



COUNCIL AGENDA: 8/16/22  
FILE: 22-1178  
ITEM: 3.4

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano  
Jon Cicirelli

**SUBJECT:** SEE BELOW

**DATE:** August 1, 2022

Approved

Date

**8/4/2022**

**COUNCIL DISTRICT: 1**

**SUBJECT: ACTIONS RELATED TO THE 9739- PAYNE AVENUE PARK PROJECT**

## **RECOMMENDATION**

Report on bids and award of contract for the 9739 - Payne Avenue Park Project to the low bidder, Azul Works, Inc., for the base bid in the amount of \$3,904,774 and approve a five percent contingency in the amount of \$195,239.

## **OUTCOME**

Approval of the construction contract will enable the Payne Avenue Park Project to proceed. Approval of a five percent contingency will provide funding for any unanticipated work necessary for the proper construction or completion of the project.

## **BACKGROUND**

The 1.9-acre existing site of the Payne Avenue Park Project is located on Payne Avenue between Phelps Avenue and Eden Avenue in west San José. In 2017, City Council approved the purchase of the site from the Prince of Peace Evangelical Lutheran Church for \$5.1 million. The former church, community garden, preschool, and playground that were previously occupied have been vacated and the site is ready for construction to begin.

The scope of work for the project includes demolition of the existing buildings, site preparation, grading and drainage, installation of a new community garden with decomposed granite walking surface and storage sheds, new youth and tot play structures, a basketball court, fitness area, site furnishings, lighting, irrigation and planting, an asphalt parking lot, picnic areas, and fencing.

Construction is scheduled to begin in October 2022 with completion in July 2023.

**ANALYSIS**

Bids were opened on June 9, 2022. Three bids were received, one of which was deemed non-responsive. The non-responsive bidder failed to provide the required bidder's experience information requested by the City of San José (City).

The responsive bids were as follows:

<u>Contractor</u>	Base Bid	Variance Amount	% Over/ (Under) Total Bid Eng. Est.
<b>Engineer's Estimate</b>	<b>\$3,550,000</b>	---	---
Azul Works, Inc. (San Francisco)	\$3,904,774	\$354,774	10%
Robert A. Bothman, Inc. (Santa Clara)	\$3,960,000	\$410,000	12%

The low bid submitted by Azul Works, Inc. is 10 percent over the Engineer's Estimate. Staff considers the increase due to current market conditions that have escalated the cost of materials and labor. After reviewing the bid results, staff determined that the most considerable discrepancy was in the cost of wood and steel materials. The scope of work consists of a large amount of wood and steel, including fencing, wood garden plots for the community garden, and a sizeable wooden gazebo. At the time of design completion, the consultant and City staff did not anticipate a rapid increase in inflation in the construction market. Staff will monitor and adjust its internal cost estimating module to reflect market changes and will continue tracking inflations in pricing for future projects. Staff recommends awarding the project to Azul Works, Inc.

Azul Works, Inc. has not completed a capital improvement project with the City before, though it will be starting construction on the Thompson Creek Trail-Quimby to Aborn Project in fall 2022. The Department of Public Works' Procurement staff performed a reference check on Azul Works, Inc. and received a favorable response from the City of Palo Alto for its Rinconada Park Improvement Project. The other project staff inquired about, Washington Square Water Conservation with the City and County of San Francisco Recreation and Park Department, is still in progress.

San José Municipal Code Section 27.04.050 provides that the contingency for all public works contracts (except those involving the renovation of a building or buildings) cannot exceed 10 percent of the total contract amount. Staff recommends a five percent contingency, which is appropriate for this project and should account for any unforeseen conditions that might arise during construction.

### **Project Labor Agreement Applicability**

A project labor agreement is applicable to this project as the Engineer's Estimate is over \$1.2 million.

### **Local and Small Business Outreach**

In order to facilitate small and local business participation on this project, Procurement staff used Biddingo to outreach to local and small business enterprises. Chapter 4.12 of the San José Municipal Code defines a "local business enterprise" as one with a legitimate business presence in Santa Clara County and "small business enterprise" as a local business enterprise with 35 or fewer employees. Procurement staff sent bid invitations to 8,048 vendors, and documents were downloaded by 21 vendors, two of which were located within Santa Clara County and therefore local. The recommended contractor is not a local or a small business enterprise. However, AAA Fence Company, a small and local subcontractor, will perform work on the project. AAA Fence Company is located in the City of Santa Clara and has an 18 member staff. The approximate value of work for AAA Fence Company is \$161,000 for metal fence and gate work.

### **EVALUATION AND FOLLOW-UP**

No additional follow up action with City Council is expected at this time.

### **CLIMATE SMART SAN JOSÉ**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

The Public Outreach phase of the project included five community meetings throughout 2019 and 2020 to engage the public by presenting programmatic data, design options, evaluate and gain support for the Master Plan, and have a focused discussion with the Eden and Cadillac Winchester Neighborhood Action Coalition.

All community outreach meetings were conducted in English and Spanish in order to serve the bilingual community members. Included in the bilingual strategy were mailers, flyers, presentation materials, and question and answer sessions offered in Spanish.

At the third community meeting held in January 2020, the Payne Avenue Master Plan was endorsed by the community and the design process began shortly after the City Council adopted the Master Plan in October 2020. The last two remaining community meetings were conducted

to engage the Eden and Cadillac Winchester neighborhoods for final discussion of the approved Master Plan.

This memorandum will be posted on the City's website for the August 16, 2022 City Council meeting.

### **COORDINATION**

This proposed project and memorandum has been coordinated with the Department of Planning, Building and Code Enforcement, the City Manager's Budget Office, and the City Attorney's Office.

### **COST SUMMARY/IMPLICATIONS**

1. COST OF PROJECT:

Project Delivery*	\$1,164,987
Construction	\$3,904,775
Contingency (5%)	<u>\$195,239</u>
<b>TOTAL PROJECT COSTS</b>	<b>\$5,265,001</b>
Prior Years' Expenditures & Encumbrances	\$515,857
<b>TOTAL REMAINING PROJECT COSTS</b>	<b>\$4,749,144</b>

\*Project delivery includes \$517,987 for Design Services and \$647,000 for Construction Management and Inspection Services.

2. COST ELEMENTS OF AGREEMENT/CONTRACT

Mobilization and Start Up	\$301,600
Demolition and Site Preparation	\$296,000
Grading and Drainage	\$246,490
Surfacing and Parking Lot	\$501,348
Concrete	\$209,485
Fencing	\$453,225
Community Garden	\$128,500

Play and Fitness Equipment	\$493,000
Shade Structure and Gazebo	\$208,000
Signage	\$29,390
Site Furnishings	\$288,079
Planting and Irrigation	\$456,658
Site Lighting and Electrical	\$293,000
<b>Total Base Bid Amount</b> (Items 1 Through 13 Inclusive)	<b>\$3,904,775</b>

3. **SOURCE OF FUNDING:** 375 – Subdivision Park Trust Fund  
377 – Construction Tax and Property Conveyance Tax Fund:  
Parks Purposes Council District #1
4. **OPERATING COST:** This facility is anticipated to open in fiscal year 2023-2024 and the cost to operate and maintain this park was included as a committed addition in the 2023-2027 Five-Year Forecast and Revenue Projections for the General Fund and has been incorporated in the 2022-2023 Adopted Operating Budget for Parks, Recreation, and Neighborhood Services Department. This project is anticipated to open in summer 2023 with an estimated annual operating and maintenance costs associated with this park of \$54,000 in the General Fund.

### **BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn Name	Total Appn	Amt. for Project	2022-2023 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
375	422F	Payne Avenue Park Phase I	\$5,145,000	\$4,749,144	Page 347	30790 06/21/2022
377	422F	Payne Avenue Park Phase I	\$250,000	N/A	Page 347	30790 06/21/2022
375	406W	Pueblo de Dios Master Plan and Design	\$156,000	N/A	Page 507	30790 06/21/2022

\*The 2022-2023 Adopted Capital Budget was approved by the City Council on June 14, 2022, and adopted on June 21, 2022.

HONORABLE MAYOR AND CITY COUNCIL

August 1, 2022

**Subject: Actions Related to the 9739- Payne Avenue Park Project**

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**CEQA**

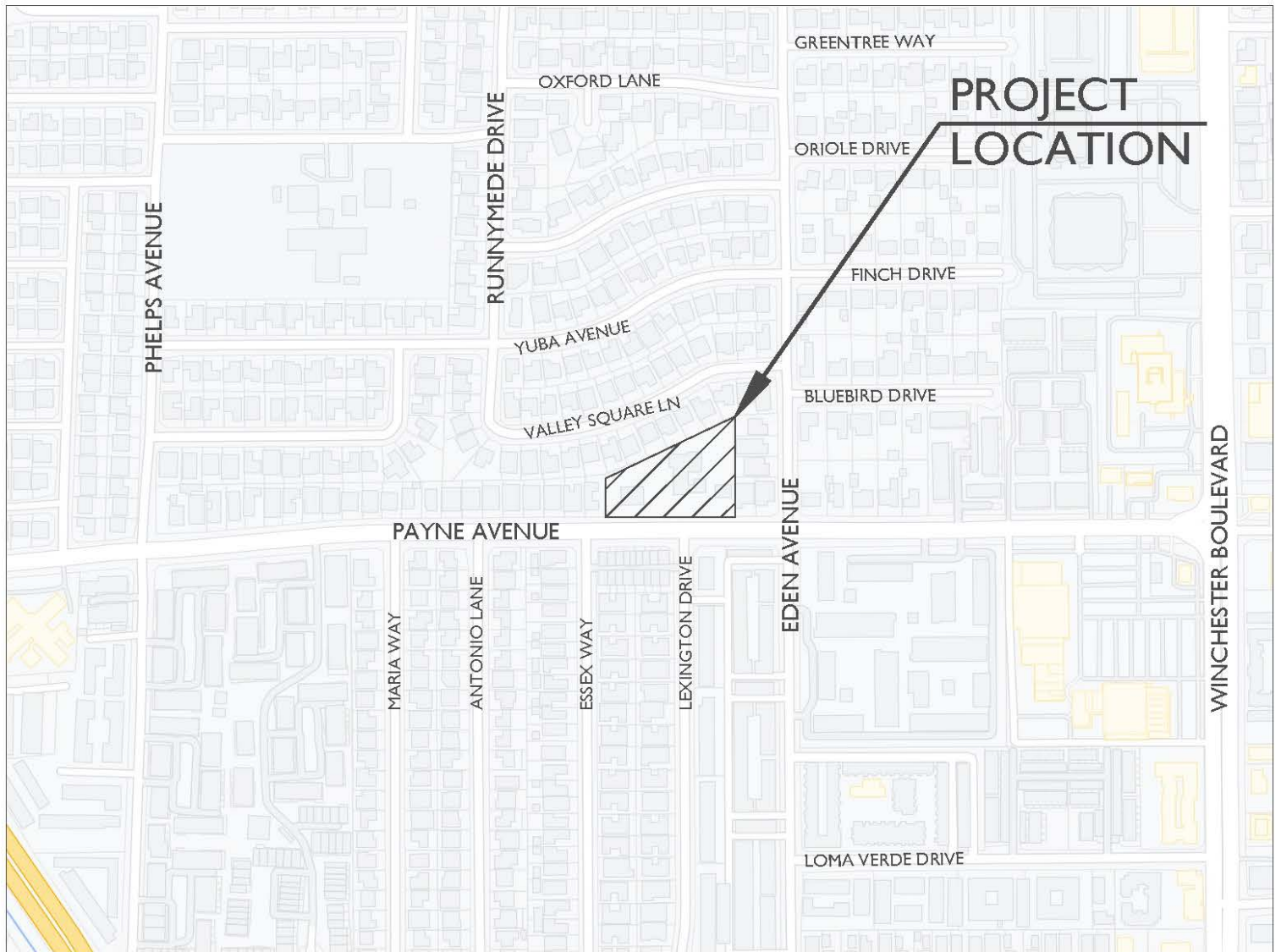
Categorically Exempt, File No. ER19-082, CEQA Guidelines Section 15332, In-Fill Development Projects

/s/  
MATT CANO  
Director of Public Works

/s/  
JON CICIRELLI  
Director of Parks, Recreation, and  
Neighborhood Services

For questions, please contact Katherine Brown, Deputy Director of Public Works, at (408) 795-1679.

Attachment – Payne Avenue Park Location Map



## PAYNE AVENUE PARK LOCATION MAP

