



# City of Rialto

## Legislation Details (With Text)

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**Title:** Request City Council to Adopt Resolution approving the Inter-fund transfer of \$17,499,195 from General Fund to Park Development Impact Fund; Award a Construction Contract to RC Graves Construction in the Amount of \$15,081,000 for Construction of the Frisbie Park Expansion; and Execute Phase II of the Professional Services Agreement with Griffin Structures, Inc., in the Amount of \$630,165 for Construction Management, Inspection, and Materials Testing Services for the Frisbie Park Expansion, City Project No. 150304.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment 1, Existing Frisbie Park, 2. Attachment 2 - RCG Construction Contract, 3. Attachment 3 - RCG Background and License check, 4. Attachment 4 - RCG Bid, 5. Attachment 5 - RCG Schedule of values, 6. Attachment 6 - RCG Disclosure Form, 7. Attachment 7 - Silverstrand 1-20-18 email and 12-27-18 Bid Protest Letter, 8. Attachment 8 - Silverstrand 1-8-19 Rebuttal to Horizon Bid Protest, 9. Attachment 9 - Silverstrand 1-23-19 Rebuttal, 10. Attachment 10 - Silverstrand 2-1-19 Rebuttal, 11. Attachment 11 - Horizon 12-24-18 Bid Protest Letter, 12. Attachment 12- Horizon 1-23-19 Rebuttal, 13. Attachment 13 - RCG 1-9-19 rebuttal, 14. Attachment 14 - RCG 1-22-19 Rebuttal letter, 15. Attachment 15 - RCG 1-15-19 Workmans Comp email and Cert, 16. Attachment 16 - RCG 1-31-19 Rebuttal, 17. Attachment 17 - GSI Proposal, RFP 18-046, 18. Attachment 18 - GSI fee Proposal 02-21-18, 19. Attachment 19 - Phase II PSA, Griffith, 10-15-18, 20. Attachment 20 - GSI Disclosure Form, RFP 18-046, 21. Resolution

| Date | Ver. | Action By | Action | Result |
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For City Council Meeting [February 12, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Sean Grayson, Interim City Administrator

FROM: Robert G. Eisenbeisz, P.E., Public Works Director/City Engineer

Request City Council to Adopt Resolution approving the Inter-fund transfer of \$17,499,195 from General Fund to Park Development Impact Fund; Award a Construction Contract to RC Graves Construction in the Amount of \$15,081,000 for Construction of the Frisbie Park Expansion; and Execute Phase II of the Professional Services Agreement with Griffin Structures, Inc., in the Amount of \$630,165 for Construction Management, Inspection, and Materials Testing Services for the Frisbie Park Expansion, City Project No. 150304.

**BACKGROUND:**

On July 12, 2016, the City Council awarded a Professional Services Agreement (PSA) in the amount of \$227,880 to Community Works Design Group, Inc. (CWDG) of Riverside, California, for preparation of Master Plans for expansion of Frisbie Park, and development of Joe Sampson Park.

On May 9, 2017, the City Council made several decisions governing the Frisbie Park Expansion project. First, Council approved the Master Plan for Frisbie Park, which identified in concept, the amenities that the park is to provide to the Rialto community. Second, Council approved the Second Amendment to the Professional Services Agreement with CWDG for Phase II Final Engineering, Landscape Design, and Project Management Services for the Frisbie Park Expansion project. That action authorized CWDG to initiate final design and engineering activities leading to completion of construction documents for the project. This action also included appropriation of an additional \$789,322, to accommodate the Phase II design and engineering work by CWDG. Following this approval, CWDG initiated final design of the plans and specifications for the project.

On November 14, 2017, the City Council approved a third amendment with CWDG, to address ADA path of travel deficiencies within existing portions of the park, outside of the scope of the park expansion and redevelopment project. The work included in that amendment would bring the remaining approximately 13.2 acres of the existing park into compliance with ADA and California Building Code (CBC) path of travel requirements.

Additionally, under the third amendment, CWDG evaluated existing park facility conditions, including dugouts, backstops and fencing, for recommendations regarding replacement and/or compatibility with the expansion project, but excluded general renovation of the remaining portions of the park.

On February 27, 2018, the City Council approved a Phase I contract with Griffin Structures, for a constructability review of the construction documents. That independent review is customary and not uncommon for complex, large or otherwise challenging projects, and generally leads to projects that more closely adhere to project scope, construction delivery schedule, and a reduction of unforeseen conditions affecting project budget.

On June 26, 2018, the City Council authorized release of Request for Bids for construction of the Frisbie Park Expansion. On August 2, 2018, the City received eleven (11) bids for the project. Staff conducted a thorough review of those bids, and identified that the three (3) apparent lowest bidders, and three (3) of the remaining bidders, had errors or inconsistencies in their bids. Based on this evaluation, staff recommended that all project bids be rejected and the project be re-advertised.

On August 28, 2018, the City's Council rejected all bids and authorized re-bid of the Frisbie Park Expansion project. On October 18, 2018, the City received eleven (11) bids for the project. During the bid evaluation period, the second low bidder submitted a formal bid protest. Staff and the City Attorney's office evaluated the protest, with the apparent low bidder submitting a rebuttal to the protest. After review of all documents submitted by the apparent low and second low bidder, staff recommended project award to the apparent low bidder. The City Attorney confirmed that the award to the lowest bidder would be appropriate. On November 13, 2018, City Council rejected all bids and authorized re-bid of the Frisbie Park Expansion project.

### **ANALYSIS/DISCUSSION:**

On November 27, 2018, the City released RFB No. 19-056 for Expansion of Frisbie Park, published the Notice Inviting Bids in the *San Bernardino County Sun*; the City of Rialto website, and provided the construction documents to various plan rooms and posted the project on Planet Bids.

The proposed park contains work both southerly and northerly of Easton Street, which bisects the park (see **Attachment 1** for an exhibit of the park). The project includes park expansion, re-

development and renovation, and the bid and construction documents call for one complete bid (base bid only).

On December 19, 2018, the City received eight (8) bids, tabulated in **Table 1** below, for each bidder:

Table 1

| Company   | Location           | Type of Firm | Amount       |
|---|--------------------|--------------|--------------|
| RC Graves Construction                            | Rialto, CA         | Partnership  | \$15,081,000 |
| RAL Investment Corp,<br>Silverstrand Construct    | San Diego, CA      | Corporation  | \$15,087,620 |
| Horizon Construction Co<br>International, Inc.    | Orange, CA         | Corporation  | \$15,307,770 |
| Los Angeles Engineering<br>Environmental Construc | Compton, CA        | Corporation  | \$15,928,000 |
| KASA Construction, Inc                            | Woodland Hills, CA | Corporation  | \$16,099,230 |
| Morillo Construction, Inc                         | Chino, CA          | Corporation  | \$16,188,000 |
| Ohno Construction Company                         | Pasadena, CA       | Corporation  | \$17,489,000 |
|   | Fontana, CA        | Corporation  | \$18,245,000 |

All eight (8) of the prime construction company bidders attended the mandatory pre-bid meeting, held on December 5, 2018, at Frisbie Park. A significant number of subcontractors and materials suppliers also attended the meeting. During the three (3) plus week advertisement period, bidders submitted questions requesting clarification or qualification of the project, and all questions were addressed via the two Addendums posted to PlanetBids.

Following the bid opening, Public Works staff independently reviewed each bid for completeness of required information, individual work item amounts and base bid totals. The lowest three bids were further evaluated, checking prime and subcontractor licenses, Department of Industrial Relations (DIR) registration, presence or absence of State actions against prime or subs, insurance coverage, previous project references, and other items.

After detailed review of the bids, RC Graves Construction, Rialto, CA, (RC Graves) was determined to be the lowest responsive and responsible bidder for the project. The engineer's estimated cost range to construct the site improvements for Frisbie Park, is \$15M to \$17M. As noted, staff reviewed the bid, references, and contractor's licenses, and found RC Graves to be properly licensed and qualified.

Staff verified contractor references include park projects completed for the Newport Mesa Unified School District, and the Cities of Fontana and Rialto. All references came back as good or better.

Staff recommends awarding the construction contract to RC Graves in the amount of \$15,081,000.00 for the Frisbie Park Expansion project. The City's standard Construction Agreement is included as **Attachment 2**. The Contractor's license and reference check is included as **Attachment 3**. The RC Graves bid, Schedule of Values pricing, and Disclosure Form are attached as **Attachments 4, 5 and 6**, respectively.

This project has been bid three (3) times, with the City Council rejecting all bids from the first two bid

openings. Summarizing, the total bid from the apparent low bidder on the first bid, Silverstrand Construction, was \$15,884,850.00. For the second project bid evolution (first rebid), Silverstrand Construction's bid price reduced by \$593,370.44, and they were again the apparent low bidder at \$15,291,479.56. For the third project bid evolution (second rebid and the subject of this staff report), the apparent low bidder, RC Graves, bid \$15,081,000.00, which is \$210,479.56 less than the apparent low bid of the previous re-bid.

The reduction in bid price, and large numbers of bidders indicate significant interest in the project by the construction community. Since there is no apparent financial penalty to bidders for filing bid protests, it is not unusual to have one or more bid protests filed for large value construction contracts, regardless if the protest(s) may or may not have any validity or legal basis. The City received bid protests from both the second and third apparent low bidders. In order to help avoid bidding issues, staff worked closely with the City's Legal Counsel to ensure the highest quality bid documents were advertised by the City; however, even with this hands on collaborative approach, two bid protests were filed after the opening.

In summary, for this third bid evolution, the second apparent low bidder, Silverstrand, protested award of bid to RC Graves, via letter dated 12-27-18, rebutted Horizons protest via letter dated 1-8-19, rebutted RC Graves' rebuttal of their protest, via letter dated 1-23-19, and rebutted RC Graves' supplemental bid information via letter dated 2-1-19 (**Attachments 7, 8, 9 & 10** respectively). The third apparent low bidder, Horizons, via letter dated 12-24-18, protested both the award of bid to RC Graves, and the bid of the 2<sup>nd</sup> apparent low bidder Silverstrand. Via letter dated 1-23-19, Horizons also rebutted the rebuttal letters provided by both RC Graves and Silverstrand (**Attachments 11 & 12**, respectively). RC Graves, via letters dated 1-9-19 and 1-22-19, rebutted the bid protests of both Silverstrand and Horizons (**Attachments 13 and 14**, respectively), and provided a 1-15-19 email addressing Worker Compensation insurance (**Attachment 15**). RC Graves also rebutted Silverstrand's rebuttal letter via letter dated 1-31-19 (**Attachment 16**).

The table below summarizes the bid protests, rebuttals, and rebuttals to rebuttals, for RC Graves, Silverstrand, and Horizons construction bidders:

Table 2

| Bid Step      | Constructor                    | Legal Counsel | Bid Protest                                       | Rebuttal to Protest                      | Rebuttal to Rebuttal             | Additional            | Other?   |
|---------------|--------------------------------|---------------|---|--|----------------------------------|-----------------------|--|
| Appa low      | RC Graves Construction (RCG)   | Lester Cant   | N/A   | 1-9-19 lett SC's 12-28 and HC's 1 letter | 1-31-19 rebuts S HC's 1-19 lette | N/A                   | 1-15-19 Work email; 1-22-19 providing City bid informati |
| Seco appa low | Silverstrand Construction (SC) | Sullivan Hill | 12-20-18 er (reserving r 18 letter, p bid award t | 1-8-19 lett HC's 12-24                   | 1-23-19 rebuts R 19 lett         | 2-1-19 rebuts 1-22-19 | N/A  |
| Thir appa low | Horizon Construction (HC)      | Raisi Kavci   | 12-24-18 le protesting k to either B              | N/A                                      | 1-23-19 rebuts R 10 lett         | N/A                   | N/A  |

As noted, all of the referenced bid protests and rebuttal letter packages referenced in the text and Table 2 above, are attached to this report and made a public record.

City staff evaluated all the protests and rebuttals in detail, and relied upon the information in submitted bids, the City Attorney's office, the design team (CWDG), and the construction

management team (Griffin Structures); and considered the correspondence by the three apparent lowest bidders (RC Graves, Silverstrand and Horizons) in formulating the final recommendations.

The bid protests against awarding the project to the apparent low bidder, RC Graves, are based on the following four general categories or issues; in essence, it has been alluded that RC Graves:

1. Will not “self-perform” greater than 50% of the work;
2. Listed an incorrect installer (Ortco) for a portion of the playground equipment;
3. Inaccurately represented their true construction costs for the work; and
4. Does not have employees capable of doing the work.

First Issue: For self-performance, the contract documents follow and rely upon Greenbook Section 2-3.2 requirements, which stipulate that the contractor must perform 50% or more of the base bid. This requirement is in place to ensure that the prime contractor does not “broker” out the majority of the work to subcontractors, helping guarantee that the prime contractor has a significant financial interest in seeing that the work is done per plan. The Greenbook allows the Contractor to deduct work identified as “Specialty Work,” when so identified in the bid schedule, from the calculation of the base bid percentage. This allows appropriately licensed and experienced prime contractors to competitively bid on projects where their company otherwise might not be able to meet the 50% requirement.

RC Graves has satisfactorily indicated that they will self-perform more than the 50% minimum, non-specialty portion of the contract work, by their bid documents, and by letter, dated January 9, 2019. RC Graves’ 1-9-19 letter provides a matrix (Exhibit “D”) that addresses the 50% issue. If RC Graves does 100% of the work for bid schedule items 2, 3, 5, 6 & 10, as they stipulate, that would constitute 51.3% of the cost of the non-specialty items of work (\$5,236,800 self-performed of \$10,215,900 non-specialty work equals 51.3% of the work), thus meeting the minimum requirements as stipulated within the bid documents.

Arguments to the contrary have been submitted by both the second and third low bidders, which reference Page 11, “Information Required of Bidder, List of Subcontractors,” of the formal Bid Documents. This form requires each prime contractor to list all subcontractors to be used on the project, where their subcontractor’s participation is greater than one half of one percent of the Contractor’s Total Bid Price, or \$10,000.00, whichever is greater. The form does not delineate between those subcontractors who are conducting specialty work, from those subcontractors that are doing non-specialty work, however; the form just lists which contractors meet threshold totals or percentages doing work on the project. Thus, summing up the work done by each subcontractor, without accounting for whether the work is specialty or non-specialty, will almost always generate a percentage of subcontractor work higher than 50% of the overall job, unless the work items designated as specialty are so indicated (and deleted from the overall percentage calculated).

It is the opinion of City staff that, when read as a whole, the bid documents do not conflict with the Greenbook and are clear that the 50% self-performance requirement does not include the specialty items. This was the intended meaning and this is how the bid documents were interpreted by RC Graves, an experienced contractor. Therefore, after a thorough evaluation, staff has concluded that the protest on this issue has no merit.

Second Issue: With respect to work that will be done by Ortco, RC Graves discusses this within its letter dated January 9, 2019. RC Graves lists Ortco to install the shade structures, miracle play equipment, picnic shelters, Greenfields exercise equipment and other work that Ortco is qualified to perform. RC Graves certifies that

Ortco will not be used for installation of the Tot Lot Pro's portion of the landscape structures. Tot Lot Pros is not listed as a subcontractor, as the contract documents do not require contractors to list subcontractors whose portion of the project is less than one-half of one percent of the work. And, since Ortco will not be installing Tot Lot Pros landscape structures, the protest on this item has no merit.

Third Issue: With respect to the contention that RC Graves's subcontractor costs are incorrectly calculated, after the bid opening City staff contacted RC Graves and requested written clarification of how the subcontractor percentages and costs were determined. RC Graves' January 22, 2019 response states:

*"There are a number of things that go into each line item on the bid schedule and they are not always just a single subcontractors' price, it also contains mark-up, cost for scope items attributed in another line item, cost from another subcontractor that belongs in that item of work, Etc."*

*"For example, I received one bid from a landscape sub but their proposal amount then needs to be split up and put toward several items of work ie; Line items #10, 21, 22 & 23 then I would need to add my markup cost, any patch back and fill items."*

*"So the subcontractor proposal amount will simply not match the bid schedule item and it shouldn't."*

After evaluating RC Graves' bid, staff has not found any evidence that RC Graves' subcontractor costs were incorrectly calculated or were manipulated in any way that gave RC Graves an advantage in the bidding process, and has therefore concluded that the protest on this issue has no merit.

Fourth Issue: The last significant contention raised by the protesters is that RC Graves is not a responsive bidder, since RC Graves' California State License Board listing identifies that RC Graves has no employees, and therefore, does not require workers compensation insurance. Per RC Graves's January 9, 2019 letter, paraphrased, RC Graves is a Joint Venture between RC Construction and Ed Graves & Associates, and has submitted its bid as RC Graves Construction, with its bid documents stipulating that it is in fact a partnership (a joint venture is a kind of partnership). The bid documents submitted by RC Graves includes a signed statement that certifies RC Graves will comply with all provisions of Section 1861 of the California Labor Code, concerning workers compensation insurance, "...before commencing the performance of the work of this Contract." RC Graves further states in its letter that: "The Joint Venture is not required to carry insurance or have employees when RC Construction Services and Ed Graves & Associates are not partnering together to perform work as a Joint Venture. In short, RCG [RC Graves Construction] will comply with all workers compensation and other insurance requirements for the project before commencing the performance of the work." City staff has independently evaluated RC Graves' ability to self-perform the required amount of work on this project and is satisfied with RC Graves' certification that it will provide worker compensation insurance as required by state law. Therefore, staff has concluded that the protest on this issue has no merit.

Conclusion: In summary, staff has found all grounds for protest raised by Silverstrand and Horizons to be without merit, and does not find any basis for rejecting the bid submitted by RC Graves.

As previously noted, there is significant interest by the contracting community in this particular project, partly due to its large size and estimated cost. Since formal bid protests have been filed by both the apparent 2<sup>nd</sup> low and 3<sup>rd</sup> low bidders, either or both bidders may enter into litigation against the City, should the project be awarded to the apparent low bidder. The City Attorney's office has evaluated the bid documents, bid protests and rebuttal/counter protests, and concurs that the City

may award the bid to the apparent low bidder, as discussed herein. Choosing to reject all bids and rebid the project does not guarantee that the bid by the apparent low bidder for a fourth bid will not be once again, protested.

### **Maintenance:**

Regarding ongoing park maintenance, the City Council requested inclusion of an optional bid item for a two-year (24 months) extension covering the maintenance of the park (the newly constructed portions only), which would be activated after completion of the plant maintenance period, if so directed by the City Council. This optional item is not a part of the base bid (not part of the project bid award decision), and could be approved at Council's discretion at a later time or not at all.

RC Graves identified their non-base bid price of \$193,976.00, for the optional two-year (24 month) extension of the maintenance of the newly constructed portions of the park. The park project includes approximately 8.3 acres of new development southerly of Easton Street, 2.2 acres of new development northerly of Easton Street, and 3.7 acres of redevelopment northerly of Easton Street, for a park project totaling approximately 14.2 acres. RCG's optional cost for performing the maintenance for two-years, covering 14.2 acres of Frisbie Park, equates to an annual cost of \$6,830 per acre. The annual cost for the City's current contract park maintenance vendor to perform the same work is estimated at approximately \$3,495 per acre, based upon contract unit prices.

### **Sewer System:**

Frisbie Park is located topographically in elevation below the adjacent property on the southerly and westerly edges, comprising of developed residential properties, and it is situated slightly above the adjacent natural wash lands, easterly of the park. The existing park concessions and restroom facilities are served by existing operable septic systems. The new park expansion provides for construction of sewer laterals to serve the new concessions and restroom facilities included in the park expansion project. The laterals will connect to the new permanent sewer that is being constructed along Easton Street under as separate project that will be completed prior to completion of the park project.

A new sewer lift (pump) station will be constructed near the Easton /Eucalyptus intersection to serve the park and a future residential development located on the east side of Eucalyptus Avenue. Public Works Engineering and Utility Divisions have coordinated on this approach to ensure that the timing of the lift station and sewer line in Easton will be completed before completion of the park project.

### **RC Construction Work History:**

RC Construction Services previously worked for the City of Rialto on construction of Fergusson Park. That project, substantially completed in February 2012, for a total cost of \$5,766,894.17, included many of the same amenities that will be found in Frisbie Park (basketball courts, a skate park, children's playground, picnic shelter storage and concessions buildings, expanded parking areas, field lighting, and other amenities).

For Fergusson Park, RC Construction Services filed a claim against the City for delays caused by the City in issuance of the fully permitted off site (park only) plans, and for a delay in allowing RC Construction to conduct on site rock crushing operations. The claim was eventually settled in court, and, along with other City approved changes in the work during construction, resulted in the project being completed with approximately 2.4% in construction contract change orders. This change order percentage is less than the approximate 10% to 15% in change orders experienced on a typical construction contract.

**Schedule:**

The revised tentative milestone schedule for the project is as follows:

Contract award: . . . . . February 12, 2019  
Begin construction: . . . . . May 2019  
Complete construction: . . . . . August 2020

Chapter 2.47 of the Rialto Municipal Code provides local preference to firms located in Rialto for non-construction contracts; however, as a general law city, Rialto must award construction contracts to the lowest responsive and responsible bidder, thus the provisions of Chapter 2.47 do not apply.

**Procurement of Facilities:**

The park project also requires the procurement of prefabricated restroom/storage, and concessions/office/storage buildings. Public Works is completing this procurement through a future separate request for Council approval authorizing the purchase of the proposed new buildings for the Project.

**Award for Construction Management:**

Additionally, Public Works requests approval of the Phase II contract with Griffin Structures, Inc. (GSI), covering necessary Construction Management, Inspection, and Materials Testing Services. To date, under the Phase I contract, GSI has provided an independent review of the final construction documents, and is ready and able to begin construction management, inspection and testing services upon execution of the Phase II portion of their Professional Services Agreement. Their work would begin following execution of the construction contract with RC Graves Construction. **Attachments 17, 18, 19 & 20** cover Griffin’s proposal for construction management and inspection services; scope and fee for the professional services; agreement covering those services along with the Disclosure Form.

**ENVIRONMENTAL IMPACT:**

Construction of the Project is subject to state environmental review pursuant to the California Environmental Quality Act (CEQA). The City, acting as the lead agency pursuant to CEQA, is preparing an Initial Study and a Mitigated Negative Declaration (MND) for the Project. The MND will be approved by the City, and a Notice of Determination recorded with the County Clerk, before a Notice to Proceed is issued to the selected contractor.

**GENERAL PLAN CONSISTENCY:**

Approval of this action complies with the following City of Rialto Guiding Principles, General Plan Goals and Policies:

*Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.*

**Goal 2-24: Take advantage of opportunities to increase and enhance open spaces throughout Rialto.**

**Goal 2-27: Provide a variety of park facilities that meet the diverse needs and interests of the community.**

**Policy 2-27.1: Establish a Master Plan for Parks and Recreation that achieves a park ratio of 3.0 acres per 1,000 residents, evenly distributes park facilities throughout the**



community, and contains strategies for funding facilities and maintenance.

Policy 2-27.2: Plan for and designate adequate funding to maintain new and existing parks and facilities.

### **LEGAL REVIEW:**

The City Attorney has been directly consulted in the preparation of, and has reviewed and approved, the staff report.

### **FINANCIAL IMPACT:**

#### **Operating Budget Impact**

The park project includes approximately 8.3 acres of new development southerly of Easton Street, 2.2 acres of new development northerly of Easton Street, and 3.7 acres of redevelopment northerly of Easton Street, for a park project totaling approximately 14.2 acres. The proposed action will affect the Operating Budget once the park renovation and expansion work is completed. Once construction is complete, following plant establishment and accepted by the City, there will be an increased cost for ongoing park maintenance. City Council requested inclusion of an optional bid item for a two-year (24 months) extension covering the maintenance of the park (the newly constructed portions only), which could be activated after completion of the plant maintenance period, if so directed by the City Council. This optional item is not a part of the base bid (not part of the project bid award decision), and could be approved at Council's discretion at a later time or not at all. RC Graves identified their price for the optional maintenance services in the amount of \$193,976.00, for the optional two-year (24 month) extension of the maintenance of the newly constructed portions of the park. RCG's optional cost for performing the maintenance for two-years, covering 14.2 acres of Frisbie Park, equates to an annual cost of \$6,830 per acre. The annual cost for the City's current contract park maintenance vendor to perform the same scope of work is estimated at approximately \$3,495 per acre, based upon current contract unit prices.

Alternatively, the area would be added into the existing park maintenance responsibilities administered by Public Works through a combination of contracts and City staff. The existing annual maintenance costs for this park will be offset somewhat by the reduction of the current costs for maintenance and repair of existing park facilities that are to be replaced/upgraded, and by a reduction of trash pickup and other miscellaneous maintenance activities that take place for the portions of the existing park that are not currently developed.

#### **Capital Budget Impact:**

As part of the Development Agreement (DA) with Lewis-Hillwood Rialto (LHR), LHR contributed \$10.8 million to the Park Development Impact Fee Account to advance a park improvement program. From that contribution, the City Council initially applied approximately \$5.6 million for Joe Sampson Park, applied approximately \$2.4 million for the purchase of land for the Baca/Turch Park, with a residual amount of \$2.8 million available for other park projects in the DA related program. The City intended to allocate proceeds from Airport conveyances and related revenues to complete the balance of the park program that totaled \$37.3 million (\$5.625 million for Sampson, \$7.875 million for Frisbie, \$1.875 million for Birdsall, and \$21.9 million for Baca/Turch).

As part of the DA with LHR, the City earmarked \$7,875,000 for the Frisbie Park Project. The City based the estimate upon normal improvement costs for the vacant land. The scope expanded to include additional park areas and improvements thereby increasing costs. In effect, to fund the additional Frisbie Park project from reserves, the City will pull from funds otherwise allocated to the

Baca/Turch Park to complete the funding program for Frisbie Park. Future land-sales proceeds and profit participation will then refill the funding pool for Baca/Turch Park.

The City may use Park Development Impact Fees only for expenditures relating to accommodating growth in the community. The City cannot use Park Development Fees for repairs, maintenance, or other work related to existing deficiencies. Because the Frisbie Park improvements include improvements for existing facilities, the City must allocate the project costs between DIF eligible and ineligible components. The total cost for construction of the Frisbie Park Expansion is \$20,114,017. Staff has determined that the expenditures related to existing deficiencies equal \$2,614,822, or 13% of the estimated project costs. The City must fund this component exclusively from a contribution of General Fund reserves.

The City may fund the balance of project costs from the Park Development Impact Fee Account, or \$17,499,195 or 87% of the estimated project costs. The Park Development Impact Fee fund does not have sufficient fund balance and an advance from the General Fund Reserves is required in the amount of \$17,499,195. Staff recommends that City Council adoption of a resolution to effect the inter-fund transfer repayable in the future from Park Development Impact Fee funds at the City Council's discretion for the \$17,499,195 including alignment of current budget appropriation to reflect the transfer. The **Table 1** below summarizes the project funding for Frisbie Park Expansion:

**Table 1- Frisbie Park Expansion Sources and Uses of Funds Summary**

| Sources of Funds            |                |                     |              |              |                      |         |
|-----------------------------|----------------|---------------------|--------------|--------------|----------------------|---------|
| Frisbie Park Exp<br>150304  | Budget<br>FY20 | Prop<br>Adj<br>FY20 | Adju<br>FY20 | Actuals      |                      |         |
| General Capital             | \$3,546,597    | \$1,597,148         | \$2,951,408  | \$8,203,831  |                      |         |
| Park Development Impact Fee | \$17,499,195   | \$0                 | \$0          | \$17,499,195 |                      |         |
| Total Sources of Funds      | \$20,114,017   | \$1,597,148         | \$2,951,408  | \$25,703,026 |                      |         |
| Uses of Funds               |                |                     |              |              |                      |         |
| Frisbie Park Exp<br>150304  | Budget<br>FY20 | Prop<br>Adj<br>FY20 | Adju<br>FY20 | Actuals      | % of<br>Totl<br>Bldg | Account |
| Soft Costs:                 | \$1,012,017    | \$0                 | \$1,012,017  | \$1,012,017  | 100%                 |         |
| General Funds               | \$1,112,017    | \$0                 | \$1,112,017  | \$1,112,017  | 82%                  | 200 500 |
| Park Development Impact Fee | \$0            | \$0                 | \$0          | \$0          | 0%                   | 210 500 |
| Construction Costs:         | \$19,200,100   | \$0                 | \$19,200,100 | \$19,200,100 | 0%                   |         |
| General Funds               | \$2,500,000    | \$0                 | \$2,500,000  | \$2,500,000  |                      | 200 500 |
| Park Development Impact Fee | \$17,000,100   | \$0                 | \$17,000,100 | \$17,000,100 |                      | 210 500 |
| Total Uses of Funds         | \$20,114,017   | \$0                 | \$2,951,408  | \$25,703,026 | 100%                 |         |

### Construction Award

The award of contract to RC Graves in the amount of \$15,081,000 for construction of the Frisbie Park Expansion project, will be paid from the Park Development Impact Fund Account No. 210-500-4760-3001-150304-22.

Award of the Phase II contract to Griffin Structures, Inc., in the Amount of \$630,165.00 for Construction Management, Inspection, and Materials Testing Services, Frisbie Park Expansion, will be paid from the General Fund Capital Account No. 210-500-4760-3001-150304-16.

**LICENSING:**

A City Business License fee in the amount of \$15,081 will be paid by the City as part of an interoffice transfer, prior to issuance of the Notice to Proceed.

Griffin Structures, Inc. currently possesses a valid City Business License. Professional fees (based on the incremental increase Gross Receipts) for Phase II work by Griffin Structures in the amount of \$710, will be paid through the project account.

**RECOMMENDATION:**

Staff recommends that the City Council:

- Adopt Resolution approving the Inter-fund transfer of \$17,499,195 from General Fund to Park Development Impact Fund
- Award a Contract to RC Graves Construction, in the Amount of \$15,081,000 for the Construction of Frisbie Park Expansion and thereby reject the bid protests; and
- Award a Phase II contract to Griffin Structures, Inc., for \$630,165 for Construction Management, Inspection, and Materials Testing Services, Frisbie Park Expansion, City Project No. 150304.