



DATE: April 25, 2023

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt Resolutions: (1) Approving Addenda Nos. 1, 2, and 3 and Awarding a Contract to DeSilva Gates Construction for the Mission Boulevard Corridor Improvements Phase 3 Project, Project No. 05287 in the Amount of \$15,742,743, and (2) Authorizing the City Manager to Execute Amendment No. 4 to the Professional Services Agreement with Mark Thomas & Company to Increase their Contract Amount by \$107,000, for a Total Not-to-Exceed amount of \$1,626,180

RECOMMENDATION

That Council adopts resolutions: (1) approving Addenda Nos. 1, 2, and 3 for providing revisions to the plans and specifications, responses to clarification for the Mission Boulevard Corridor Improvements Phase 3 Project, awarding the construction contract to DeSilva Gates Construction, in the amount of \$15,742,743, and authorizing the Director of Public Works to spend up to \$23,205,017 for the total project cost (Attachment II); and (2) authorizing the City Manager to execute Amendment No. 4 to the Professional Services Agreement with Mark Thomas & Company and increase the contract amount by an additional \$107,000 (Attachment III).

SUMMARY

Construction of Phase 1 of the Mission Boulevard Corridor Improvement Project from A Street to Industrial Parkway West including Foothill Boulevard from Mission Boulevard to Apple Avenue, was completed in January 2014. Construction of Phase 2 of the project from Industrial Parkway West to the south City limit at Blanche Street was completed in September 2020. Phase 3 of the project, from A Street to the north City limit at Rose Street is the last phase of the three-phase project to be constructed (Attachment IV for the location map).

On April 6, 2021, the project received two bids. Both bids were significantly over the engineer's estimate of \$10,127,039. These bids were subsequently rejected by Council on June 01, 2021¹, and City staff was authorized to rebid the project. After this time, staff applied for several grants including the Rebuilding American Infrastructure with Sustainability and Equity

¹ [CITY OF HAYWARD - File #: CONS 21-248 \(legistar.com\)](#)

(RAISE) grant for two consecutive years but were unsuccessful both times.

At the bid opening on March 22, 2023, three (3) bids were received and analyzed by City staff. Staff recommends that Council award the contract to the responsible low bidder, DeSilva Gates Construction, LLC, in the amount of \$15,742,743 and authorizes the Director of Public Works to spend up to \$23,205,017 for the total project, including contingencies.

Staff also recommends that Council amend the Professional Services Agreement (PSA) for construction support and right-of-way services with Mark Thomas & Company to increase the contract \$107,000, for a total not-to-exceed amount of \$1,626,180.

BACKGROUND

Below is a list of major milestones for the Mission Boulevard Corridor Improvement Project:

- November 2007: Council approved Phase 1 of the Route 238 Corridor Improvement Project, which covered roadway and street improvements on Mission Boulevard (from A Street to Industrial Parkway) and Foothill Boulevard (from Mission Boulevard to Apple Avenue) and certified the Final Environmental Impact Report (FEIR) for the project. Subsequently, Caltrans relinquished portions of State Routes 92, 185 and 238 to the City within the Phase 1 project limits.
- May 2010: Local Area Transportation Improvement Program (LATIP) funds totaling \$30M were approved by the California Transportation Commission (CTC) for use on the project.
- August 2010: Construction of the Phase 1 project began.
- August 2013: CTC allocated \$8.1M of the total \$30M for the Route 238 Phase 1 expenses.
- January 2014: Construction of the Phase 1 project was completed.
- August 2014: CTC allocated \$2M of the total \$30M for the design of Phases 2 and 3.
- August 2017: Alameda County Transportation Commission (Alameda CTC) obligated \$21.5M in Measure BB funds; \$10.6M for Phase 2 construction and \$10.9M for Phase 3 construction.
- October 2017: CTC allocated \$19.9M of the total \$30M for the construction of Phase 2.
- September 19, 2017²: Council approved plans and specifications and call for bids for the Phase 2 project.
- March 2018: Construction of the Phase 2 project began.
- July 2020³: Council approved plans and specifications and call for bids for the Phase 3 project when the utility companies provided their final drawings for undergrounding of the overhead utilities and property owners provided the temporary construction easements.
- September 2020: Completion of Phase 2 construction.
- January 26, 2021⁴: Council approved amendment to the Professional Services Agreement with Mark Thomas & Company for additional design services related to

² [CITY OF HAYWARD - File #: CONS 17-567 \(legistar.com\)](#)

³ [CITY OF HAYWARD - File #: CONS 20-386 \(legistar.com\)](#)

⁴ [CITY OF HAYWARD - File #: CONS 21-016 \(legistar.com\)](#)

late design changes and to complete the bid documents.

- March 25, 2021: Original call for bids.
- April 6, 2021: Two bids received over the engineer's estimate.
- June 1, 2021⁵: Council adopted resolution rejecting all bids, approving revisions to plans and specifications, and calling for more bids to be received on September 14, 2021
- Staff applied for the RAISE grant in 2021 and 2022.
- February 07, 2023⁶: Council approved Plans and Specifications and Call for Bids.
- March 22, 2023: Three bids were received.

DISCUSSION

Addenda

Staff issued the following addenda:

On February 28, 2023, staff issued Addendum No. 1 which responded to bidder's clarifications.

On March 3, 2023, staff issued Addendum No. 2 which extended the bid opening date from March 14 to March 22, 2023. On March 16, 2023, staff issued Addendum No. 3 which responded to bidder's additional requests for clarifications.

Bid Results

On March 22, 2023, three (3) bids were received. DeSilva Gates Construction (Desilva), LLC, of Dublin, CA, submitted the lowest bid in the amount of \$15,742,743, which is 19% higher than the Engineer's Estimate of \$13,202,329. Ghilotti Construction Company submitted the second lowest bid in the amount of \$17,117,311, which is 30% higher than the Engineer's Estimate. Redgwick Construction Company submitted their bid in the amount of \$17,791,693, which is 35% higher than the Engineer's Estimate.

Since the initial engineer's estimate of \$10,127,039 in 2021, supply demand and labor cost along with oil prices have increased significantly resulting in a much higher engineer's estimate of \$13,202,329. Compared to the prior bid opening (on April 06, 2021) for this Phase 3 work, several items stand out as noteworthy increases contributing to the higher bids.

- Roadway Excavation: Unit pricing received from the bidders in April 2021 was at least 67% higher than the Engineer's Estimate. Two of the three bids received in March 2023 were closer to the Engineer's Estimate (2% and 14% higher), however the low bidder's unit pricing was 185% higher.
- Joint Trench: In the April 2021 bid opening, the unit pricing received for joint trench for line items were primarily lower than the Engineer's Estimates. The March 2023 bid opening contains unit pricing in excess of the Engineer's Estimate by at least 20%.
- Irrigation: Bids received in April 2021 were 442% and 457% higher than the Engineer's Estimate (\$47,061). In March 2023, the Engineer's Estimate increased 471% to \$268,920. The bids received in March 2023 were still at least 20% higher than the Engineer's Estimate.

⁵ [CITY OF HAYWARD - File #: CONS 21-248 \(legistar.com\)](#)

⁶ [CITY OF HAYWARD - File #: CONS 23-069 \(legistar.com\)](#)

Local Business Contracting Equity (LBCE) Program

Since a portion of this project is funded by Measure BB, this project is required to meet LBCE goals. The participation goals are 60% for Local Business Enterprise (LBE) and 20% for Small Local Business Enterprise (SLBE) pursuant to the Alameda CTC Local Business Contract Equity (LBCE) Program. Staff performed an initial review of the bids and supporting documentation submitted and determined that DeSilva did not meet the SLBE contract goals for local business participation. Therefore, a Good Faith Effort Review was required under Alameda CTC's LBCE Program.

Alameda CTC's Contract Equity consultant, GCAP Services, Inc. (GCAP), performed an initial review of DeSilva's Good Faith Effort documentation. Pursuant to the procedures set forth in Alameda CTC's LBCE Program, GCAP's analysis was subsequently reviewed by an Interdisciplinary Review Team (IRT) appointed by the Alameda CTC Executive Director. The IRT concurred with GCAP's finding that DeSilva performed an adequate Good Faith Effort to meet the SLBE goal on this project. Bidders were provided with the report and given the opportunity to protest. No protests were received.

On November 15, 2016⁷, Council passed a resolution authorizing a Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC), which applies to City projects with construction costs of \$1,000,000 or more. The agreement requires contractors to use local union hiring halls, encourages contractors to employ Hayward residents or Hayward Unified School District graduates, and requires hired workers to pay union dues and other benefit trust fund contributions, etc. Because the construction cost estimate for this Project is more than \$1,000,000, the CWA agreement does apply.

Staff recommends awarding the construction contract to the responsible low bidder, DeSilva Gates Construction, LLC, in the amount of \$15,742,743.

Amendment of Mark Thomas & Company's PSA

On April 11, 2017, Council approved Resolution No. 17-127, authorizing the City Manager to enter into a Professional Services Agreement with Mark Thomas & Company for design services and technical support during construction in an amount not-to-exceed \$700,000.

On May 21, 2019, Council approved Resolution No. 19-376, adopting Amendment No. 1 to the PSA with Mark Thomas & Company, increasing the contract amount by \$475,000 with a total not-to-exceed amount of \$1,175,000.

On July 21, 2020, Council approved Resolution No. 20-386, adopting Amendment No. 2 to the PSA with Mark Thomas & Company, increasing the contract amount by \$150,000 with a total not-to-exceed amount of \$1,325,000.

On January 26, 2021, Council approved Resolution No. 21-016, adopting Amendment No. 3 to the PSA with Mark Thomas & Company, increasing the contract amount by \$194,180 with a

total not-to-exceed amount of \$1,519,180.

Temporary Construction Easements (TCE's) are needed prior to the start of construction. TCE's allow construction on private property. While the majority of the improvements will be within the City's right-of-way, there are some improvements such as the construction of sidewalks, driveways, and driveway conforms where the Contractor will need to have access on private properties.

The approximately fifty-six TCE's necessary for the Project had been previously secured via the right-of-way services provided by Mark Thomas. These TCE's have since expired and must be renewed. The right-of-way services entail (but are not limited to) contacting property owners and negotiating improvements on private properties all prior to the start of work. This along with construction support will require an amendment to Mark Thomas & Company's contract.

Therefore, staff also recommends execution of Amendment No. 4 to increase the value of the PSA with Mark Thomas & Company for construction support and right-of-way services by \$107,000 for a total not-to-exceed contract amount of \$1,626,180.

ECONOMIC IMPACT

Since a portion of this project is funded by Measure BB, this project is required to meet LBCE Program goals. The participation goals are 60% for LBE and 20% for SLBE pursuant to the Alameda CTC Local LBCE Program. 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.

This project will contribute to the economic vitality of the City and County since this project is required to meet the LBCE goals. Additionally, completion of Phase 3 improvements would result in a complete street and positive economic benefits for businesses along the Mission Boulevard Corridor.

FISCAL IMPACT

The estimated project costs for Phase 3 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 Adopted FY23 CIP Budget has appropriated a total of \$21.2M for this project. Of this amount, \$11.7M is currently eligible for reimbursement through the existing Project Funding

Agreement with ACTC. An additional \$1,662,000 in Measure BB grant funding will be available under the amended PFA. There is sufficient funding the FY23 CIP to cover the cost of the amendment with Mark Thomas.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Invest in 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

Community meetings were held on October 12, 2016, July 12, 2018, and February 20, 2019, at City Hall to provide updates to the project with emphasis on the cycle track during the last community meeting.

NEXT STEPS

The following is the tentative schedule for this project:

Begin Construction	May 2023
Complete Construction	Fall 2024

If Council approves, staff will route the construction contract to DeSilva Gates Construction, LLC, and the amendment to the Professional Services Agreement with Mark Thomas & Company.

Prepared by: James Damasco, Assistant Civil Engineer
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager