

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA STRICKER, CITY ATTORNEY
JENNIFER BURKE, DIRECTOR, SANTA ROSA WATER
SUBJECT: AMENDMENT TO THE FISCAL YEAR 2023-24 ADOPTED
BUDGET AND APPROPRIATION OF \$263,000 FROM THE
GENERAL FUND RESERVE TO PAY FOR THE SETTLEMENT
AGREEMENT BETWEEN THE CITY OF SANTA ROSA AND
MEADOWGREEN NO. 2 HOMEOWNERS ASSOCIATION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the City Attorney's Office and Santa Rosa Water that the Council, by resolution, amend the Fiscal Year 2023-24 adopted budget, increasing appropriations in the amount of \$263,000 from the General Fund unassigned reserves to fund the City's settlement with Meadowgreen No. 2 Homeowners Association.

EXECUTIVE SUMMARY

Following settlement discussions, the City of Santa Rosa ("City") and Meadowgreen No. 2 Homeowners Association ("Meadowgreen") entered into a Settlement Agreement and Final Release of all claims and actions regarding a dispute regarding the creek bank failure on property known as "Parcel A." Meadowgreen owns Parcel A and is responsible for maintaining the property and the City is responsible to maintain a drainage easement on this property. Under the terms of the settlement agreement executed by the City and Meadowgreen, the City will pay Meadowgreen \$263,000 to resolve the dispute and enter into a maintenance agreement to clarify the parties' maintenance rights and responsibilities. The recommended appropriation of \$263,000 from the General Fund reserve is necessary to fund the settlement.

BACKGROUND

On October 10, 1972, the City Council approved the Meadowgreen condominium development in Oakmont Village and accepted all offers of dedication for public use contained within the approved subdivision map.

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The subdivision map depicts a parcel owned by the Meadowgreen and identified as 'Parcel "A" Drainage Easement' (Parcel A), which includes an unimproved portion of Oakmont Creek running parallel with a road now known as Meadowgreen Place and a common area on the west side of the creek adjacent to Timber Springs Drive within the Wild Oak subdivision.

During the winters of 2017-18 and 2018-19, significant rainfall led to high flows that apparently eroded portions of the creek bank behind 6512 and 6514 Meadowgreen Place such that the Meadowgreen hired LACO Associates to design a creek bank stabilization project (Project). In 2020, Meadowgreen asserted that the City was responsible for maintaining Parcel A, and funding a portion of the Project, based on the City's drainage easement on Parcel A.

City staff inspected this section of Oakmont Creek and found a fallen tree with root ball lying in the creek downstream of the erosion area identified by the Meadowgreen. The root ball appeared to be redirecting a portion of the flow towards the creek bank in a manner was undercutting part of the bank behind 6510 Meadowgreen Place. Staff also identified erosion behind 6512 and 6514 Meadowgreen Place unrelated to the root ball but likely related to the Meadowgreen's failure to maintain healthy vegetation along the creek banks of Parcel A.

PRIOR CITY COUNCIL REVIEW

Not applicable.

ANALYSIS

The drainage and flood control management of Oakmont Creek is managed by many different interests based on each developed area. The City of Santa Rosa, Sonoma County Water Agency (Sonoma Water), and private properties all make up ownership of different sections of the creek. In addition, some of the privately owned parcels of Oakmont Creek have drainage easements held by Sonoma Water or the City of Santa Rosa.

The section of Oakmont Creek that is contained in Parcel A of Meadowgreen is owned by the Meadowgreen, but does include a drainage easement held by the City of Santa Rosa. This drainage easement requires the City to ensure proper drainage through the channel to prevent clogging of public storm drains or flooding in the area, but does not require the City to maintain Parcel A in other respects. This drainage easement does not provide legal access to City staff or its agents to access the parcel as it is surrounded by private property, including property owned by Meadowgreen.

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Meadowgreen contacted LACO Associates to design a bank restoration and protect the property of the Meadowgreen. LACO Associates determined that a portion of the bank failure could be the result of a fallen tree in the waterway that redirected portions of the creek flow towards the bank potentially destabilizing this portion of the bank. Meadowgreen decided to design a restoration of a much larger section of the bank than that was potentially impacted by the fallen tree.

Meadowgreen claimed that some portion of the damage to the bank was the result of the fallen tree. The City contends the scope and duty of its maintenance of the drainage easement on Parcel A is limited to ensuring that the flow in the creek is not substantially impaired, but that the City is not obligated to maintain the creek banks or common area more generally. The City further contends that erosion on the creek banks within Parcel A is due, in part, to the failure of the Meadowgreen to maintain healthy vegetation in the common area which includes the creek banks.

Following settlement discussions, the City and Meadowgreen entered into a Settlement Agreement and Final Release of all claims (Attachment 1) to resolve the dispute. Under the terms of the agreement, the City agreed to pay Meadowgreen \$263,000 in exchange for Meadowgreen releasing all claims. The settlement agreement also includes a maintenance agreement that grants the City access to Parcel A through the Meadowgreen property and clarifies the responsibilities of the City and the Meadowgreen in maintaining Parcel A.

The agreement is contingent upon the Santa Rosa City Council appropriating sufficient funds to pay the City's settlement amount of \$263,000.

FISCAL IMPACT

Funding sufficient to pay the \$263,000 for the settlement is not included in the fiscal year 2023-24 operating budget and requires an appropriation of \$263,000 from General Fund unassigned reserves.

Funding for this settlement requires one-time funding, and as such does not present an ongoing cost to the General Fund. Approval of the resolution as requested will drop the unassigned General Fund reserves to approximately 27.5%, which is approximately \$20.1 million over the Council's 17% reserve requirement.

ENVIRONMENTAL IMPACT

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and no environmental review is required.

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BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Settlement Agreement
- Resolution

PRESENTER

Sean McNeil, Deputy Director of Environmental Services