



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: G. Harold Duffey
Director, Oakland Public
Works

SUBJECT: Award Construction Contracts for
Mandela Parkway and Cary Avenue
Trash Capture Projects

DATE: January 22, 2024

City Administrator Approval


Jestin Johnson (Feb 8, 2024 14:53 PST)

Date: Feb 8, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

- 1. A Resolution 1) Authorizing The City Administrator To Award A Construction Contract That Follows All City Advertising And Competitive Bidding Requirements To The Lowest Responsive And Responsible Bidder In Accord With Project Plans And Specifications And With The Contractor's Bid For Project No. 1006066 Mandela Parkway Trash Capture Project For An Amount Not To Exceed Three Million Seven Hundred Nineteen Thousand Three Hundred Thirty-Three Dollars (\$3,719,333.00), Contingent Upon Caltrans Approval Of Additional Funding, Without Return To City Council; 2) If No Valid Bids Are Received, Authorizing The City Administrator To Award A Construction Contract In The Open Market; 3) Rejecting All Bids That Were Due October 19, 2023; And 4) Adopting Appropriate California Environmental Quality Act Findings For Project No. 1006066 Mandela Parkway Trash Capture Project; And**
- 2. A Resolution 1) Authorizing The City Administrator To Award A Construction Contract That Follows All City Advertising And Competitive Bidding Requirements To The Lowest Responsive And Responsible Bidder, In Accord With Project Plans And Specifications And With Contractor's Bid For Project No. 1006466 Cary Avenue Trash Capture Project For An Amount Not To Exceed Three Million Thirty-Six Thousand One Hundred Forty-Five Dollars (\$3,036,145.00), Contingent Upon Caltrans Approval Of Additional Funding, Without Return To City Council; 2) If No Valid Bids Are Received, Authorizing The City Administrator To Award A Construction Contract In The Open Market; And 3) Adopting Appropriate California Environmental Quality Act Findings For Project No. 1006466 Cary Avenue Trash Capture Project.**

EXECUTIVE SUMMARY

The Mandela Parkway Trash Capture Project (Mandela Parkway Project) and the Cary Avenue Trash Capture Project (Cary Avenue Project) are funded by the California Department of Transportation (Caltrans) Through Cooperative Implementation Agreement (Cooperative Agreement) grants. Implementation of the projects will help the City of Oakland (City) meet trash load reduction requirements imposed by the San Francisco Bay Regional Water Quality Control Board's (Water Board's) Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit 3.0, known as the Municipal Regional Permit or "MRP".

Each project will install a large trash capture device underground that will intercept trash from a drainage area in the respective community. Each trash capture device will be installed in a deep excavated area with high groundwater and will be connected to drainage pipes that carry high stormwater flows in the winter. These conditions require construction during the dry season for stormwater and groundwater management. Because the Caltrans grants require the projects to be completed no later than December 31, 2024, both projects must be constructed in the summer of 2024.

Approval of the proposed resolutions will authorize the City Administrator to award a construction contract that each follows all City advertising and competitive bidding requirements to the lowest responsive and responsible bidder in accordance with the project plans and specifications and with the contractor's bid for the Mandela Parkway Project (Project No. 1006066) and the Cary Avenue Project (Project No. 1006466), contingent upon Caltrans approval of additional funding. If no valid bids are received, the proposed resolution will authorize the City Administrator to award a construction contract in the open market.

BACKGROUND / LEGISLATIVE HISTORY

The City is subject to the MRP. Under the updated MRP, known as MRP 3.0, Bay Area cities must reduce the amount of trash discharging from their storm drainage systems by 100 percent by June 30, 2025, from baseline trash levels established circa 2009. MRP 3.0 phases out compliance credits constituting 35 percent of the City's current trash reduction credit, including the 10 percent credit for existing source control (i.e., single-use plastic bag and polystyrene bans), the 10 percent creek and shoreline cleanup credit, and the 15 percent Direct Trash Discharge Control Program credit. For this reason, the City must find other authorized ways to meet the requirements such as installing approximately 1800 small Full Trash Capture (FTC) devices and at least two large FTC devices.

Mandela Parkway Trash Capture Project (Project No. 1006066)

The Mandela Parkway Project will install a large FTC device (known as a hydrodynamic separator) underground and connect it to an existing 96" diameter storm drainage pipe. Once installed, trash in the upstream portion of the storm drainage pipe will flow into the FTC device, preventing it from reaching the San Francisco Bay. See **Attachment A**, Mandela Parkway Project Bid Request.

The Caltrans-funded Mandela Parkway Project will provide 5.4 percent trash load reduction credit by capturing trash in stormwater from 610 acres of land (**Attachment B** – Mandela Parkway Project Watershed Map). This will prevent significant amounts of trash from entering the San Francisco Bay and help the City comply with the more stringent MRP 3.0 requirements.

On June 19, 2018, the City Council approved:

- [Resolution No. 87238 C.M.S.](#), which authorized the City Administrator to enter into a Caltrans Cooperative Agreement, and to accept and appropriate funds from Caltrans, for the Mandela Avenue Project.

The Cooperative Agreement for the Mandela Parkway Project was amended once to increase the total grant amount, based on projected project costs, to four million eight hundred five thousand one hundred eighty-five dollars (\$4,805,185.00) for design and construction. A Request for Bids (RFB) was advertised on December 29, 2023, and bids received from contractors for the project will be evaluated by the Department of Workforce and Employment Standards (DWES) for compliance with all requirements.

Cary Avenue Trash Capture Project (Project No. 1006466)

The Cary Avenue Project will also install a large FTC device underground and connect it to an existing storm drainage box culvert (approximately 10-feet by 7-feet). Similar to the Mandela Parkway Project, the Cary Avenue FTC device will prevent trash from reaching the San Francisco Bay. See **Attachment C**, Cary Avenue Project Bid Request.

The Caltrans-funded Cary Avenue Project will provide 4.3 percent trash load reduction credit by capturing trash in stormwater from 739 acres of land (**Attachment D** – Cary Avenue Project Watershed Map). Similar to the Mandela Parkway Project, this will prevent significant amounts of trash from entering the San Leandro Creek and the San Francisco Bay and help the City comply with the more stringent MRP 3.0 requirements.

On June 21, 2022, the City Council approved:

- [Resolution No. 89257 C.M.S.](#), which accepted and appropriated funds from Caltrans for the Cary Avenue Project in an amount not to exceed three million two hundred thousand dollars (\$3,200,000.00).

The Cary Avenue Project is fully funded for design and construction. A Request for Bids (RFB) was advertised on December 29, 2023, and bids received from contractors for the project will be evaluated by DWES for compliance with all requirements.

In exchange for funding both large FTC projects, once completed by the City Caltrans will also receive trash load reduction credits from the Water Board under their similar Water Board stormwater permit that requires Caltrans to reduce trash in their right-of-way areas.

ANALYSIS AND POLICY ALTERNATIVES

Both the Mandela Parkway and the Cary Avenue projects will advance the Citywide priority of **vibrant, sustainable infrastructure** by installing two large FTC devices to prevent significant amounts of trash from entering the San Francisco Bay.¹ This will achieve cleaner water, environmental and habitat protection, and compliance with MRP requirements. Failure to comply with the MRP raises the risk of fines and violations, and third-party lawsuits.

The projects will each install an FTC device known as a hydrodynamic separator, a buried vault connected to the storm drain line that separates and captures any trash larger than 5 millimeters. Once installed, the hydrodynamic separator units will continually capture trash and prevent it from causing damage downstream. These devices also trap sediment, oil and grease, and other pollutants, allowing cleaner stormwater to flow to the San Francisco Bay.

The placement of the Mandela Parkway Project's FTC device will treat stormwater from 610 acres, and the Cary Avenue Trash Capture Project's FTC device will treat stormwater from 739 acres. The one-device-to-many acres-treated approach eliminates the need for siting, installing, and maintaining many smaller FTC devices and other trash removal methods otherwise required to achieve the same trash load reduction outcomes.

Periodic regular maintenance is required for the ongoing operation and permit compliance credit from the Water Board. The City has installed 10 such devices throughout the City, including in East Oakland, along the waterfront, and around Lake Merritt. For the Mandela Parkway and the Cary Avenue devices, the City will be responsible for vacuuming the accumulated debris twice a year at an estimated cost of \$2,400.² Each project will take approximately seven months to complete. Physical construction is expected to begin in April 2024 and will be completed by the end of October 2024.

Without the City Council's approval to award construction contracts to construct the two projects, the Mandela Parkway and the Cary Avenue Projects will be unable to move forward, and the City would be forced to forfeit \$7,180,580.00 in Caltrans grant funding and would lose 9.7 percent MRP trash load reduction credit that would need to be achieved through other less effective and more costly methods. Both projects include work that must be completed during the dry season between April 1, 2024, and October 2024 to avoid extensive and costly dewatering and drainage bypass. The work cannot be pushed to 2025 because grant funding from Caltrans must be spent by December 2024, and extensions are not allowed. Each project will take approximately seven months to complete.

Based on the engineer's estimate, the October 19, 2023 bid result for the Mandela Parkway Project, which exceeded the engineer's estimate by 2.3 times, the need for additional Caltrans funding to supplement existing available funding is expected. Caltrans provided a letter of support committing to provide additional funding to match the successful lowest responsive and

¹ The device on Mandela Parkway will be installed under the northbound side of the street between 24th Street and Campbell Street. The device on Cary Avenue will be installed between 10220 and 673 Cary Avenue.

² This cost will increase over time.

responsible bid for each of the two projects (**Attachment E – Caltrans Letter of Support**). To reduce the risk of losing grant funding and MRP trash load reduction compliance credit, it is essential to streamline the contracting award and approval process through the proposed resolutions. The parallel process will shorten the projects’ schedules by approximately twelve weeks and allow construction to take place in 2024 to meet the strict grant deadlines.

Upon completion of the bid results and compliance analysis results, an informational memorandum will be provided to the City Council on the bid analyses and selection results and after finalizing the result of negotiation by the City Administrator for any open market contracting, if relevant.

FISCAL IMPACT

Funding for each project is budgeted and available in the following funding sources:

FUNDING SOURCE	AMOUNT
Mandela Parkway FTC Grant – Caltrans CIA (2140); Organization (#92245 and #30245); Project (1006066)	\$3,631,500.00
Pending Caltrans Approval for Additional Funding To Be Appropriated in Caltrans CIA (2140); Organization (#92245 and #30245); Project (1006066)	\$87,833.00
TOTAL FUNDS FOR MANDELA PARKWAY	\$3,719,333.00
Cary Avenue FTC Grant – Caltrans CIA (2140); Organization (#92245); Project (1006466)	\$2,250,000.00
Pending Caltrans Approval for Additional Funding To Be Appropriated in Caltrans CIA (2140); Organization (#92245); Project (1006466)	\$786,145.00
TOTAL FUNDS FOR CARY AVENUE	\$3,036,145.00

There is no impact on the General Purpose Fund.

PUBLIC OUTREACH / INTEREST

For both projects’ construction solicitation, Oakland Public Works, Watershed and Stormwater Management Division (OPW-WSMD) worked with Oakland Public Works-Capital Contracts Division (OPW-CCD) and DWES to conduct public outreach through the legal ads, enhanced notifications, and a pre-proposal meeting.

Notifications of solicitations were distributed by several means: the City’s iSupplier system, which is utilized to notify registered contractors, plan rooms and builder’s exchanges, regional trade and business groups, including the Oakland Metropolitan Chamber of Commerce, Oakland Black Board of Trade & Commerce, Bay Area Business Roundtable, and the Construction Bid board. Companies that register in iSupplier wait a few days before receiving

access to review proposal requests in this system. If a company enters a Northern American Industry Classification System (NAICS) code, they are notified about projects with this code.

In addition to iSupplier and the established disparity outreach list of OPW-CCD, information was provided through CIPList.com, a free, web-enabled site to announce and distribute solicitations. Through CIPList.com, any company or entity may register to be automatically notified of all City of Oakland solicitations without restrictions.

The public outreach plan for both projects includes outreach in February to residents, property owners, businesses, and other neighborhood entities. Specifically:

- Mailing letters about the project to all addresses within a 500-foot radius to reach the surrounding community.
- Placement of project information notices on doors of highly impacted residences.
- Project briefings to the local Neighborhood Councils upon request.
Outreach to community organizations, businesses, schools (Lodestar School on Edes Avenue), faith groups, and other entities recommended by the respective Councilmember.

The legal notice for the Mandela Parkway Project solicitation was advertised on July 21, 2023. Legal notices were printed in the East Bay Times and Oakland Post. In addition, information about the project was published in El Mundo, Daily Pacific Builder, World Journal, and the Korea Times publications to supplement and ensure the information reaches Local Business Enterprise and Small Local Business Enterprises.

OPW-CCD held a pre-bid meeting in partnership with the DWES and the Project Manager on August 17, 2023, with prospective bidders in attendance virtually. The meeting served a few purposes: to discuss with potential contractors how contracts are established with the City, answer any compliance questions, and discuss the current RFB solicitation specifically. On August 18, 2023, the Project Manager held a voluntary pre-bid site meeting for prospective bidders. The meeting was an opportunity to tour the site with the Project Manager and design team, network with other bidders, and ask questions about the Project.

Bids were due in October 2023. The City received one bid from a local contractor, McGuire and Hester, which was 2.3 times the engineer's estimate. Staff is recommending to Council to reject the bid because it exceeded the engineering estimate by a substantial amount, the Caltrans grant manager confirmed that the engineering estimate was valid based on similar large trash capture projects constructed recently in California, including one constructed in 2023 for less than \$3,000,000 in Richmond. Based on this, the Caltrans grant manager was unable to justify increasing the Mandela Parkway Project's grant award to cover the funding gap until the project was re-bid.

The legal notice for the solicitation for the Cary Avenue Project was advertised on September 19, 2023. Legal notices were printed in the East Bay Times and Oakland Post. In addition, information about the project was published in El Mundo, Daily Pacific Builder, World Journal, and the Korea Times publications to supplement and ensure the information reaches Local Business Enterprise and Small Local Business Enterprise.

OPW-CCD held a pre-bid meeting in partnership with the DWES and the Project Manager on September 28, 2023, with prospective bidders in attendance virtually. The meeting served a few purposes: to discuss with potential contractors how contracts are established with the City, answer any compliance questions, and discuss the current request for bids solicitation specifically.

Before bids were due, the solicitation was canceled due to the bid results for the Mandela Parkway Project

Because both the Mandela Parkway Project and the Cary Avenue Project rely on funding from Caltrans and are needed for the City and Caltrans to comply with their respective stormwater permit trash load reduction requirements, OPW-WSMD staff pursued a method to successfully construct both projects. Through coordination with DWES, an availability analysis of the City's database of local certified firms was conducted based on sufficient evidence that the availability of certified firms with experience in performing highly technical and heavy civil engineering construction work would not be sufficient to satisfy the minimum 50% Local/Small Local Business Enterprise (L/SLBE) participation requirement. An email was sent to the twenty-six (26) certified firms with the applicable NAICS codes to determine if these firms were able to perform the projects' scopes of work. Only two (2) firms responded that they could provide the services. Per the City's L/SLBE Program: "Based on the "Rule of Three," if fewer than three certified L/SLBEs can perform the work, then the 50% L/SLBE requirement may be set at a percentage from 50% to 20% if at least one certified L/SLBE is available. Therefore, the minimum L/SLBE participation requirement and the local certified firms for these projects were reduced to 20% based on the results of the availability analysis. The availability analysis results for the Mandela Parkway Project and the Cary Avenue Project are provided in **Attachment F**.

A second legal notice for the solicitation was advertised on December 29, 2023, for both the Mandela Parkway Project and the Cary Avenue Project. Notifications of the solicitation were distributed by the same means as the first solicitation. Additionally, contractors known to perform this type of construction work were notified. OPW-CCD held a pre-bid meeting in partnership with DWES and the Project Manager on January 11, 2024, with prospective bidders in attendance virtually. The meeting served a few purposes: to discuss with potential contractors how contracts are established with the City, to answer any compliance questions, and to discuss the current RFB solicitation specifically.

COORDINATION

The design of both the Mandela Parkway Project and the Cary Avenue Project was developed with input from Oakland Public Works Wastewater Engineering Management, Storm Drainage Maintenance, and Construction Management, the City's Americans with Disabilities Act (ADA) Programs Division, Oakland Department of Transportation, Caltrans, East Bay Municipal Utility District, and Pacific Gas and Electric. The Union Pacific Railroad has provided a temporary easement to allow the construction of the Cary Avenue Project. The work to be contracted has been coordinated with the DWES and appropriate divisions within Oakland Public Works.

In addition, this report and the resolution have been reviewed by the Budget Bureau of the Finance Department and for form and legality by the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: Funding from Caltrans will fully cover the cost of the design and installation of both projects. Implementing these cooperative projects will help the City meet the Water Board's regulatory requirements with a much lower financial commitment than if the City were to implement a similar project on its own. Compliance with MRP regulations will mitigate the risk of penalty fines and third-party lawsuits.

Environmental: The projects will prevent a significant amount of trash and other pollutants from entering the San Francisco Bay by removing them from stormwater and the storm drainage system. In particular, the Cary Avenue Project will improve water quality and shoreline conditions of San Leandro Creek and San Leandro Bay and along Martin Luther King Jr. Regional Park, home to one of the largest populations of ridge-gull, a federally endangered bird species. San Leandro Bay's wetlands and open water areas are habitat to myriad birds, fish, and other wildlife and are part of the internationally recognized San Francisco Bay Wetlands of International Importance (see <https://rsis Ramsar.org/ris/2097>). Together, the Mandela Parkway and the Cary Avenue Project will treat stormwater entering the City's storm drainage system from 1,349 acres of land in Oakland.

Race & Equity: The Mandela Parkway Project will provide a watershed-based solution to reduce pollutant loadings, trash, and sediments from entering the San Francisco Bay, thus enhancing water quality for beneficial and recreational uses. The Cary Avenue Trash Capture Project will reduce trash flows from the storm drainage system to improve water quality, aesthetics, and health of nearby downstream water bodies and shorelines within the Coliseum Airport Planning Area, located within a City of Oakland high priority racial equity investment area (see the OakDOT Geographic Equity Toolbox, <https://www.oaklandca.gov/resources/oakdot-geographic-equity-toolbox>), and mapped as having one of the highest percentages of pollution burden by the [CalEnviroScreen](#). Reducing trash and water pollutant inputs to the nearby San Leandro Creek, San Leandro Bay, and the Martin Luther King Regional Shoreline Park will contribute to the enjoyment and the health of people visiting, recreating, and/or fishing in those places.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Both Projects are exempt from CEQA, pursuant to CEQA Guidelines Section 15301 (Alteration/Minor Addition to Existing Facilities) because they are projects making minor alterations to existing, publicly owned utilities involving negligible or no expansion of an existing use.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

1. A Resolution 1) Authorizing The City Administrator To Award A Construction Contract That Follows All City Advertising And Competitive Bidding Requirements To The Lowest Responsive And Responsible Bidder In Accord With Project Plans And Specifications And With The Contractor's Bid For Project No. 1006066 Mandela Parkway Trash Capture Project For An Amount Not To Exceed Three Million Seven Hundred Nineteen Thousand Three Hundred Thirty-Three Dollars (\$3,719,333.00), Contingent Upon Caltrans Approval Of Additional Funding, Without Return To City Council; 2) If No Valid Bids Are Received, Authorizing The City Administrator To Award A Construction Contract In The Open Market; 3) Rejecting All Bids That Were Due October 19, 2023; And 4) Adopting Appropriate California Environmental Quality Act Findings For Project No. 1006066 Mandela Parkway Trash Capture Project; And
2. A Resolution 1) Authorizing The City Administrator To Award A Construction Contract That Follows All City Advertising And Competitive Bidding Requirements To The Lowest Responsive And Responsible Bidder, In Accord With Project Plans And Specifications And With Contractor's Bid For Project No. 1006466 Cary Avenue Trash Capture Project For An Amount Not To Exceed Three Million Thirty-Six Thousand One Hundred Forty-Five Dollars (\$3,036,145.00), Contingent Upon Caltrans Approval Of Additional Funding, Without Return To City Council; 2) If No Valid Bids Are Received, Authorizing The City Administrator To Award A Construction Contract In The Open Market; And 3) Adopting Appropriate California Environmental Quality Act Findings For Project No. 1006466 Cary Avenue Trash Capture Project.

For questions regarding this report, please contact Tiffany Pham, Project Manager, Civil Engineer, at 510-851-0754.

Respectfully submitted,



G. Harold Duffey (Feb 8, 2024 13:57 PST)

G. HAROLD DUFFEY
Director, Oakland Public Works

Reviewed by:
Siew-Chin Yeong, P.E., Assistant Director
Bureau of Design & Construction

City Council
February 20, 2024

Jestin Johnson, City Administrator

Subject: Award Construction Contracts for Mandela Parkway and Cary Avenue Trash Capture Projects

Date: January 22, 2024

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Terri Fashing, Acting
Watershed and Stormwater Management
Division and DD Bond Manager

Prepared by:
Tiffany Pham, P.E., Project Manager
Jennifer Stern, Watershed Program Specialist
Watershed & Stormwater Management Division

Attachments (6):

A: Mandela Parkway Project Bid Request

B: Mandela Parkway Project Watershed Map

C: Cary Avenue Project Bid Request

D: Cary Avenue Project Watershed Map

E: Caltrans Letter of Support

F: Availability analysis results for the Mandela Parkway Project and the Cary Avenue Project