



CITY OF

NEWPORT BEACH

City Council Staff Report

October 12, 2021
Agenda Item No. 9

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Civic Center Park Pathway Replacement – Notice of Completion for
Contract No. 7879-1 (21P12)

ABSTRACT:

On September 22, 2020, the City Council awarded Contract No. 7879-1 for the Civic Center Park Pathway Replacement Project to Civic Construction Associates (CCA). The project replaced the deteriorating natural pathways throughout the sculpture garden at Civic Center Park. The work is now complete and staff requests City Council acceptance and close out of the contract.

RECOMMENDATION:

- a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
- b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with applicable portions of Civil Code; and
- c) Release Faithful Performance Bond one year after acceptance by the City Council.

DISCUSSION:

Overall Contract Cost/Time Summary

Awarded Contract Amount	Final Cost at Completion	Contingency Allowance	Actual Contract Change	% Due to Directed Change	% Due to Unforeseen Change
\$155,000	\$149,845	10% or less	+0%	3.33%	0%
Allowed Contract Time + Approved Extensions (days) =		44	Actual Time Under (-) or Over (+)		+55

The Civic Center Park Pathway Replacement Project (Contract No. 7879-1) replaced the natural pathway that winds through the sculpture garden north of the Civic Center. The existing path was showing advanced deterioration and material failure and had been patched in several areas over the past eight years. The existing epoxy-based pathway material is no longer available and a new, natural-looking material was chosen that provides the look and feel of a natural path.

The contracted work has now been completed. A summary of the construction cost is as follows:

Original bid amount:	\$155,000
Actual Cost of Bid Items Constructed:	\$155,000
Back-charged cost of work done by City forces:	<u>(\$5,155)</u>
Final Contract Cost:	\$149,845

While the natural path replacement project has now been completed, it experienced significant delays and quality issues associated with the contractor, CCA. After the Notice to Proceed was issued, CCA failed to report to the worksite and begin work per their contract obligations. Per the contract documents, the City of Newport Beach (City) filed a Notice of Default and Demand to Cure with the contractor and contractor's surety to force the contractor to begin work. CCA responded to the notices satisfactorily and began removing the existing pathway.

As CCA removed the existing pathway and started the grading of the subsurface for the new material, an issue arose with the general public regularly disregarding the installed closure and detour signs, and pedestrian safety measures, often tearing down construction tape and moving barricades to access the pathway at all hours, day and night. Staff identified this issue and tried to have the contractor expedite the schedule so that the new pathway was installed as quickly as possible to provide safe passage for the pedestrians continuously using the park.

During pathway reconstruction, further contractor performance issues began to arise as the contractor's supervisor regularly failed to be present at the worksite, without explanation. City construction inspectors consistently required CCA to make adjustments to its installation procedures to correct deficiencies. At several locations, the final work product was deemed unacceptable, and the City required full replacement.

CCA failed to maintain an acceptable level of communication throughout the project. Phone calls and emails were often ignored and requests that the contractor set up their voicemail system were unheeded.

One change order totaling -\$5,155 in decreased contract cost was approved as part of the project. These costs were back-charged to the contractor for work done by the City's forces to correct issues with the job. In particular, the City was required to remove spoils and leftover construction material that CCA left on-site, uncovered. The City was also required to rehabilitate portions of the landscaping and to restripe the crosswalk which was damaged by the work.

CCA incurred code enforcement fines for uncovered and uncontained construction materials after being repeatedly warned about these violations.

While the final installation of the path is determined to be safe and provide a natural-looking and acceptable walking surface, several areas of variation in the surface texture and material coloration are apparent. CCA was required to use a small grinding machine to re-level portions of the pathway to smooth out surface deviations. Staff consulted with the material provider and it is the supplier's opinion that the color variation will fade and better blend in over time, with weathering and the continued use of the path.

The contractor disputes that there is any issue with the installation and claims that all problems are related to the material supplied. The material supplier points to any of these quality concerns as associated with installation and workmanship.

Based on the replacement sections, there is a noticeable color variation that occurs with different batch installs. Further removal operations to address color and surface imperfection may destabilize and damage otherwise acceptable portions of the pathway, resulting in additional areas of removal. Therefore, staff recommends filing for project completion and monitoring the pathway through the warranty period. Any further required replacements of the pathway in this period will either be completed by CCA or through its bonding and surety.

A summary of the project schedule is as follows:

Actual Start of Construction Per Notice to Proceed	April 5, 2021
Extended Contract Completion Date Inclusive of Extra Work	May 24, 2021
Actual Substantial Construction Completion Date	August 20, 2021

FISCAL IMPACT:

Funding for this project was provided from a \$500,000 Local Assistance Specified Grant appropriated in the State of California's FY 2019-20 budget, which was also designated for the Civic Center Park Sculpture Exhibition Phases V and VI. Funds for the construction contract and work done by City forces were expended from the following account:

<u>Account Description</u>	<u>Account Number</u>	<u>Amount</u>
Contributions	13501-980000-21P12	\$ 155,000
	Total:	\$ 155,000

ENVIRONMENTAL REVIEW:

On September 22, 2020, the City Council found this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(d), (restoration of deteriorated or damaged existing facility) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Location Map