



# Memorandum

**TO:** THE HONORABLE MAYOR &  
CITY COUNCIL

**FROM:** Councilmember Lan Diep

**SUBJECT:** ALVISO PARK MASTER  
PLAN UPDATE

**DATE:** 6/18/2018

Approved

*San Diep*

Date

*6/18/18*

## RECOMMENDATION

Adopt staff recommendations with the following amendments:

1. Potentially add to the \$450,000 the City has set aside for the Alviso Park Master Plan by reaching out to Richard Santos and the Santa Visits Alviso Foundation to leverage the \$272,000 plus \$60,000/year for 20 years that may be available to the Alviso Park per the March 16, 2015 settlement agreement between Trammel Crow Company, LLC, Organizacion Comunidad De Alviso, and the City of San José;
2. Potentially add to the \$450,000 the City has set aside for the Alviso Park Master Plan by reaching out to Mark Espinoza and the Organizacion Comunidad De Alviso to leverage monies set aside to benefit the Alviso community in a settlement resulting from the Topgolf development;
3. As conditions in Alviso change, continue to explore ways to close Wilson Way as to unite Alviso Park into a contiguous park.

## BACKGROUND

On June 2, 2015, the City Council approved a recommendation to prepare a master plan update for Alviso Park and the adjacent City-owned lands. That direction was spurred in part by a settlement agreement entered into on March 16, 2015 by and between Organizacion Comunidad De Alviso, Trammell Crow Company, LLC, and the City of San José regarding a dispute arising from Trammell Crow's desire to build three now-completed single-story industrial buildings totaling 563,760 square feet at 25 Nortech Parkway.

This agreement, in part, set aside a \$272,000 grant from Trammell Crow to the Santa Visits Alviso Foundation, "to be used to improve/ develop" the Alviso Park with the following stipulation: "If within six months following the dismissal of the Alviso Lawsuit there has not been substantial progress towards developing the Park... then the Park/Community Fund shall be used for other projects or amenities..." The Council acted in

timely fashion to make substantial progress towards development of a park following the dismissal of the lawsuit.

Since the Trammell Crow settlement agreement, other developments have sought to come into the Alviso area and have also been met with legal challenges. Most recently, the Organization Comunidad De Alviso settled a lawsuit against the Topgolf and Shops@Terra development that broke ground earlier this month. As part of that settlement, monies were set aside to benefit the Alviso community.

The Alviso Master Plan proposed by staff will cost an estimated \$14,138,500 to complete over four phases. Phase I is estimated to cost \$831,000. The City only has \$450,000 budgeted for Alviso Park.

### ARGUMENT

Too often in California, development projects that successfully navigate three levels of review and approval by local agency staff, appointed planning commissions, and city councils or boards of supervisors are met with lawsuits from private individuals or groups under the California Environmental Quality Act (CEQA). These lawsuits disagree with the decision-making of planning staff, planning commissioners, and elected officials and seek to prevent a perceived harm in the name of the public good.

When such lawsuits settle out of court, monies are won not for an individual or group's private use, but for a use to benefit the public good. Increasingly, development projects looking to come to Alviso are met with legal challenges, and may settle out of court regardless of the chances of winning in court, if only to avoid the additional time delay of litigation. As these are private settlements, the City has no rights to the settlement funds. However, to the extent that we can work with the various plaintiffs in such lawsuits to leverage their settlement funds to further City objectives and serve the public good, we should do so. The result will surely be greater than anything the City or the plaintiffs can achieve on our own.

### CONCLUSION

The Alviso Master Plan proposed by staff will cost an estimated \$14,138,500 to complete over four phases. Phase I is estimated to cost \$831,000. The City only has \$450,000 budgeted for Alviso Park. Yet there are hundreds of thousands of dollars potentially available to help build Alviso Park in the form of private settlement money, intended to benefit the Alviso community. We know that such money is held by the Santa Visits Alviso Foundation and the Organization Comunidad De Alviso. The City should reach out to these organizations and find ways to collaborate so that we can further our mutual goals of serving the Alviso community and building a park there for the enjoyment of all.