no partnership, franchise or joint venture is intended to be created hereby. No party hereto is granted, by this MOU or otherwise, any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other party hereto, or to bind the other party hereto in any manner whatsoever.

10. **Licenses and Permits.** Rotary Club represents and warrants that it has or will obtain all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for Rotary Club to accomplish its fundraising activities.

11. **Assignment.** No party shall assign its performance of this MOU without prior written consent of the other party.

12. **Governing Law.** The parties understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this MOU and also govern the interpretation of this MOU.

13. **Non-Waiver.** The waiver, express or implied, by any of the parties hereto of any right hereunder or with respect to any failure to perform or breach hereof by the other party hereto, shall not constitute or be deemed a waiver of any other right hereunder or of any other failure to perform or breach hereof by any such other party hereto, whether of a similar or dissimilar nature thereto.

14. **Entire Agreement.** This MOU contains the entire understanding between the parties relating to the obligations of the parties described in this MOU. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this MOU and shall be of no further force or effect.

15. **Amendment.** This MOU may be amended or modified only by a written agreement signed by all of the parties.

16. **Authority.** Each party hereto represents and warrants that its execution, delivery and performance of this MOU has been duly and validly authorized, and that this MOU is binding upon and enforceable against such party in accordance with the terms hereof.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed as of the date first written above.

“City:”
CITY OF AGOURA HILLS,
a municipal corporation

Deborah Klein Lopez
Mayor

“Rotary Club:”
WESTLAKE VILLAGE ROTARY CLUB,
a public benefit nonprofit corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____