

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Luke Watson, Community Development Director

DATE: May 26, 2020

SUBJECT: Approve a Resolution Regarding the Return of Funds to the US Department of Housing and Urban Development

PREPARED BY: Lynn Kelly-Lehner, Principal Management Analyst

RECOMMENDATION: That the City Council adopt a resolution entitled:

RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMECULA REGARDING THE RETURN OF FUNDS TO THE
US DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

BACKGROUND: In 2012, the City was awarded by the United States Department of Housing and Urban Development (“HUD”) \$608,888.00 in Community Development Block Grant (“CBDG”) funds for the Sam Hicks Monument Park Playground Equipment Improvement Project (“Project”). On April 28, 2015, the City Council approved a purchase and installation agreement with Nature Works, Inc., in the amount of \$483,170 for the construction of the Project.

Nature Works did not adequately perform under the contract, and the City advised HUD that there had been several delays with the contractor completing the Project and that the City was assessing liquidated damages on the contractor as of February 1, 2017 at \$1,000 per day. The City subsequently sued Nature Works for breach of contract, specific performance, declaratory relief, conversion, and intentional interference with contractual relation.

After consultation with HUD, on November 14, 2017, the City processed a Substantial Amendment to the 2012-13, 2015-16, 2016-17, and 2017-18 Annual Action Plans and reprogrammed all of the remaining funds budgeted for the Project totaling \$251,516 into the Old Town Sidewalks – Boardwalk Replacement project. Specifically, the following amounts were reprogrammed to the Old Town Sidewalks - Boardwalk Replacement project:

- 2012-13 Program Year: \$196,832.25
- 2016-17 Program Year: \$64,684

On April 6, 2020, the City received a letter from HUD requesting that the City repay \$412,055.75 because the Project, as it was originally designed, contracted and paid for with CDBG funds, was not ultimately constructed. HUD's letter stated that the City will be able to utilize the \$412,055.75 it repays for other CDBG eligible projects.

Staff recommends that the City Council authorizes the Finance Department to repay \$412,055.75 from non-Federal funds to the HUD. The repayment will come in the form of cancelling the Project in the Integrated Disbursement and Information System ("IDIS"), and providing to HUD documentation that \$412,055.75 has been allocated in a local City account for use on future CDBG eligible projects.

FISCAL IMPACT: On April 6, 2020, the City received a letter from HUD requesting that the City repay \$412,055.75 because the Project, as it was originally designed, contracted and paid for with CDBG funds was not ultimately constructed. HUD's letter stated that the City will be able to utilize the \$412,055.75 it repays for other CDBG eligible projects. HUD has confirmed via telephone call with the City Manager that payment may be made by July 1, 2020.

ATTACHMENTS:

1. Resolution
2. Letter from HUD