

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** January 11, 2021

Approved

Date

**1/13/2021**

**COUNCIL DISTRICTS: 3, 7**

**SUBJECT: REPORT ON BIDS AND AWARD OF CONSTRUCTION CONTRACT  
FOR THE 6324 – RE-BID – COYOTE CREEK TRAIL: 16<sup>th</sup> St / WILLIAM  
St to STORY ROAD PROJECT**

## **RECOMMENDATION**

Report on bids and award of contract for the 6324 – Re-Bid – Coyote Creek Trail: 16<sup>th</sup> St / William St to Story Road Project to the low bidder, Granite Rock Company, for the base bid and Bid Alternate No. 2 in the amount of \$1,297,875, and approval of a ten percent contingency in the amount of \$129,788.

## **OUTCOME**

Award of the construction contract to Granite Rock Company, will enable the Coyote Creek Trail 16<sup>th</sup> St / William St to Story Road Project to proceed. Approval of a ten (10) percent contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the project.

## **BACKGROUND**

This project will construct a Class I trail between Story Road in the south and Selma Olinder Park in the north, a distance of approximately 0.75-mile. The trail consists of a paved asphalt concrete path, ranging from 8 to 12-feet wide, with unpaved shoulders on both sides, and a decorative trail entrance at Selma Olinder Park and at the corner of Story Road and Remillard Court. Additionally, minor signage and striping will be added to the existing paved trail from 16th St / William St to Selma Olinder Park. The trail will be constructed within City of San José owned parcels and on State of California right-of-way with a Caltrans Encroachment Permit. The project will be using federal SAFETEA-LU funds that were originally obligated in 2008 for

various Coyote Creek Trails from Highway 237 to Highway 101. This will be the last project that will be using these federal earmark funds for those project limits.

This project was originally bid on June 13, 2019. All bids were rejected by the Public Works Director on December 23, 2019. After bids were rejected, the project team discussed the project with San José Police Department's Crime Prevention Through Environmental Design (CPTED) group to incorporate designs that have been proven to reduce crimes on trails.

Public Works Department staff reviewed and incorporated CPTED principles in the design of this trail system. *CPTED's goal is to prevent crime by designing a physical environment that positively influences human behavior.*<sup>1</sup> Some examples of CPTED design principles applied to this project include maximizing natural surveillance by minimizing blind spots, running the trail through open spaces, clearing heavy vegetation to reduce hidden areas, and opening up sight lines from public streets or spaces. The design facilitates natural access control through the strategic placement of fences, signage, and trailheads that guide people to and from the proper entrances. Using pavement treatments and signage along the trail enables trail users to develop a sense of proprietorship, reinforcing their territory. Lastly, the proper maintenance of this trail will send the message that people monitor and care about what happens in the area. This will, in turn, discourage vandalism and other crimes.

Construction is scheduled to begin in April 2021 with completion in October 2021. Construction of the trail is timely because funded work to the south is also underway.

- Coyote Creek Trail (Story Road to Phelan): Construction is in progress.
- Story Road/Remillard Court Traffic Signal Modification: Expected bid by April 2021 (for pedestrian and bicycle crossing).
- Coyote Creek Trail (Phelan Avenue to Tully Road): Design underway, anticipated bid TBD.

## **ANALYSIS**

Public Works requested bids for the base bid work and two Bid Alternates as follows:

Bid Alternate No. 1: Upgrade to vinyl-clad chain-link fence instead of galvanized fence.

Bid Alternate No. 2: Installation of preferred solar photovoltaic (PV) lighting under I-280.

Bids were opened on September 17, 2020, with the following results:

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<sup>1</sup> <https://www.ncpc.org/resources/home-neighborhood-safety/crime-prevention-through-environmental-design-training-program/#:~:text=CPTED's%20goal%20is%20to%20prevent,surveillance%2C%20territoriality%2C%20and%20maintenance.>

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<u>Contractor</u>	<u>Base Bid Amount</u>	<u>Bid Alt Total</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Redwood Construction and Equipment, Inc. (Redwood City)	\$1,096,903	\$130,860	\$1,227,763	(\$172,238)	(12)
Lewis & Tibbitts, Inc. (San José)	\$1,210,100	\$130,150	\$1,340,250	(\$59,751)	(4)
Granite Rock Company (San José)	\$1,277,875	\$120,620	\$1,398,495	(\$1,506)	(0)
<b>Engineer's Estimate</b>	<b>\$1,272,681</b>	<b>\$127,320</b>	<b>\$1,400,001</b>	---	---
Teichert & Son, Inc. Pleasanton)	\$1,314,075	\$112,810	\$1,426,885	\$26,884	2
Galeb Paving, Inc. (Saratoga)	\$1,647,887	\$102,628	\$1,750,515	\$350,514	25

<u>Contractor</u>	<u>Bid Alt No. 1</u>	<u>Bid Alt No. 2</u>
Redwood Construction and Equipment, Inc.	\$104,860	\$26,000
Lewis & Tibbitts, Inc.	\$123,150	\$7,000
Granite Rock Company	\$100,620	\$20,000
<b>Engineer's Estimate</b>	<b>\$127,320</b>	<b>\$0</b>
Teichert & Son, Inc.	\$102,510	\$10,300
Galeb Paving, Inc.	\$97,528	\$5,100

The US Department of Transportation (USDOT) provides funds each year to finance construction of various transportation projects initiated by state and local governments, public transit and airport agencies. To receive USDOT funds, local agencies must comply with the requirements of Title 49 CFR 26, entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" (DBE Program).

*The Third Low Bidder is the only bidder that complied with the DBE Program requirements.*

In accordance with Caltrans' procedure for calculating DBE Goals, the Labor Compliance Division of the Department of Public Works established a DBE Goal of 15% for the project. In other words, 15% of the bid amount should be for DBEs. None of the contractors bidding on the project objected to the 15% goal during the procurement.

In establishing the DBE Goal, the Labor Compliance Division identified eleven (11) work areas that could be subcontracted to certified DBEs. From a search of the California Unified Certification Program DBE database, the Labor Compliance Division identified a total of 639 available certified DBEs (contractors, suppliers, and truckers). And lastly, the Labor Compliance Division identified \$248,565.00 for possible DBE work.

Following the opening of bids on September 17, 2020, Public Works staff reviewed the bid packages of the three low bidders for their respective Exhibit 12-B Bidder's List of Subcontractors (DBE and Non-DBE). In accordance with Caltrans Local Assistance Procedures Manual (LAPM), bidders must submit completed Exhibit 15-G Construction Contract DBE Commitment & DBE Quotes and Exhibit 15-H DBE Information - Good Faith Efforts (if applicable) within five (5) days of bid opening, which in this case was no later than 4:00 pm on Tuesday, September 22, 2020.

The Low and Third Low bidders timely submitted all the forms, but the second low failed to provide documents needed by the Public Works Department to make a determination as to whether it met the DBE commitment or made good faith efforts to do so. Specifically, the second low bidder did not provide completed Caltrans 15-G and 15-H and failed to provide any supporting documentation such as call, e-mail, or facsimile logs. As a result, the second low bidder did not comply with the DBE Program requirements.

In determining whether a bidder made "good faith efforts," the Public Works Department, per federal regulations, may take into account the performance of the other bidders in meeting the DBE contract goal. An apparent low bidder's failure to meet a DBE contract goal when other bidders met the goal is evidence that the apparent low bidder could have met the goal had it availed itself of additional reasonable efforts. An apparent low bidder who fails to meet the goal, but who meets or exceeds the average DBE participation obtained by the other bidders, is evidence of the apparent low bidder having made "good faith efforts."

In this case, Redwood Construction efforts resulted in a 1.17% (\$16,320) DBE participation rate. Based on the documents submitted by Redwood Construction, Redwood Construction advertised in two (2) publications, one (1) Web/ Mobile Application, and provided written notices via e-mail and facsimile to thirty (30) certified DBEs with multiple failing sent verifications on September 16, 2020 or 24 hours prior to bid opening. Advertising, soliciting, and contacting potential subcontractors one (1) day prior to bid opening limits the time for DBE certified subcontractors to participate and does not exhibit quality, quantity, intensity, or reasonable steps to achieve the DBE goal for the project.

As the second low bidder was deemed "non-responsive", the Public Works Department reviewed the third low bidder, who has significantly higher DBE participation rates. Based on the documents submitted by the third low bidder, Granite Rock made available and solicited for all (100%) of the line items for a total of \$1,400,001.00. Furthermore, Granite Rock solicited from

200+ DBE certified companies and exceeded the DBE goal in the amount of \$218,429.00 or 15.6% of the total bid amount.

This suggests to the Public Works Department that had Redwood Construction taken all necessary and reasonable steps to achieve the DBE goal, it would have success in providing more opportunities for DBE certified subcontractors.

Based on the above information, the Public Works Department concludes that Redwood Construction did not take all necessary and reasonable steps to achieve the DBE goal and did not engage in the efforts one reasonably would expect from a bidder actively and aggressively trying to meet the DBE goal. In short, the Public Works Department concludes that Redwood Construction did not demonstrate “good faith efforts” to meet the DBE goal and the third low bidder exceeded the DBE goal.

Project specifications section 3-1.01D states “If there are Bid Alternates, the low bid will be determined by adding each of the Bid Alternate Bids to the Base Bid in the numerical sequence Bid Alt No. 2 then Bid Alt No. 1, until a total is reached to which no further Bid Alternate Bids may be added without exceeding \$1,360,000.” The sum of the base bid and Bid Alt No. 2 of third lowest bidder, Granite Rock Company does not exceed \$1,360,000. However, the sum of the base bid and both bid alternates of third lowest bidder exceeds \$1,360,000.

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 ten percent (10%) of the total contract amount. Staff recommends a ten percent (10%) contingency, which should be sufficient to account for unforeseen conditions that might arise in the construction of this project.

### **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**

Procurement staff used Biddingo to provide 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 6,551 vendors and documents were downloaded by 34 vendors, approximately 12 of which were located within Santa Clara County. The recommended contractor is a local business enterprise.

## **CONCLUSION**

The Public Works Department recommends awarding the construction contract to Granite Rock Company, which exceeded the DBE goal. The award will include the base bid and Bid Alternate No. 2.

## **EVALUATION AND FOLLOW-UP**

Progress updates on the project would be provided with frequent posts on Twitter @SanJoseTrails and Instagram @SanJoseTrails. No additional follow up action with the Council is expected at this time.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

## **PUBLIC OUTREACH**

The trail alignment was referenced as part of the Council action on June 17, 2008, pertaining to the projects CEQA clearance (PP08-014), which was posted by Santa Clara County from June to July in 2008.

This project was listed on Biddingo ([www.biddingo.com](http://www.biddingo.com)). The complete bid package and project information for all PW construction projects are available on Biddingo for interested contractors, contractor organizations, and builders' exchanges.

This memorandum will be posted on the City's website for the January 26, 2021, City Council Agenda.

### **Additional Community Outreach**

On July 8, 2020 and November 16, 2020, Department of Parks, Recreation and Neighborhood Services and Public Works Department participated in an outreach webinar organized for residents of District 7 and District 3. During the webinars, the departments discussed trail design, future construction, and a Trail Safety Plan initiative. Attendees expressed support for the trail while reiterating concerns for safety along the creek channel. The City is developing the Trail Safety Plan Pilot to ensure a coordinated approach to addressing safety issues on the trail. A follow-up webinar was held on November 16, 2020.

## **COORDINATION**

This memorandum has been coordinated with the Departments of Parks, Recreation and Neighborhood Services, Planning, Building and Code Enforcement, the City Manager's Budget Office, and the City Attorney's Office.

## **COMMISSION RECOMMENDATION/INPUT**

The Coyote Creek Trail Story Road to Lower Silver Creek Master Plan was reviewed by the City's Parks and Recreation Commission in June 2008.

## **FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council-approved Budget Strategy to continue with capital investments that spur construction spending in our local economy. Development of the Coyote Creek Trail has been documented in the City's General Plan and designated as a Core Trail in the City's Trail Network. The project contributes to the 100-mile trail network goal per the newly adopted ActivateSJ, a 20-year strategic plan for PRNS. Development of trail projects is consistent with the Climate Smart Plan's Transportation Policies; TN-1 National Model for Trail Development & Use, TN-2 Trails as Transportation, and TN-3 Accessible Safe and Well-functioning Trails.

## **COST SUMMARY/IMPLICATIONS**

### 1. COST OF PROJECT:

Project Delivery	\$1,071,764
Construction	\$1,297,875
Contingency	\$129,788
<b>TOTAL PROJECT COSTS</b>	<b>\$2,499,427</b>
Prior Years' Actual Expenditures	(\$651,427)
<b>REMAINING PROJECT COSTS</b>	<b>\$1,848,000</b>

### 2. COST ELEMENTS OF CONSTRUCTION CONTRACT:

<i><u>Base Bid</u></i>	
Mobilization	\$169,780
Demolition	\$125,040
Environmental	\$104,000
Electrical	\$70,000

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Retaining Wall	\$55,000
Pavement / Grading	\$461,945
Signing and Striping	\$41,710
Drainage	\$30,560
Fencing	\$124,370
Miscellaneous	\$95,470
<b>TOTAL BASE BID AMOUNT</b>	<b>\$1,277,875</b>
<u><i>Bid Alt No. 2</i></u>	
Installation of preferred solar photovoltaic (PV) lighting under I-280.	\$20,000

**TOTAL CONTRACT AMOUNT \$1,297,875**

3. **SOURCE OF FUNDING:** 375 – Subdivision Park Trust Fund  
385 – Construction Tax and Property Conveyance Tax Fund:  
Parks Purposes Council Districts # 7
  
4. **OPERATING COSTS:** The facility is anticipated to come online in October 2021. The operating and maintenance costs were allocated in the 2015-2016 Adopted Operating Budget (first-year cost in 2015-2016 was anticipated to be \$7,000, with an ongoing cost of \$10,000). No additional funding for this project would be needed since the operating and maintenance funding for this project is included in the base operating budget for Parks, Recreation and Neighborhood Services Department

**BUDGET REFERENCE**

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

Fund #	Appn #	Appn Name	Current Total Appn	Amt for Contract	2020-2021 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	7554	TRAIL: Coyote Creek (Story Road to Selma Olinder Park)	\$1,348,000	\$797,875	V-426	10/20/2020 Ord. No. 30494
385	7725	TRAIL: Coyote Creek (Story Road to Selma Olinder Park)	\$500,000	\$500,000	V-332	06/23/2020 Ord. No. 30437



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**CEQA**

Addendum to the Initial Study/Mitigated Negative Declaration for Coyote Creek Trail Master Plan (Story Road to Lower Silver Creek) project, File No. ER20-226.

/s/

MATT CANO

Director of Public Works

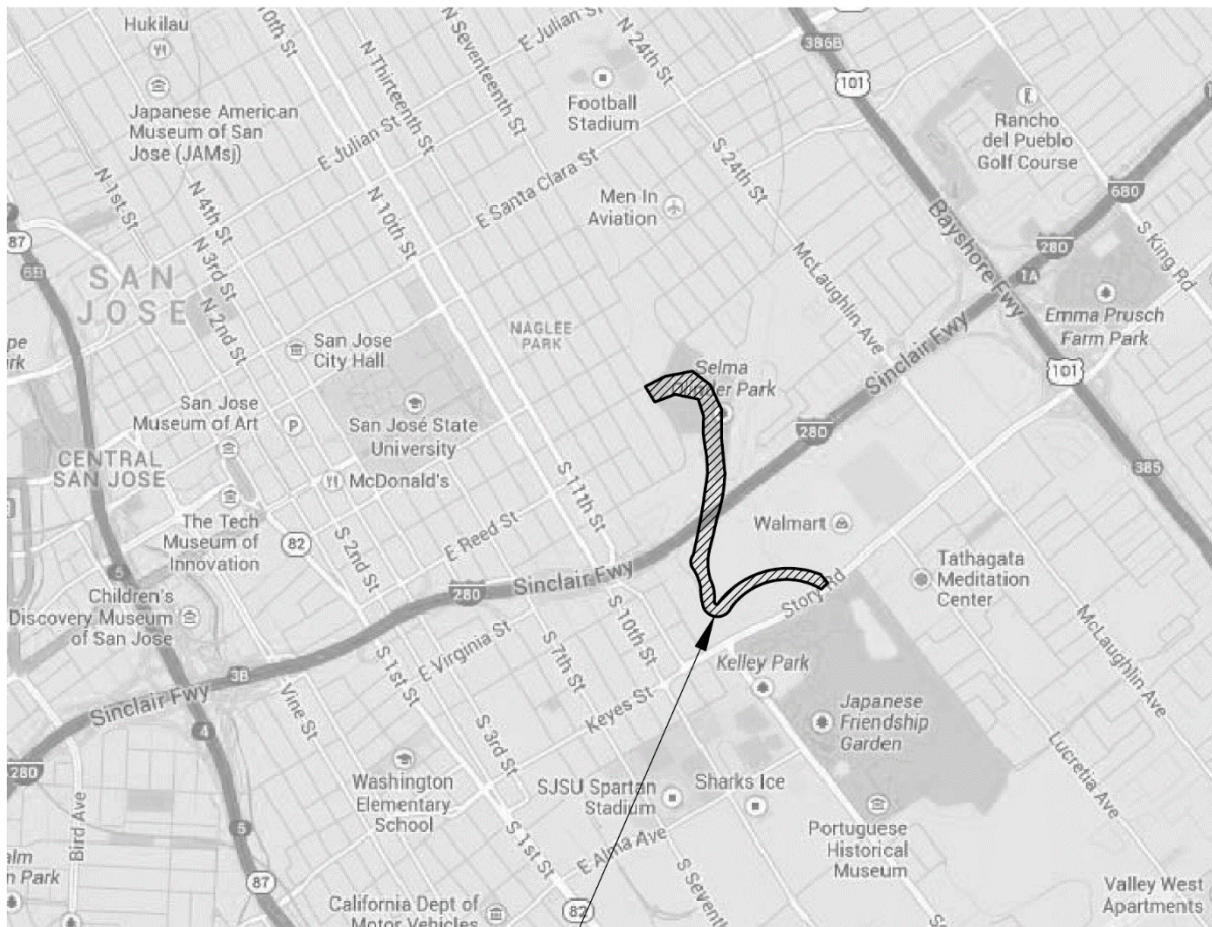
Attachment: Location Map

For questions, please contact Michael O’Connell, Deputy Director, Public Works Department, at Michael.OConnell@sanjoseca.gov.

# Location Map

## 6324 – Coyote Creek Trail: 16<sup>th</sup> St / William St to Story Road

### VICINITY MAP



PROJECT  
LOCATION

N.T.S.

