



**DATE:** January 18, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt a Resolution Rejecting All Bids, Approving Addendum No. 1 and Revised Plans and Specifications, and Calling for Bids for the Mission Boulevard Linear Park Project, Project No. 05288

## **RECOMMENDATION**

That Council adopts a resolution (Attachment II) rejecting all bids, approving the revised plans and specifications incorporating additional requirements and Addendum No. 1, and calling for construction bids to be received on February 8, 2022 for the Mission Boulevard Linear Park Project.

## **SUMMARY**

The Mission Boulevard Linear Park Landscape Project (Project) will provide improvements to the linear park adjacent to portions of the Mission Boulevard Corridor Improvements Phase 2 project. On November 16, 2021<sup>1</sup>, Council approved the plans and specifications and authorized the Project to call for bids. On December 14, 2021, nine (9) bids for the project were received. The apparent low bid submitted by Los Loza, Inc., is \$1,716,601 or 16% below the engineer's estimate of \$2,046,061. On December 21, 2021, the third lowest bidder, Redwood Engineering Construction, submitted a bid protest. After review of the bid proposals and upon review of the Public Contract Code, it was determined that the omission by the design consultant of the language "or equal" for a product called out in the specifications and plans resulted in the specifications and plans to not be in compliance with the Public Contract Code. Therefore, staff is requesting Council reject all bids, approve the revised plans and specifications incorporating revised Public Contract Code requirements and approve Addendum No. 1, and call for construction bids to be received by February 8, 2022.

## **BACKGROUND**

The Linear Park is on the east side of Mission Boulevard from approximately 600 feet south of Blanche Street to 500 feet north of Fairway Street, and is approximately 5,000 feet long

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<sup>1</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5213906&GUID=5B691B4F-D712-4FC8-BF72-9565B00C92EB&Options=&Search=>

and varies in width from 50 to 65 feet. The Linear Park currently consists of an asphalt path, grasses, trees, and shrubs. Mission Boulevard Corridor Improvements Phase 2 project removed trees that were in declining health, replaced the asphalt path, added new pedestrian lighting and installed the main irrigation water line within the Linear Park. The landscape improvements were not included in the Phase 2 project because the cost estimate during the design phase exceeded the project budget.

From the beginning through the end phases of design, the process for making improvements to the Linear Park project included collaboration with community members through three meetings. After each community meeting, staff provided updates to the Council Infrastructure Committee (CIC) and received comments and direction. The construction documents are now complete and include the following features:

- Reshape the flat landscape areas, using cut and fill to create earth forms that echo the East Bay Hills
- Plant new trees, no-mow grass, native plants, wildflowers, and irrigation
- Realign the existing asphalt path at two locations
- Add decomposed granite shoulder along the existing path for alternative surface for walker/runners as well as making it dog friendly
- Create expanded paving areas and pathways using recycled concrete
- Add seating using reclaimed timbers and upcycled accent seating
- Add boulders
- Install Bigbelly trash and recycling receptacles and pet waste stations
- Add art crosswalk
- Provide privacy to adjacent properties by removing invasive plants, planting new shrubs and limbing up existing oleander along existing fencing
- Add shade trellis at Corrine Street bus stop

Below is a list of major milestones for the Project:

- October 2019<sup>2</sup>: Introduction of the project to CIC for scope options and associated costs.
- June 2020<sup>3</sup>: Council adopted a resolution authorizing the City Manager to execute a Professional Services Agreement with SurfaceDesign, Inc., (SDI) for the design of the Mission Boulevard Linear Park Landscape Project.
- August 2020: SDI began pre-design data collection and field survey.
- September 2020: Staff and SDI held first community meetings both virtual and onsite tent events to gather input for the conceptual design including a post meeting survey for additional community input.

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<sup>2</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4199603&GUID=B7F58DED-4A4C-4A5B-B6FD-64D1060A0B8B&Options=&Search=>

<sup>3</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4576642&GUID=32D41BF8-52CB-4E7C-B048-08B61F8CB28D&Options=&Search=>

- October 2020<sup>4</sup>: Project update including community input to be considered in the conceptual design was presented to the CIC.
- December 2020: Staff and SDI held a second virtual community meeting to present the conceptual design and gather input.
- March 2021: Design development level completed.
- April 2021<sup>5</sup>: Project update was presented to the CIC.
- June 2021: Staff and SDI held the third and final virtual community meeting to present the design development and gather input.
- July 2021<sup>6</sup>: Project update on the final design was presented to the CIC.
- October 2021: Construction documents completed.
- November 16, 2021: Council approved plans and specifications and call for bids.
- December 14, 2021: Bid opening.

## DISCUSSION

On December 14, 2021, nine (9) bids were received ranging from \$1,716,601 to \$3,047,150. Los Loza, Inc., of Hayward, submitted the lowest bid in the amount of \$1,716,601, which is 16.1% below the engineer's estimate of \$2,046,061. The second lowest bid was from ASG Builders of Mountain View at \$1,775,900, which is 13.2% below the engineer's estimate. The third lowest bid was from Redwood Engineering Construction of Redwood City at \$1,779,945, which is 13.0% below the engineer's estimate.

After review of the specifications, it was discovered that the paint product specified for the art crosswalk did not include "or equal" language in the specifications and plans. The paint product specified was StreetBond SB 150 Pavement Coatings which was used successfully on crosswalks in projects used by the design consultant and intended to be used for the Linear Park project. Staff did not intend to require exclusive use of StreetBond SB 150 Pavement Coatings for this project. Public Contract Code (PCC) Section 3400(b) prohibits specifying a specific brand unless the specification is followed by the words "or equal". The "or equal" was unintentionally omitted in the plans and specification for this project and as a result, the specifications were not in compliance with the Public Contract Code. Public Contract Code Section 3400(c) allows specifications to call for use of a specific item by brand name only

<sup>4</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4677680&GUID=566B11CB-76A2-467B-A13C-09E61025BF61&Options=&Search=>

<sup>5</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4923166&GUID=5BE79211-DAA8-4DDD-965E-B8FEAF48DC1D&Options=&Search=>

<sup>6</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5067291&GUID=4E2D20AA-0EFF-4D71-B5AB-86BCEBA9B795&Options=&Search=>

under limited circumstances and upon findings made by the legislative body justifying such exclusive use, none of which are applicable in this case.

Therefore, staff is requesting Council's approval to reject all bids. The specifications will be revised to include language that when a certain brand is specified for the construction of the project, bidders may propose an equivalent product through a substitution process. This language will also be included in the specifications for all future projects.

On December 21, 2021, Redwood Engineering Construction of Redwood City submitted a bid protest stating that the first and second lowest bidders are not responsive since they did not list subcontractors to perform the art crosswalk and tree removal work. Because the specification was not in compliance with PCC Section 3400(b), the bid protest is rendered irrelevant. Staff has communicated this with Redwood Engineering Construction and that staff is requesting Council's approval to reject all bids.

In addition to the above, the plans and specifications will include revisions to incorporate Addendum No. 1 which responded to bidder questions. With the completion of the revised plans and specification, staff seeks the Council's approval of the plans and specifications and call for bids to be received by February 8, 2022.

Environmental review of the Linear Park project was included in the review of the Mission Boulevard Phase 2 project. Phase 2, including the Linear Park, was determined to be categorically exempt from environmental review pursuant to Section 15301 of the CEQA Guidelines for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

## **ECONOMIC IMPACT**

Completion of the landscape improvements will provide the final aspect of the complete streets total project for this portion of Mission Boulevard by providing additional pedestrian and bicycle facilities, recreation facilities which will result in positive economic benefits for nearby businesses and increased property values for residential areas adjacent to the Linear Park.

## **FISCAL IMPACT**

This landscaping project is funded by the Route 238 Corridor Improvement Fund. Currently, the adopted FY20 CIP includes \$2,813,000 for the project.

The estimated project costs are as follows:

	Estimated Cost
Construction	\$2,000,000
Construction Contingency	\$200,000
Design	\$400,000
Construction Admin, Inspection, Testing	\$213,000
Project Total	\$2,813,000

Currently, there is sufficient funding based on the estimates. The bid documents include three additive bid alternates; specifically, they are for the installation of timber seating, reclaimed concrete pavers and shade trellis. Depending on the bids received, award of the construction contract may include or exclude these items so that the construction contract amount will be within the funded amount. The estimated project cost is based on the improvements outlined in the Discussion section and does not include new fencing along the existing private property fencing, additional exercise equipment, or sound walls, which were requested through community meetings. For these improvements, additional funding will be needed.

## **STRATEGIC ROADMAP**

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

Project 7      Improve Mission Boulevard as a key ‘Gateway to the City’

## **SUSTAINABILITY FEATURES**

1.      Water: The Project will include the installation of drought tolerant plants to reduce water usage.
2.      Environment: This project will implement ReScape California (initially Bay-Friendly Landscaping) techniques to use native and climate appropriate plants for the Linear Park. The Project will be reviewed for ReScape certification after the project design is complete.
3.      Bike and Ped: The Project will provide a pleasant, safe, and inviting environment for walking, jogging, casual biking, and exercise.

## **PUBLIC CONTACT**

As part of the design process, staff and the design consultant held three community meetings on September 25, 2020, December 10, 2020, and June 23, 2021. Based on the presentation of the conceptual design and design development, the feedback from the community members who provided input was overall positive. Information about the project can also be found on

the project webpage<sup>7</sup>. After the construction contract is awarded, a preliminary project notice will be distributed to residents along the Linear Park and nearby neighborhoods.

## **NEXT STEPS**

If Council adopts the attached resolution, staff will send a formal rejection notice to all nine (9) bidders. Staff will then modify the specifications as described in the Discussion section. If Council approves re-advertising the project for public bidding, staff will return to Council for the award of the construction contract after construction bids have been received and reviewed.

The following is the tentative schedule for this project:

Advertise for Bids	January 21, 2022
Open Bids	February 8, 2022
Award Construction Contract	March 8, 2022
Begin Construction	April 4, 2022
Complete Construction	Summer 2022

*Prepared by:* Dave Hung, Senior Civil Engineer  
Kathy Garcia, Deputy Director of Public Works

*Recommended by:* Alex Ameri, Director of Public Works

*Approved by:*



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Kelly McAdoo, City Manager

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<sup>7</sup> <https://hayward-ca.gov/Linear-Park>