



# COUNCIL REPORT

**DATE:** January 28, 2025

**CATEGORY:** Consent

**DEPT.:** Public Works

**TITLE:** **Magical Bridge All-Inclusive Playground, Project 18-36, and Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48—Various Actions**

## **RECOMMENDATION**

1. Transfer and appropriate \$540,000 from the Park Land Dedication Fund to Magical Bridge All-Inclusive Playground, Project 18-36. (Five votes required)
2. Authorize the City Manager or designee to amend the professional services agreement with Tanner Pacific, Inc., a California corporation (Entity No. 3876190), for Magical Bridge All-Inclusive Playground, Project 18-36, and Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48, to increase the compensation by \$150,000 for additional construction engineering services for a total not-to-exceed amount of \$900,000.
3. Authorize the City Manager or designee to amend the construction contract with Robert A. Bothman, Inc., for Magical Bridge All-Inclusive Playground, Project 18-36, and Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48, to increase compensation by \$575,000 for a total not-to-exceed amount of \$11,799,382, including a \$1,080,908 construction contingency.

## **BACKGROUND**

The Magical Bridge All-Inclusive Playground will provide an intentional play area that provides inclusivity for all ages and physical and cognitive abilities. The project will create multiple play areas with a key feature of the project being the playhouse, which is constructed to overlook the other elements and utilizes a ramp over existing terrain for accessibility. The Rengstorff Park Maintenance and Tennis Building Replacement will replace the maintenance/restroom building and the tennis building at Rengstorff Park. Both projects are located in the southeast and northeast areas of Rengstorff Park (see Figure 1).



**Figure 1: Project Location**

In Fiscal Year 2017-18, Magical Bridge All-Inclusive Playground, Project 18-36, was established to provide a new playground within Rengstorff Park. Since then, Council has taken several actions for the project, inclusive of other milestones and adding the restrooms component of the project, as shown in Table 1.

**Table 1: Project History**

Date	Action/Milestone
<a href="#"><u>October 3, 2017</u></a>	Council authorized a contract between the City and Magical Bridge Foundation (MBF) for professional and design services, authorized an application for a matching grant for up to \$2 million through the Santa Clara County All-Inclusive Playground Grant Program, and approved Rengstorff Park as the site for Magical Bridge All-Inclusive Playground, Project 18-36. The anticipated Park Land Fund commitment was \$1.0 million.
<b>May 8, 2018</b>	The City was awarded a \$1.7 million grant provided by the County of Santa Clara.
<a href="#"><u>May 10, 2022</u></a>	Council approved plans and specifications for Magical Bridge All-Inclusive Playground, Project 18-36, and Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48, and authorized staff to advertise both projects for bid as a single construction package, committing \$2.72 million of Park Land and community benefit funding for the project.
<a href="#"><u>March 14, 2023</u></a>	Council approved the removal and mitigation plans for seven additional Heritage trees.
<a href="#"><u>June 27, 2023</u></a>	Council authorized the following: <ol style="list-style-type: none"> <li>1. Appropriated \$19,329 in donations from Magical Bridge Foundation, and any future related donations, to Magical Bridge All-Inclusive Playground, Project 18-36.</li> <li>2. Appropriated an additional \$1,440,000 from the Park Land Dedication Fund to Magical Bridge All-Inclusive Playground,</li> </ol>

Date	Action/Milestone
	<p>Project 18-36, committing a total of \$4.16 million of Park Land and community benefit funding for the project.</p> <ol style="list-style-type: none"> <li>3. Appropriated \$3,560,000 from the Park Land Dedication Fund to Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48.</li> <li>4. Awarded the construction contract for Projects 18-36 and 21-48 to Robert A. Bothman, Inc., for \$11,229,982, including a \$1,020,908 construction contingency.*</li> <li>5. Authorized the City Manager or designee to execute a professional services agreement with Tanner Pacific, Inc., to provide construction engineering services for Projects 18-36 and 21-48 in a not-to-exceed amount of \$750,000.</li> <li>6. Authorized the City Manager or designee to amend the professional services agreement with Sandis Civil Engineers Surveyors Planners for Project 21-48 to add \$40,210 for a not-to-exceed amount of \$170,000.</li> <li>7. Authorized the City Manager or designee to amend the consultant services and license agreement with Magical Bridge Foundation as follows with all other terms and conditions unchanged:               <ol style="list-style-type: none"> <li>a. City to provide a progress payment of funds proportional to the community donations raised thus far; and</li> <li>b. Require the Magical Bridge Foundation to continue to remit to the City on a biannual basis all community donations received for the project until the original initial target of \$1,990,000 is met. If the original target of \$1,990,000 has not been met one year after the park is opened, staff will return to the City Council to determine next steps for any additional progress payment.</li> </ol> </li> </ol>

\* Due to an inadvertent staff typographical error in the June 27, 2023 Council report, Council authorized a contract with Robert A. Bothman, Inc., in an amount \$5,600 greater than required. The requested compensation increase to Robert A. Bothman, Inc., in this report is based on the executed contract value of \$11,224,382.

## **ANALYSIS**

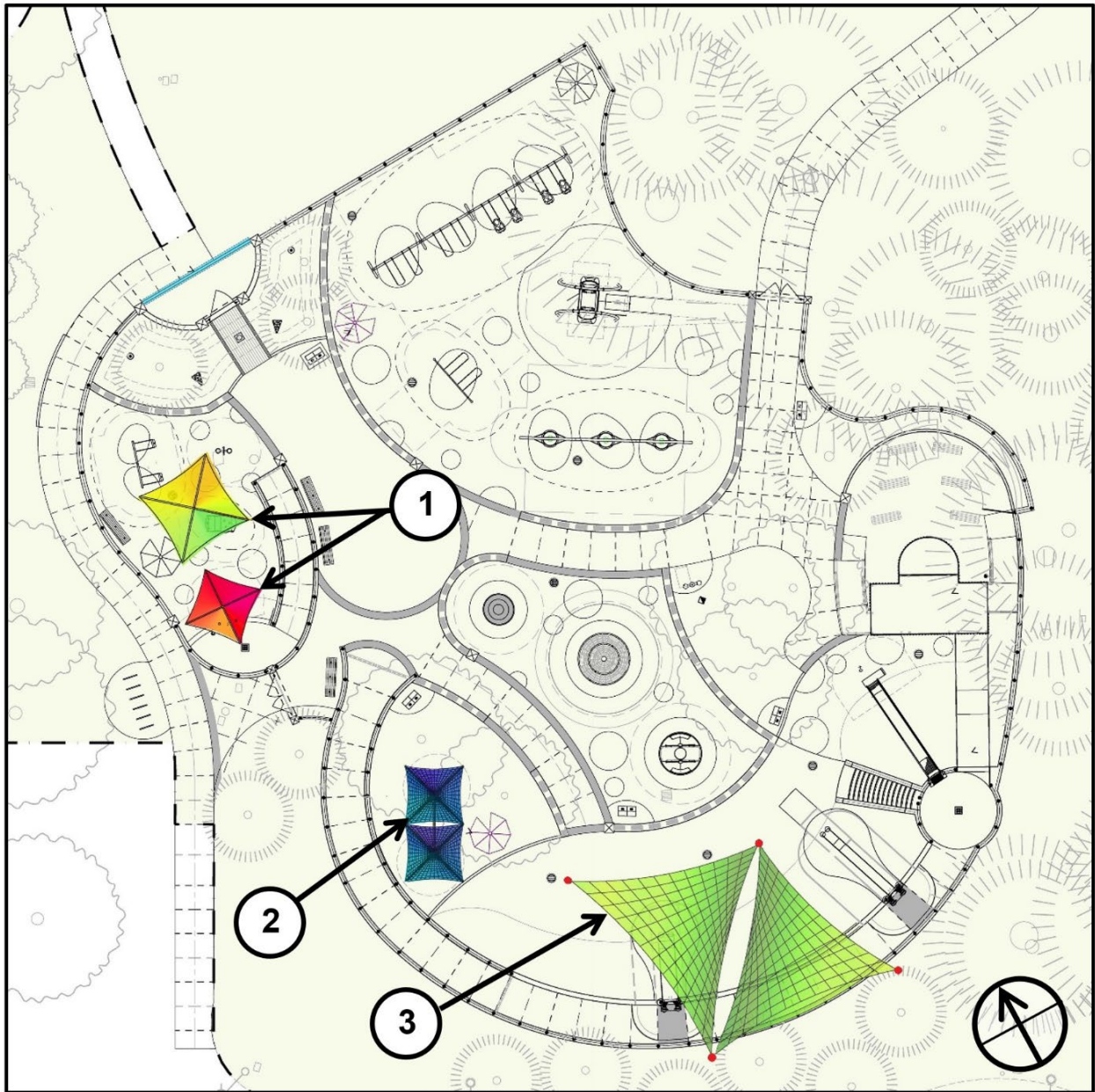
### **Project Update**

Construction activities began in late August 2023, and the All-Inclusive Magical Bridge Playground is near completion with the park opening planned for January 2025. The Rengstorff Park Maintenance and Tennis Building Replacement project includes two prefabricated structures and is on track for completion in May 2025. The restroom building located near the tennis courts was fabricated and delivered to the site in September 2024 and will open with the All-Inclusive Magical Bridge Playground phase. The maintenance building located near the barbecue area near Crisanto Avenue is in fabrication and scheduled to be delivered to the site by April 2025.

### **Shade Structures**

After other recently completed park projects, staff noted that shade structures would have been beneficial for those projects. For this project, members of the public had expressed adding shade structures during the start of the construction contract. Staff determined that adding shade structures at that stage of the project would delay the project and jeopardize meeting the County of Santa Clara grant agreement completion schedule requirements. Now that the grant agreement requirements will be met, through coordination with Magical Bridge Foundation representatives, staff recommends adding this shade element to the existing construction contract with Robert A. Bothman, Inc. (Bothman), for incorporation in the project. Amending the existing construction contract provides for the most efficient approach and cost-effective implementation with a contractor and their subcontractors available to perform the work while still engaged in this project.

The current project design includes new trees for shade, which will take 10 or more years to provide adequate coverage to shade the various play elements. Several play elements are located in sunny areas, and staff recommends installing shade structures in the three most critical areas: tot, picnic, and slide zones. The current concept for the shade structures is shown in Figure 2 and may change depending on the need to prioritize shade, to space out the posts, and to stay within the allocated budget.



**Figure 2: Shade Structure Locations**

1. Tot-Zone (2 x Single-Post Shades)
2. Picnic Zone (2 x Pyramid Shades)
3. Slide Zone (Joined-Triangle Shade Sail)

The estimated cost to design, permit, and install these structures is \$575,000. This fee is consistent with such services, and staff considers the fee to be fair and reasonable for the scope of work required. Staff recommends adding \$575,000 to the Bothman contract for a total not-to-exceed amount of \$11,799,382.

If Council approves the recommended actions, the installation will begin after the design is finalized and the necessary building permits are obtained. Construction is estimated to start approximately four to six months after the authorization is given to the contractor to proceed with design and permitting. At the time shade structures are installed, expected in summer 2025, the playground will require temporary partial or complete closure for public safety depending on activities. Staff will work to minimize disruptions, limit closures, and provide advance public noticing.

### **Construction Management Professional Services Agreement**

The Public Works Department utilizes consultants to support staff and provide construction engineering and inspection services as necessary to ensure the timely delivery of the City's construction projects and for projects requiring specialized construction expertise. Tanner Pacific, Inc. (TPI), has been providing the City with construction support services on various construction projects, including this project.

The City's existing \$750,000 agreement with TPI for the project was based on a 14-month construction duration, ending November 2024. Due to weather delays in early 2024, various field conditions requiring additional design work, and restroom and maintenance building fabrication delays, the construction of the restroom component will not be completed until May 2025. Due to the efficient management of services by both the City and TPI, the original TPI fee was able to support the extended schedule through January 2025. However, the extension of the project to summer 2025, including final commissioning of the maintenance building and additional shade structure work will require amending the TPI agreement.

The updated budget for Magical Bridge All-Inclusive Playground, Project 18-36, includes additional funds needed to cover the increased costs for construction management services to complete the project, including implementing the shade structures. For Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48, the necessary additional TPI fee for this component is covered by savings in various budgeted items within the project budget.

The fee for the additional construction management services for the remaining restroom work and close out of both projects is \$100,000, and similar services for the implementation of the shade structures is \$50,000, for a total increase of \$150,000. These amounts reflect a reasonable time and materials-based fee with allowances for extended services if necessary to address

unforeseen challenges or delays of the restroom building and the shade structures. Staff recommends adding \$150,000 in additional services to the TPI professional services agreement for a total not-to-exceed amount of \$900,000. If Council approves the recommended action, construction is estimated to be complete in summer 2025.

**FISCAL IMPACT**

Projects 18-36 and 21-48 are funded as shown in Table 2.

**Table 2: Funding Sources**

	<b>Playground Project 18-36</b>	<b>Buildings Project 21-48</b>
Park Land Dedication Fund	\$3,266,100	\$7,000,000
County Grant	1,700,000	
CA State Parks Bond Per Capita Grant	228,911	
Google Landings Community Benefit	900,000	
Magical Bridge Foundation Contribution*	1,205,984	
<b>Total</b>	<b><u>\$7,300,995</u></b>	<b><u>\$7,000,000</u></b>

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\* Amount reflects additional contributions to City of \$5,450 since June 27, 2023.

The estimated costs of the projects are as follows:

**Table 3: Total Design and Construction Project Cost**

	<b>Playground Project 18-36</b>	<b>Buildings Project 21-48</b>
Construction with contingency	\$6,324,080	\$5,475,302
Consultant Services, including the agreement with MBF	575,000	175,000
City Project Management	180,000	304,000
Construction Management, Inspection, and Testing	550,000	500,000
Public Art		46,200
Fixtures, Furnishing, and Equipment (FFE)		20,000
Permits and Miscellaneous	75,000	30,000



	<b>Playground Project 18-36</b>	<b>Buildings Project 21-48</b>
Project Contingency	24,915	22,498
Subtotal	\$7,728,995	\$6,573,000
City Administration	112,000	427,000
TOTAL REVISED PROJECT BUDGET	\$7,840,995	\$7,000,000
APPROVED PROJECT BUDGET	\$7,300,995	\$7,000,000
BUDGET SHORTFALL	<b><u>\$540,000</u></b>	<b><u>\$0</u></b>

The budget shortfall is due to the additional scope to implement the shade structures and unforeseen project delays requiring additional construction support services for the playground component. An increase in appropriations of \$540,000 is requested to fully fund the project. Staff recommends additional appropriations of \$540,000 from the Park Land Dedication Funds to Magical Bridge All-Inclusive Playground, Project 18-36 (Attachment 1).

Rengstorff Park is over five acres in size and is, therefore, classified as a community park according to City Code, Chapter 41, Park Land Dedication or Fees In Lieu Thereof. In addition, the Magical Bridge All-Inclusive Playground is a one-of-a-kind playground in the City designed to serve the entire City, and the associated Rengstorff Park Maintenance and Tennis Building improvements (including new restrooms) are necessary to prepare the location for the playground and generally support Rengstorff Park users. Therefore, these two projects may use park in-lieu fees from any Park and Open Space area in the City. Staff recommends using park in-lieu fees from the Rengstorff and San Antonio planning areas in the City that were collected over three years ago for which there are no other upcoming planned uses as well as the funds currently placed in the Citywide category to ensure these fees are used within five years of being received.

The professional services agreement fee with TPI, with the inclusion of the recommended amendment of \$150,000, is for a total not-to-exceed amount of \$900,000 for basic services and reimbursable expenses.

The construction contract with Bothman, inclusive of the recommended amendment to add \$575,000, is for a total not-to-exceed amount of \$11,799,382, including a \$1,080,908 construction contingency.

## **LEVINE ACT**

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a “license, permit, or other entitlement for use” if the official has received a campaign contribution exceeding \$500 from a party, participant, or agent of a party or participant within the last 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html)

Please see below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

## **SUBJECT TO THE LEVINE ACT**

Material contract modification or amendment

## **CONCLUSION**

Magical Bridge All-Inclusive Playground, Project 18-36, and Rengstorff Park Maintenance and Tennis Building Replacement, Project 21-48, will provide a new play area providing inclusivity for all ages and physical and cognitive abilities as well as restroom and storage facilities for Rengstorff Park. Due to weather and building fabrication delays as well as additional scope to add shade structures, additional funding is needed to finalize the project and include the added features. Amendments to both the Bothman and TPI contracts will provide additional resources for the additional scope and construction management services needed for the project.

## **ALTERNATIVES**

1. Do not appropriate Park Land funds for the shade structures and direct staff to identify another funding source.
2. Do not authorize the City Manager or designee to amend the professional services agreement with TPI and direct staff to negotiate a new fee amount.
3. Do not authorize the City Manager or designee to amend the construction contract with Robert A. Bothman, Inc., and direct staff to defer the installation of the shade structures.
4. Provide other direction.

**PUBLIC NOTICING**—Agenda posting.

Prepared by:

Rey S. Rodriguez  
Senior Project Manager

Ashraf Shah  
Principal Civil Engineer

Reviewed by:

Edward Arango  
Assistant Public Works Director/  
City Engineer

RR-AS/LL/1/CAM  
999-01-28-25CR  
204860

Attachment: 1. Park Land Dedication Fund Commitment

cc: APWD—Arango, PCE—Shah, SPM—Rodriguez, PPM—Printy, SMA—Goedicke, SMA—Doan,  
Files (18-36, 21-48)

Approved by:

Jennifer Ng  
Public Works Director

Audrey Seymour Ramberg  
Assistant City Manager