



PUBLIC HEARING AGENDA ITEM

DATE OF PUBLIC HEARING: February 26, 2019
SUBJECT: Modification Request and Non-Compliance Issue for Bennett School District Elementary Pre K to 1 School Playground Renovation Project
FROM: Byron Fanning, Parks and Open Space Director and Shannon McDowell and Renee Petersen
AGENCY/DEPARTMENT: Parks & Open Space
HEARD AT STUDY SESSION ON: N/A
AUTHORIZATION TO MOVE FORWARD: <input type="checkbox"/> YES <input type="checkbox"/> NO N/A
RECOMMENDED ACTION: That the Board of County Commissioners Approves the Resolution Approving Modification and Non- Compliance Penalty for the Bennett School District Elementary Pre K to 1 School Playground Renovation Project Open Space Sales Tax Grant.

BACKGROUND:

On February 1, 2017, the Bennett School District applied for an Adams County Open Space grant to complete the Bennett Elementary Pre K to 1 School Playground Renovation project. On May 2, 2017, the applicant was awarded 60% of the total project cost, up to \$299,400. The project scope included new play equipment, drainage improvements, new play surfacing, asphalt overlay and game striping, new concrete, an outdoor classroom with a shade structure, site furnishings, landscaping including sod, irrigation, lighting, and security cameras.

A periodic reimbursement was issued in September of 2018. While processing the reimbursement, staff notified the applicant of project components that appeared to be missing from the project. Staff indicated a modification request would be needed if those items were not intended to be fulfilled. The applicant submitted a final closeout request and modification request on September 19, 2018. Open Space staff requested clarification on the modification request and a revised version was submitted on October 25, 2018. As staff reviewed the documentation submitted for both the closeout and modification and made site visits to verify project completion, it became clear that there were two separate issues to address with the Open Space Advisory Board and Board of County Commissioners, the modification request and non-compliance issues related to the submittal of the modification request.

Modification Request

The modification request includes the following, with justifications from the applicant in italics:

1. Remove the shade structure from the grant
 - *Applicant anticipates a developer building a shade structure for the school district.*
2. Remove site furnishings from the grant
 - *Donated monies paid for the furnishings*
3. Remove irrigation from the grant
 - *No additional irrigation will be installed*
4. Remove landscaping from the grant (including grading/reseeding of adjacent play field)
 - *Reseeding will not be a part of the grant*
5. Remove lighting and security from the grant
 - *Lighting and security systems will be revamped district-wide in 2019-2020*
6. Material change from asphalt to concrete for the game area
 - *Deep pits were required in the play areas to create proper drainage and depth of wood chips. The contractor indicated it would be more efficient to use concrete than asphalt*
7. Material change from rubber to wood fiber for playground surface
 - *Wood fiber was a lower cost than rubber*
8. Material change from grass to artificial turf for a small area inside the playground
 - *There was no way to get a mower into this small area, so artificial turf was used instead of grass*
9. Addition of fencing
 - *Interior and perimeter fencing were added*

Overall, the proposed changes would reduce the project budget from \$499,000 to \$328,174.40, thus reducing the grant award from \$299,400 to \$196,904.64.

Non-Compliance Issue

The Open Space Sales Tax Policies and Procedures indicate a non-compliance issue may arise due to failure to adhere to the project due date policy, extension policy, modification policy, or at Open Space staff's discretion. As staff reviewed closeout documentation, it became clear that a non-compliance issue is present. Issues that were discovered include:

- The applicant did not follow the modification policy in the Open Space Sales Tax Policies and Procedures (referenced in the grant agreement as well) because changes were made to the project without the knowledge or consent of Open Space staff
- Estimates were submitted rather than invoices in some cases
- An invoice and proof of payment was submitted for work that could not be verified on site
- Proof of payment was submitted for work that had not yet been completed
- Invoices were submitted that appeared to be duplicative (two vendors providing the same product)
- Lack of detailed invoicing to verify scope of work versus installed improvements

Staff worked with the applicant to try to resolve the issues. The applicant could only provide some of the documentation that was requested:

- Invoices were obtained from the contractors in place of the estimates that were previously submitted by the applicant
- The invoice for work that could not be verified on site was removed from consideration by the applicant
- The work that was paid for but not yet completed was eventually completed
- One duplicative invoice was removed from consideration
- Two invoices were provided for similar work, with documentation associated with one invoice showing per-unit pricing that was double the other invoice
- The applicant was unable to provide the scope of work or bid documentation used to solicit a proposal from the general contractor for this project

Potential consequences for non-compliance include:

- No action
- Deauthorization of the grant award, including repayment of monies already reimbursed (\$127,352.94 + interest)
- Suspension from participating in the grant program for a defined period of time
- Any other consequence deemed appropriate

The Open Space Advisory Board (OSAB) heard the modification request and non-compliance issue on January 23, 2019. The OSAB voted 4-1, Mr. Hickel dissenting, to recommend approval of the grant modification to the Board of County Commissioners. The OSAB voted 5-1, recommending that the Board of County Commissioners approve a two-year probation period as a consequence for the grant non-compliance. Within the two-year period, should any additional issues of non-compliance arise, a more severe consequence will be imposed.

AGENCIES, DEPARTMENTS OR OTHER OFFICES INVOLVED:

Parks & Open Space

ATTACHED DOCUMENTS:

Resolution approving the modification request and non-compliance penalty
Modification request from Bennett School District

FISCAL IMPACT:

Please check if there is no fiscal impact ☒. If there is fiscal impact, please fully complete the section below.

Fund: 28**Cost Center:** 6202

	Object Account	Subledger	Amount
Current Budgeted Revenue:			
Additional Revenue not included in Current Budget:			
Total Revenues:			

	Object Account	Subledger	Amount
Current Budgeted Operating Expenditure:			
Add'l Operating Expenditure not included in Current Budget:			
Current Budgeted Capital Expenditure:			
Add'l Capital Expenditure not included in Current Budget:			
Total Expenditures:			

New FTEs requested: ☐ YES ☒ NO

Future Amendment Needed: ☐ YES ☒ NO

Additional Note: