

RESOLUTION R2025-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, (1) APPROVING AND AUTHORIZING THE PARKS AND RECREATION SERVICES DIRECTOR TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH SPECIFIED PLAY EQUIPMENT COMPANY FOR FABRICATION, DELIVERY AND CONSTRUCTION OF THE FINAL DESIGN FOR THE FULLER PARK PLAYABLE ART PROJECT IN THE AMOUNT OF \$2,315,504; (2) AUTHORIZING THE PARKS AND RECREATION SERVICES DIRECTOR TO APPROVE CHANGE ORDERS AND CHARGES FOR PROJECT SERVICES UP TO \$175,960 FOR A TOTAL AMOUNT NOT TO EXCEED \$2,491,464; (3) DETERMINING THAT THE EXCEPTION FOR SPECIALTY ITEMS IN NAPA MUNICIPAL CODE SECTION 2.91.050 APPLY TO THE AGREEMENT; AND (4) DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS RESOLUTION ARE EXEMPT FROM CEQA.

WHEREAS, Napa City Council reviewed and approved funding in the Capital Improvement Program budget for the replacement of playground equipment and for the Public Arts in Parks program at three City Council meetings—the April 5, 2022 City Council CIP Budget Workshop, the June 7, 2022 City Council Budget Public Hearing, and the June 21, 2022 City Council Budget Adoption; and

WHEREAS, the City intends to replace the existing playground area at Fuller Park with Playable Art, playground structures and a new poured-in-place safety surfacing; and

WHEREAS, on December 19, 2023, City Council authorized the Parks & Recreation Services Director to negotiate and execute agreements with S2 Associates, In. (S2) and Specified Play Equipment Company (SPEC) for the design, fabrication, delivery and construction of the Fuller Park Playable Art Project; and

WHEREAS, the existing budget was scoped for limited site preparation, the playable art structures and any minor small-scale equipment; and

WHEREAS, full project costs will exceed the existing budget given several factors including site preparations necessary to conform to the Geotechnical Report and to incorporate several project enhancements including multiple shade covers, additional play features, and inclusive/universal play opportunities requested by the community during project outreach; and

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WHEREAS, the City Council will take action at a future meeting to allocate an additional budget appropriation to the existing Capital Improvement Program project account (33PK18PR07) to move forward with the project; and

WHEREAS, under NMC Section 2.91.050, the City may enter into a contract for a “specialty item,” in accordance with this section, without further complying with the requirements of NMC Chapter 2.91 provided that the City Council makes the written determinations set forth therein; and

WHEREAS, Section 101 of the City Charter provides that “Notwithstanding any other provision of this Section, and in addition to the exceptions recognized by at law, the City Council shall have the authority to waive any and all requirements of this section for the erection, improvement or repair of recreational facilities, excepting any ancillary building, parking lot and off-site improvement exceeding \$75,000.00, if the City Council determines by a four-fifths (4/5) vote that ... a substantial portion of the materials will be donated at no cost or substantial discount or be paid for by independent contributors or fundraising efforts, and that such voluntary labor and/or donated materials will substantially decrease the cost to the public for such project” ; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:

1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council’s adoption of this Resolution.
2. The City Council hereby determines that the actions authorized by this Resolution are exempt from CEQA, pursuant to CEQA guidelines section 15301(d) as the restoration or rehabilitation of damaged facilities to meet current standards of safety. It is also exempt on a separate and independent basis under CEQA Guideline 15302 which exempts the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.
3. The City Council hereby authorizes the Parks and Recreation Services Director to negotiate and execute agreements with Specified Play Equipment Company in a combined amount not to exceed \$2,315,504 for the fabrication, delivery and construction of the final design for the Fuller Park Playable Art Project.

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4. The City Council hereby authorizes the Parks and Recreation Services Director to approve change orders and charges for project services up to \$175,960 for a total amount not to exceed \$2,491,464
4. The City Council hereby determines that the proposed agreement with SPEC for the fabrication, delivery and construction of the Playable Art and supporting features (i.e. surfacing and ground-level equipment), and related concrete work satisfies the requirements of NMC Section 2.91.050 for specialty items based on the following:
 - a. The “specialty item” is a "Playable Art” that was specifically designed for the Project by S2, who was determined by City Council to be the “Artist” for the Project through resolution at the December 19, 2023, City Council meeting. The fabricated and installed Playable Art must specifically conform to the design of the Artist. The City intends to contract with SPEC for the fabrication, delivery and construction of the Playable Art and supporting features given their specialty in meeting the project intent. SPEC utilized the Artist’s design to confirm the scale, form, and function of the Playable Art in a playground area that meets American Society for Testing and Materials (ASTM) standards, and subsequently developed the methods to fabricate and construct that Playable Art and the supporting features.
 - b. While generally there are similar types of services available to fabricate and install playground equipment both privately and publicly, none are as unique or as specialized as this specific contract. The Playable Art designed for this project is completely custom (one of a kind) that requires specialized knowledge in SPEC equipment, and specific knowledge as to the design and layout of this specific Playable Art.
 - c. The City determined that, in light of the custom specialized nature of the equipment and SPEC’s knowledge of the design and fabrication of the Playable Art, that SPEC was the only contractor that could provide the services on time and within budget, and in a cost-efficient manner.
 - d. The City will meet the purpose and goals identified in NMC section 2.91.010(D) by contracting with SPEC for project construction because SPEC is a specialized contractor that will specifically understand SPEC equipment, and has the sole, unique knowledge of how the Playable Art and supporting features should be installed and constructed to meet ASTM standards. This will result in the cost-effective installation of the project.
 - e. The contract complies with NMC section 2.91.030(B)(2): (a) the contract with SPEC will be approved as to form by the City Attorney,

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(b) as determined by the City Auditor, there are sufficient unencumbered funds to cover the cost of the contract, and (c) the City Council will authorize the Parks and Recreation Services Director to enter into the contract.

5. The City Council hereby waives any requirement in section 101 of the Charter City:
 - a. California law provides that a public entity does not need to competitively bid a project if the governing body finds that “the nature of the subject of the contract is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.” (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 637; see *Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694.) Based on the above facts, bidding this contract pursuant to Section 101 would not produce an advantage and would not be desirable, because SPEC has intimate familiarity with the Playable Art and the site.
 - b. The City has obtained approximately \$177,952 in state funding for the Project through a Prop 68 Grant and, therefore, the City has obtained funding for the Project through independent contributors or fundraising efforts, which has substantially decreased the cost to the public for the Project.
6. The City Council will take action at a future meeting to allocate an additional budget appropriation to move forward with the project.
7. This Resolution shall take effect immediately upon its adoption.

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I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 18th day of February, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Tiffany Carranza
City Clerk

Approved as to form:

Christopher Diaz
Interim City Attorney