



COUNCIL AGENDA: 8/13/19
FILE: 19-629
ITEM: 5.2

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Jon Cicirelli
Jim Shannon

SUBJECT: SEE BELOW

DATE: August 1, 2019

Approved

D. DSYL

Date

8/2/19

COUNCIL DISTRICT: 3

**SUBJECT: ACTIONS RELATED TO THE 7538 – WATSON PARK RENOVATIONS
PROJECT AND ADOPTION OF APPROPRIATION ORDINANCE
AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND**

RECOMMENDATION

- (a) Report on bids and award of construction contract for the 7538 – Watson Park Renovations project to the lowest responsive bidder, Suarez & Munoz Construction, Inc., in the base bid amount of \$1,605,000 and a fifteen (15) percent contingency in the amount of \$240,750.
- (b) Adopt the following 2019-2020 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:
 - (1) Increase the Watson Park Improvements appropriation to the Department of Parks, Recreation, and Neighborhood Services in the amount of \$969,350;
 - (2) Decrease the future Watson Park Taylor Street Access Study Reserve by \$175,000; and
 - (3) Decrease the Future PDO/PIO in Projects Reserve by \$794,350.

OUTCOME

Award of the construction contract to Suarez & Munoz Construction, Inc. will enable the Watson Park Renovations Project to proceed. Approval of a fifteen percent contingency, rather than the standard five percent contingency, would provide funding for any unanticipated work that may arise due to the unique history of the site and would allow for the proper completion of the project. Adoption of the appropriation ordinance will provide additional project funding that is needed to construct this project.

BACKGROUND

Watson Park first opened to the public in 1961. The site was once a waste disposal facility, with an incinerator operating from the 1910s to 1930s. In May 2004, construction began on a skate park within the existing park. During excavation, contractors uncovered refuse materials indicative of a burn dump. Work on the skate park ceased, and the park was closed for remediation in 2005. The remediation project covered soil that contained residual “constituents of concern” (COCs) with “caps” of clean soil and paving. After remediation, the park’s recreational features were renovated and the park reopened in 2011.

In 2014, funds for the Watson Park Renovations project were appropriated for installation of shade canopies, solar lighting, dog park renovations, park entry enhancements at 22nd Street and Jackson Street, and drainage improvements at the existing basketball court. The project design documents were prepared to the 65% stage, but placed on hold shortly after the February 2017 flood along Coyote Creek. This significant storm event required a reprioritization of many funded projects. Design work resumed in 2018 and supported the subject contract award process.

The California Department of Toxic Substances Control (DTSC) has oversight of the property due to the special environmental circumstances. DTSC required preparation of a Site Management Plan (SMP), which was finalized in late 2018. The purpose of the SMP is to provide a mechanism for continued protection of future workers and occupants during and following any construction and/or development activities on the site. The completed project design documents adhered to the guidance provided by the Site Management Plan. Work that will or may penetrate the cap areas are subject to extensive environmental compliance requirements. The lighting and shade structures included in this project require footings that will or may penetrate the cap, making the project subject to these requirements.

ANALYSIS

Bids were opened on May 16, 2019 with the following results:

Base Bid

Contractor	Base Bid <u>Amount</u>	Variance <u>Amount</u>	Over/ (Under) <u>Percent</u>
Engineer's Estimate	\$1,024,523	---	---
Integra Construction Services <i>Irregularities: a) Non-Responsive.</i>	\$1,324,000	\$299,477	29
Suarez & Munoz Construction, Inc. <i>Apparent Low Bidder</i>	\$1,605,000	\$580,477	57

Bid Alternates

In addition to the base bid scope of work there are eight Add Alternate bid items as follows:

1. Dog Park Planting Strip
2. Vehicular Column
3. Entry Wall
4. Path at Field
5. Sign Frames
6. Stone Veneer Upgrade on Base Bid Items
7. Stone Veneer Upgrade on Vehicular Column
8. Stone Veneer Upgrade on Entry Wall

	Bid Alternates							
<u>Contractor</u>	<u>No. 1</u>	<u>No. 2</u>	<u>No. 3</u>	<u>No. 4</u>	<u>No. 5</u>	<u>No. 6</u>	<u>No. 7</u>	<u>No. 8</u>
Engineer's Estimate	\$8,128	\$36,752	\$29,001	\$23,678	\$10,250	\$2,352	\$2,614	\$2,445
Integra Construction Services	Not provided	Not provided	Not provided	Not provided	Not provided	Not provided	Not provided	\$14,186
Suarez & Munoz Construction, Inc.	\$40,000	\$30,000	\$50,000	\$50,000	\$20,000	\$1,500	\$500	\$1,500

Evaluation of Bids

The bid submitted by Integra Construction Services (Integra) was deemed nonresponsive because they did not provide costs for all Bid Alternates. This error cannot be waived as a minor irregularity. Integra attempted to rectify the errors in its bid by contacting the City after the City opened the bids. The City cannot consider bid documents submitted after the opening of the bids.

The bid submitted by Suarez & Munoz Construction, Inc. was 57 percent above the Engineer's Estimate. This bid is responsive, making Suarez & Munoz the apparent low bidder.

Staff contacted both bidders for insight into the high bid. Staff also contacted contractors who attended the pre-bid meeting but did not submit a bid. Two key factors appear to have contributed to the high bids:

1. A recent and significant increase in construction costs due to high demand.

Design for this project, which was put on hold due to the 2017 Flood, resumed in early 2018. Over the course of the resumed design phase, adjustments were made to the Engineer's Estimate to reflect current market costs. While seven contractors attended the pre-bid meeting, only two bid on the project. Staff reached out the contractors who did not bid and learned that full

contractor schedules, combined with the rigorous environmental requirements of the project, deterred several contractors from bidding on the project.

It is staff's assessment that the two contractors who bid on the project added an additional premium for overhead and profit margins due to their own stretched schedules and the tight labor market, as well as the special environmental requirements of the project. Although the recent increase in prevailing wage was considered and accounted for in the Engineer's Estimate, it is more challenging to predict the increase in overhead and profit margins associated with a high-demand market. Estimates for future projects will anticipate continuing overhead and profit margin increases while the construction market remains strong.

2. The level of the hazardous materials compliance specific to this project.

Although the plans and specifications clearly outline requirements for work in soil and paved cap areas, both bidding contractors indicated that the Soil Management Plan and Health & Safety Specification requirements prompted them to add in a premium for uncertainty. Public Works had attempted to mitigate this condition by providing a Soil Management Plan with results of recent soil tests in the two areas where footings will be required (Dog Park and Play Area).

The remediated, capped area is mapped and shown in the Site Management Plan; however, the document notes that burn ash and/or dump debris may be encountered in unexpected areas and if it is, work must cease and only proceed on direction of the City and per Soil Management Plan procedures. Both bidding contractors indicated that this requirement prompted them to add a buffer to their environmental compliance costs.

Evaluation to Postpone Project

The option of rejecting all bids and putting the project on hold until the construction market slows and becomes more favorable has been considered and is not desirable, as current projections show construction costs to continuing to rise rapidly through 2020 and beyond. This could result in the community not seeing the promised improvements for the foreseeable future.

Each component of the base project (pedestrian entry enhancements, play area shade and lighting, dog park turf and shade) represents the wants and needs of the community as identified through community outreach in 2016 and again in 2018. Eliminating or postponing one of these elements would impact stakeholders that have been anticipating the implementation of this project since before the 2017 Flood.

The option of phasing the project by postponing one or more improvements to a later date was considered but was also determined to be undesirable as it would necessitate incurring the environmental compliance costs again for any future phase. Due to requirements of the Site Management Plan, Soil Management Plan and Health & Safety specifications, there are significant environmental compliance costs to any project that involves penetrating the cap areas at Watson Park. Penetration is necessary where footings for light poles and shade structures

must be installed. Staff has determined that it is preferable to incur these costs once and install all improvements expected by the community, rather than phasing the improvements and incurring the costs multiple times. Phasing the project would also incur additional design costs associated with revising and re-bidding the project. For these reasons, staff recommends that no reductions to the base project components be made and that the project be moved forward so that the promised improvements can be delivered to the community.

Suarez & Munoz Construction, Inc., the apparent low bidder, has successfully completed a number of projects with the City. These include Penitencia Creek Trail (Mabury Road to King Road), Esther Medina Park, and Tamien Park – Phase 1. The company is currently working on Iris Chang Park and the second phase of work at Esther Medina Park.

Because of the higher-than-estimated base bid, staff does not recommend awarding any of the eight Bid Alternate items. Upon approval to award a construction contract, the construction of the project is anticipated to begin in October 2019, with completion in June 2020.

Contingency

Council policy provides for a standard contingency of five (5) percent on park projects. Given the history of the Watson Park site and the potential to encounter unexpected burn ash, staff recommends increasing the standard contingency for this project to fifteen (15) percent.

Funding Sources

Included in this memorandum is a recommendation to allocate additional funding of \$969,350 to the project, of which \$175,000 will come from the Watson Park Taylor Street Access Study Reserve and the remaining \$794,350 would be sourced from the Future PDO/PIO Reserve, both within the Subdivision Park Trust Fund. As the Taylor Street Access Study would not be conducted until after completion of conceptual plans for the Route 101/Mabury Road Interchange project, tentatively anticipated in the summer of 2021, these funds are recommended for immediate reallocation and use for park rehabilitation. The need to study park access from Taylor Street will be reevaluated in future capital improvement program development. The recommended appropriation adjustments will ensure sufficient funding is available to award the construction contract, manage the project, and account for contingency.

Project Labor Agreement Applicability

A project labor agreement (PLA) is not applicable to this project as the Engineer's Estimate is under three million dollars.

Local and Small Business Outreach

In order to facilitate small and local business participation on this project, procurement staff outreached with BidSync. Bid invitations were sent to 5,082 vendors, 245 of which were located

within Santa Clara County and therefore local. This project was promoted at the Public Works Academy's Opportunity Awareness Events, which were conducted in January and February of 2019. These events were attended by approximately 70 vendors, of which more than half were located in Santa Clara County. Neither of the bidders on the project were small or local.

EVALUATION AND FOLLOW-UP

No follow-up action with the City Council is anticipated at this time.

PUBLIC OUTREACH

To solicit contractors, this project was listed on BidSync (www.bidsync.com) and advertised in the *San José Post Record*. The complete bid package and project information for all Public Works Department construction projects are available on BidSync for interested contractors, contractor organizations and builder's exchanges.

This memorandum will be posted on the City's Council Agenda website for the August 13, 2019, Council Meeting.

Several community meetings and meetings with the 'Friends of Watson Park' were held in 2016 prior to pausing the project due to the flood. Outreach for the resumed project included a community meeting in April 2018 and meetings with the 'Friends of Watson Park' in March and June 2018.

COORDINATION

DTSC was informed of this project and the scope of work, as required by the Site Management Plan. The City's Environmental Service Department was consulted to ensure that requirements of the Site Management Plan are met and for input on the Health and Safety Specification.

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

The Project is consistent with the Council-approved Budget Strategy for capital investments that spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

1. COST OF PROJECT:

Project Delivery	\$807,553
Construction	1,605,000
Contingency	<u>240,750</u>
TOTAL PROJECT COSTS	\$2,653,303
Prior Years' Expenditures	(484,953)
REMAINING PROJECT COSTS	\$2,168,350
Total Available Funding	1,199,000
ADDITIONAL FUNDING REQUIRED	\$969,350

2. COST ELEMENTS OF AGREEMENT/CONTRACT:

Mobilization & Temporary Facilities	\$150,000
Health & Safety	25,000
Utility Conflict Allowance	20,000
Stormwater Pollution Prevention Plan	10,000
Emergency Erosion and Sediment Control Cost Allowance	10,000
Demolition & Site Clearing	150,000
Concrete Masonry Unit, Stone Veneer & Graffiti Resistant Coating	20,000
Metal Fabrication	15,000
Site Furnishings	350,000
Drinking Fountains	15,000
Grading	395,000
Operation & Maintenance Period	6,000
Flexible Paving	3,000
Rigid Paving	85,000
Decomposed Granite Paving	50,000
Pavement Markings	1,000
Playground Protective Surfacing	4,000
Concrete	26,000
Planting Irrigation	60,000
Planting Preparation & Soil Treatment	50,000
Turf & Grasses	42,000
Hydroseed	5,000
Plants	11,000
Storm Drainage Utilities	<u>102,000</u>
TOTAL CONTRACT AMOUNT	\$1,605,000

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3. SOURCE OF FUNDING:

375 – Subdivision Park Trust Fund; and

380 – Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council
District #3

Additional funding is available in the Subdivision Park Trust Fund to address the recommended increase in project funding of \$969,350.

4. OPERATING COSTS: The renovation of the Watson Park will not result in additional operating and maintenance cost to maintain the park.**BUDGET REFERENCE**

The table below identifies the fund and appropriations allocated to fund the contract and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn Name	Current Total Appn.	Rec. Budget Action	2019-2020 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
375	7709	Watson Park Improvements	\$800,000	\$969,350	N/A**	6/18/2019, 30286
380	7709	Watson Park Improvements	\$399,000	N/A	N/A**	6/18/2019, 30286
375	8845	Future PDO/PIO Reserve	\$7,609,176	(\$794,350)	V-475	6/18/2019, 30286
375	8488	Watson Park Taylor Street Access Study Reserve	\$175,000	(\$175,000)	V-478	6/18/2019, 30286

*The 2019-2020 Proposed Operating Budget was adopted by the City Council on June 18, 2019.

**The rebudgeting of \$1,199,999 into 2019-2020 for the Watson Park Improvements project was included in Manager's Budget Addendum #36, Recommended Amendments to the 2019-2020 Proposed Capital and Operating Budgets.

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CEQA

This project received a Public Project Exemption by the Planning, Building and Code Enforcement Department (Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP18-035).

/s/
MATT CANO
Director of Public Works

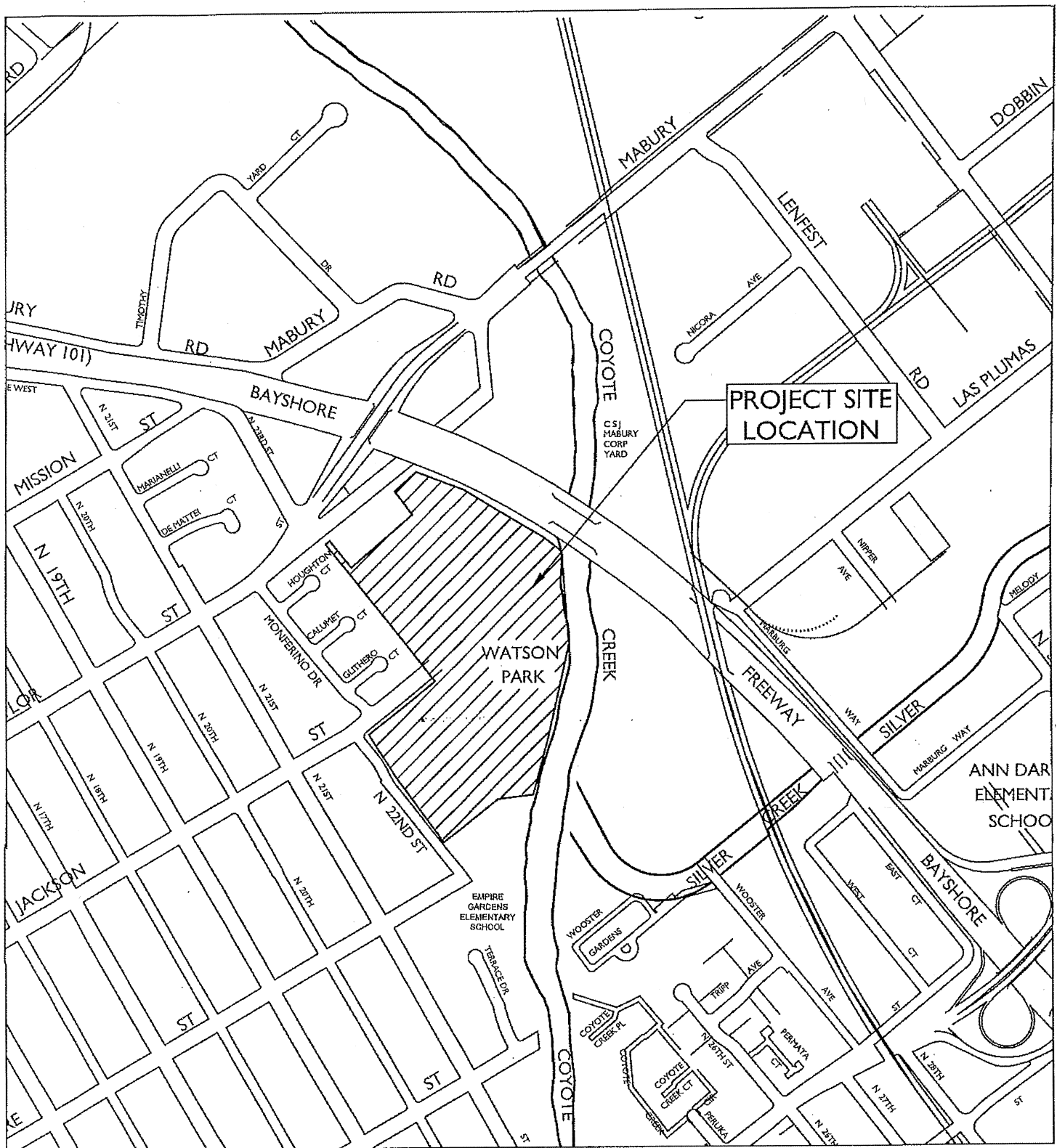
/s/
JON CICIRELLI
Director of Parks, Recreation and
Neighborhood Services



JIM SHANNON
Budget Director

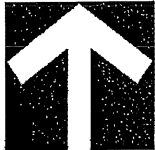
Attachment: Watson Park Location Map

For questions, please contact Michael O'Connell, Deputy Director of Public Works, at (408) 535-8300.



WATSON PARK LOCATION MAP

NOT TO SCALE



NORTH