



DATE: September 23, 2025

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt Resolutions Authorizing the City Manager to: (1) Increase the Construction Contingency in the Contract with DeSilva Gates Construction by \$402,285 from \$1,574,274 to \$1,976,559 for a Total Construction Contract Not-to-Exceed Amount of \$17,317,017 and (2) Execute Amendment No. 6 to the Professional Services Agreement with Mark Thomas & Company to Increase their Contract Amount by \$11,520 for a Total Not-to-Exceed Amount of \$1,791,700, for the Mission Boulevard Corridor Improvements Phase 3 Project, Project No. 05287

RECOMMENDATION

That the City Council adopts the attached resolutions (Attachments II, III) authorizing the City Manager to:

1. Increase the Construction Contingency in the Contract with DeSilva Gates Construction (DGC) by \$402,285 from \$1,574,274 to \$1,976,559 for a Total Construction Contract not-to-exceed (NTE) amount of \$17,317,017; and
2. Amend the Professional Services Agreement (PSA) with Mark Thomas & Company (Mark Thomas) for extended construction support services by \$11,520 for a NTE amount of \$1,791,700.

SUMMARY

Construction of the Mission Boulevard Corridor Improvements Phase 3 project from A Street to Rose Street started on July 10, 2023. The original contract allowed for 240 working days, setting the projected completion date at June 25, 2024. However, during construction, several issues arose—some initiated or caused by the City—that delayed substantial completion to April 25, 2025. These City-driven changes impacted both the construction schedule and scope, resulting in time extensions and increased costs. This increased cost paid through construction contingency exceeds the approved amount. Staff recommends that Council authorizes the City Manager to increase the construction contingency in the contract with DGC by \$402,285 from \$1,574,274 to \$1,976,559.

Additionally, Mark Thomas, was contracted by the City to provide construction support services. The extended construction period required additional support beyond their original scope. Staff recommends that Council authorizes the City Manager to amend the PSA for construction support with Mark Thomas to increase the contract amount by \$11,520 for a NTE amount of \$1,791,700.

BACKGROUND

Construction of Phase 1 of the Mission Boulevard Corridor Improvement Project from A Street to Industrial Parkway and Foothill Boulevard from Mission Boulevard to Apple Avenue was completed in January 2014. Construction of Phase 2 of the project from Industrial Parkway to the south City limit at Blanche Street was completed in March 2021. The final phase of the Mission Boulevard Corridor Improvement Phase 3 project is from A Street to the north City limit at Rose Street.

On February 07, 2023, Council adopted a resolution approving the plans and specifications for the construction of the Mission Boulevard Corridor Improvement Phase 3 project and call for bids. On April 25, 2023, Council adopted a resolution awarding the construction contract to DGC for the construction of this project.

DISCUSSION

Construction started on July 10, 2023. The original contract allowed for 240 working days, setting the projected substantial completion date to June 25, 2024. However, during construction, several issues arose that extended the contract duration resulting in an actual substantial completion of April 25, 2025.

During various stages of construction, a number of issues were encountered, they include:

- Conflicts with the new storm drain lines and existing underground utility lines
- Differences between actual vs design back of sidewalk elevations
- Unknown contaminated soil
- Unknown abandoned underground storage tanks
- Design revisions to the bike cycle track

These issues not only added scope and cost to the project but also added time. Some of the time extensions were initiated or caused by the City and the design consultant due to changes while others were due to field conditions causing construction delays as well as weather. The City-driven and design changes resulted in a negotiated 163 working days extension to the contract time and compensation for contractor overhead and labor escalation cost related to the extended duration. This increased cost for added work and compensation for time extension are paid through construction contingency which was approved at the time of award. The total construction contingency cost exceeded the approved amount. Staff recommends that Council authorizes the City Manager to increase the construction contingency in the contract with DGC by \$402,285 from \$1,574,274 to \$1,976,559.

Amendment of Mark Thomas & Company's PSA

On April 11, 2017¹, Council approved a resolution authorizing the City Manager to enter into a Professional Services Agreement with Mark Thomas for design services and technical support during construction in an amount not-to-exceed \$700,000.

On May 21, 2019², Council approved a resolution adopting an amendment to the PSA with Mark Thomas increasing the contract amount by \$475,000 for right-of-way services with a total not-to-exceed amount of \$1,175,000.

On July 21, 2020³, Council approved a resolution adopting an amendment to the PSA with Mark Thomas increasing the contract amount by \$150,000 for additional design work with a total not-to-exceed amount of \$1,325,000.

On January 26, 2021⁴, Council approved a resolution adopting an amendment to the PSA with Mark Thomas, increasing the contract amount by \$194,180 for revisions to the design with a total not-to-exceed amount of \$1,519,180.

On April 25, 2023⁵, Council approved a resolution adopting an amendment to the PSA with Mark Thomas, increasing the contract amount by \$107,000 for final right-of-way and construction support services with a total not-to-exceed amount of \$1,626,180.

On June 4, 2024⁶, Council approved a resolution adopting an amendment to the PSA with Mark Thomas, increasing the contract amount by \$154,000 for additional construction support services with a total not-to-exceed amount of \$1,780,180.

Due to the time extension to the project, Mark Thomas' remaining fees has been exhausted. Staff recommend execution of an amendment to increase the value of the PSA with Mark Thomas for construction support by \$11,520 for total NTE amount of \$1,791,700.

ECONOMIC IMPACT

Since a portion of this project is funded by Measure BB, this project is required to meet Local Business Contracting Equity (LBCE) Program goals. Pursuant to the Alameda CTC Local LBCE Program, the participation goals are 60% for Local Business Enterprise (LBE) and 20% for Small Local Business Enterprise (SLBE). DeSilva Gates Construction (DGC) has

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=3015789&GUID=FCD70B84-ED43-4A9C-9FB8-40B1AEB6691&Options=&Search=>

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=3952690&GUID=B3595716-EE90-4334-8E14-9943BE20D03D&Options=&Search=>

³ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4595745&GUID=FB1A552E-B72E-44DB-81AF-38CAB7E802BD&Options=&Search=>

⁴ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4762237&GUID=87482B42-E3E7-442E-8850-E45F1886EB47&Options=&Search=>

⁵ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6187475&GUID=F3CFD36B-63D9-457D-A1B1-7A19356405F1&Options=&Search=>

⁶ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6712545&GUID=6130DD5A-D56D-4269-900D-50DA0B7B043D&Options=&Search=>

listed 37% LBE participation and 4% SLBE participation which do not meet the goals; however, DGC has provided documentation of good faith efforts. Staff tracked DGC's listed LBE and SLBE participation throughout construction.

In addition to the LBCE goals, the City's Community Workforce Agreement is a requirement of the contract since the engineer's estimate is over \$1,000,000. One of the CWA goals is that Hayward residents and especially Hayward Unified School District Graduates will perform a minimum 30% of the hours worked on a craft-by-craft basis. The final percentages of hours worked are as follows: 28% for laborers, 27% for electricians, 15% for operating engineers, 12% for cement masons, 12% for plumbers/pipefitters, 5% for teamsters and 0% for carpenters. Again, DGC has provided documentation of good faith efforts.

The Phase 3 improvements resulted in a "Complete Street," per the City's adopted policy, with new pavement, sidewalk, the City's first implementation of raised cycle track, new decorative street light, new pedestrian street crossings with rapid flashing beacons, approximately 120 new street trees where none existed before, and hopefully positive economic benefits for businesses along the Mission Boulevard Corridor. Additionally, this project contributed to the economic vitality of the City and County since this project is required to meet the LBCE goals.

FISCAL IMPACT

This item does not impact General Fund.

The estimated project costs for Phase 3 at award are as follows:

	Estimated Cost
Design	\$1,800,000
Construction	\$15,742,743
Construction Contingency (ACO)	\$1,574,274
Estimated PG&E Contract for Undergrounding	\$1,800,000
Construction Admin, Inspection, Testing	\$2,288,000
Phase 3 Project Total	\$23,205,017

The estimated project costs for Phase 3 at completion are as follows:

	Estimated Cost
Design	\$1,773,755
Construction	\$15,001,661
Construction Contingency (ACO)	\$1,976,559
PG&E Contract for Undergrounding	\$1,327,588
Construction Admin, Inspection, Testing	\$ 2,256,718
Phase 3 Project Total	\$22,336,281

Staff recommends funding the increased costs for the construction contingency with DGC and the amendment amount with Mark Thomas through the Mission Boulevard Corridor Improvements Phase 3 project which has sufficient funding included in the adopted FY26 Capital Improvement Program (CIP).

This project has no impact on the General Fund.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Infrastructure. Specifically, this item relates to the implementation of the following project:

Project 7c: Complete design of Mission Boulevard Phase 3 and construction

SUSTAINABILITY FEATURES

This project incorporates sustainability features as they relate to water, energy, and the environment. Additionally, improvements such as the cycle track and sidewalk will promote health through physical activity.

PUBLIC CONTACT

Prior to the start of construction, notices were mailed to businesses and residents informing them of the work and start of construction. Businesses and residents were also notified prior to temporary closures at their frontage for demolition of the sidewalk and improvements. The conflicts and changes mentioned in the Discussion section have delayed work at the frontages of businesses where existing sidewalks have been removed. Staff reached out to the affected businesses providing updates for why construction was delayed.

NEXT STEPS

If Council approves the resolutions for the increase in construction contingency and amendment, staff will process payments to DGC and Mark Thomas.

Prepared by: Dave Hung, Acting Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Jayanti Addleman, Interim City Manager