



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 04/24/01
AGENDA ITEM 5
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Foothill Boulevard Median Landscaping - Grove Way to City Limits:
Approval of Addendum and Award of Contract

RECOMMENDATION:

It is recommended that the City Council approve the attached resolutions that:

1. Approve Addendum No. 1, which provides for minor revisions to the plans;
2. Award the contract to Contra Costa Landscaping, Inc., of Martinez, in the amount of \$215,386.81; and
3. Appropriate \$40,000 to complete this project.

BACKGROUND:

On February 13, 2001, the City Council approved the plans and specifications, acknowledged that the project is categorically exempt from the CEQA process, and called for bids to be received on March 13, 2001. During the bidding period, Addendum No. 1 was issued for minor revisions to the plans.

On March 13, 2001, six bids were received ranging from \$174,956.50 to \$282,266. DB Landscape of Redding submitted the low bid of \$174,955.50, which is 23 percent below the Engineer's Estimate of \$228,208. Contra Costa Landscaping of Martinez submitted the second low bid of \$215,367.12, which is 5.6 percent below the Engineer's estimate. Since the low bid is 23 percent lower than the Engineer's estimate, City staff requested and received confirmation from the low bidder that the bid is valid.

Staff contacted several references regarding DB Landscape's ability to complete the project. Although the responses from the references provided by DB Landscaping were generally favorable, Foundation for Fair Contracting (Foundation) representatives contacted the City and suggested additional references that would show that the DB Landscaping does not always comply with the Labor Code. At Foundation's request, staff contacted the State Labor Commission staff, who confirmed that they are in litigation with DB Landscape for failure to pay prevailing wages, to comply with working hours, and to make training fund contributions.

Staff also learned that the City of Redding is in litigation with DB Landscape. Redding also reported having safety issues with DB Landscape's work.

In the Bay Area, the cities of Walnut Creek and Antioch also reported difficulties with DB Landscape relative to compliance with safety procedures and project requirements. One of this City's inspectors is a former City of Antioch inspector and previously observed DB Landscape on a City of Antioch project. He reports that, generally, work progress was only intermittent. On the City of Antioch project, City crews had to barricade excavations left by DB Landscape on several occasions. In one instance, DB Landscape cut through fiber optic lines that were clearly marked by Underground Service Alert; when the utilities reprimanded Mr. Betrus, the owner, cut the lines again. Mr. Betrus reminded City of Hayward staff that he had previously worked for the City of Hayward in 1994. This City's inspector's construction reports note that during the project Mr. Betrus had a verbal confrontation with the manager of one of our mobile home parks. He was also reprimanded several times for inadequate construction signs. When our inspector showed Mr. Betrus the Caltrans permit requirements for safety vests and hard hats, Mr. Betrus repeatedly refused to comply. He also refused to comply with a City direction to use a flagger when needed.

Based on this additional reference information, staff does not believe that DB Landscape is a responsible contractor. By letter, staff has informed DB Landscape of its intent to recommend rejection of their bid as being received from a non-responsible bidder. Although DB Landscape and his attorney responded in writing that they were involved in only one lawsuit in his entire 17-years of business and that he still wanted the contract, staff is not persuaded and recommends that the City Council find DB Landscape is a non-responsible bidder. Copies of the correspondence received by the City from DB Landscape are attached as Exhibit C.

The participation goals established for this project were 10 percent for Disadvantaged Business Enterprise (DBE) and 3 percent for Women-Owned Business Enterprise (WBE). The second low bid from Contra Costa Landscaping included 14.3 percent DBE participation and 2.7 percent WBE participation, which exceed the total goals. Staff made reference checks on the second low bidder; all responses indicate that Contra Costa Landscaping, Inc. is a responsible contractor. Staff recommends that the City Council award the contract to Contra Costa Landscaping, Inc.

PROJECT COSTS:

The estimated costs of the project are as follows

Construction Cost (this action)	\$ 215,369
EBMUD Water Service	10,000
Design and Administration	32,631
Inspection and Construction	22,000
TOTAL	<u>\$ 280,000</u>

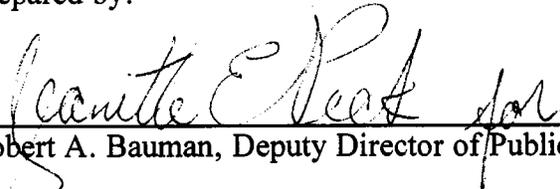
FUNDING:

A total of \$240,000 is approved for this project in the Capital Improvement Fund in the 2000/2001 Capital Improvement Program budget. An additional appropriation of \$40,000 is needed to complete this project.

SCHEDULE:

Begin Construction	June 15, 2001
End Construction	October 14, 2001
Complete Plant Establishment	April 14, 2002

Prepared by:



Robert A. Bauman, Deputy Director of Public Works

Recommended by:



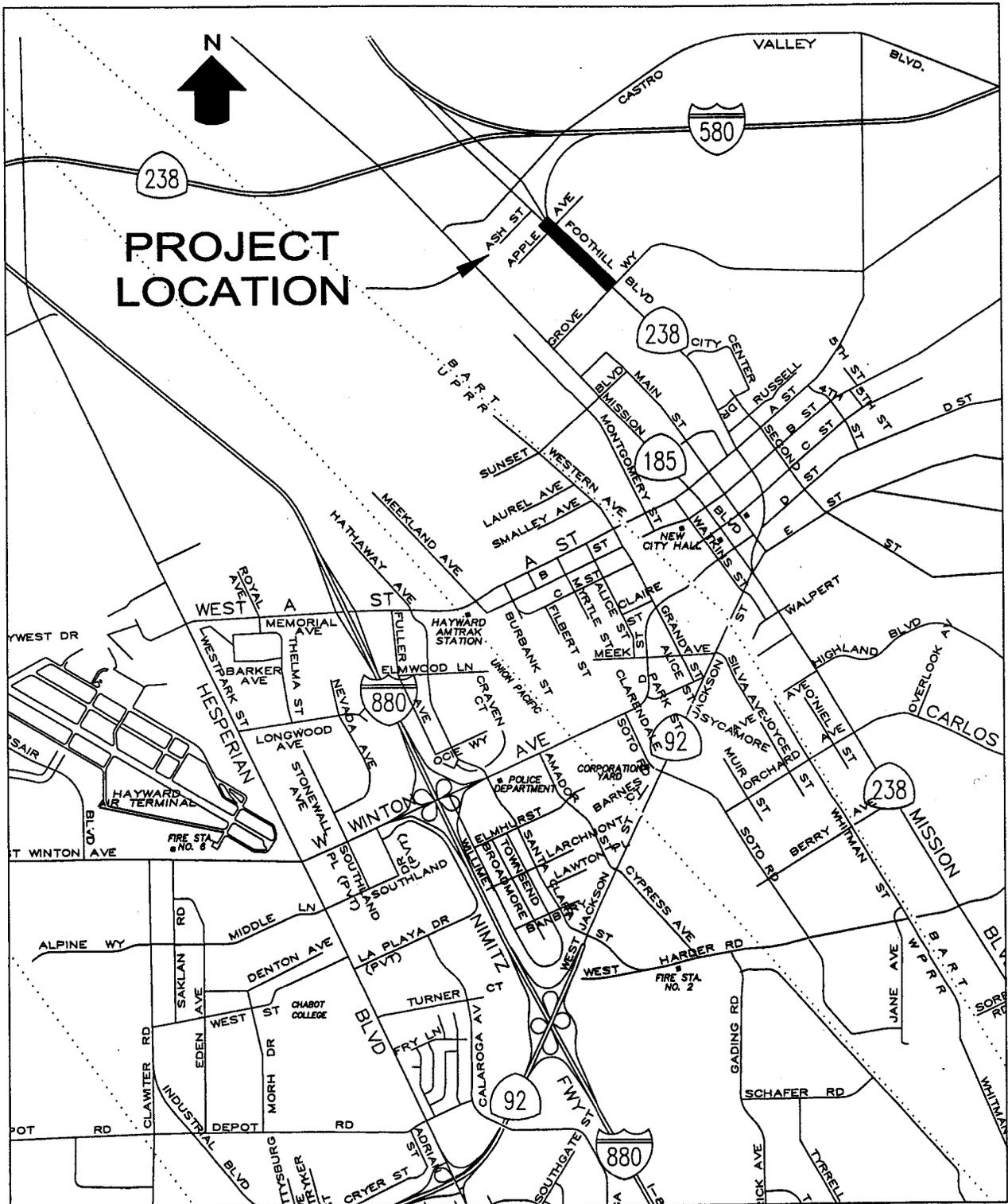
Dennis L. Butler, Director of Public Works

Approved by:



Jesús Armas, City Manager

Attachments: Exhibit A: Location Map
Exhibit B: Bid Summary
Exhibit C: Correspondence from DB Landscape



LOCATION MAP

**FOOTHILL BLVD. MEDIAN LANDSCAPE
GROVE WAY TO CITY LIMITS
PROJECT NO. 6925**

CITY OF HAYWARD
 FOOTHILL BOULEVARD MEDIAN LANDSCAPING GROVE WAY TO CITY LIMITS
 PROJECT NO. 6925
 BIDS OPENED: MARCH 13, 2001

(NUMBER OF BIDS RECEIVED - 6)

Exhibit B

BID SUMMARY				ENGINEER'S ESTIMATE		CONTRA COSTA LANDSCAPING 155 DUTRA ROAD MARTINEZ CA 94553 (925) 229-1060 - phone (925) 229-3152 - fax		BELLICITTI & PELLICCIOTTI 400 REED STREET, STE. 104 SANTA CLARA CA 95050 (408) 988-3155 - phone (408) 988-8665 - fax	
ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	TRAFFIC CONTROL	15,000.00	15,000.00	9,323.29	9,323.29	20,935.00	20,935.00
2	1	LS	DEMOLITION	35,000.00	35,000.00	31,833.36	31,833.36	39,110.00	39,110.00
3	1	LS	IRRIGATION ELECTRICAL SERVICE	5,000.00	5,000.00	4,288.89	4,288.89	1,500.00	1,500.00
4	740	SF	6" BOMANITE PAVING - MVP	18.00	13,320.00	15.92	11,780.80 *	13.50	9,990.00
5	705	SF	4" BOMANITE PAVING - MEDIAN NOSES	12.00	8,460.00	12.21	8,606.64 *	10.20	7,191.00
6	1,550	SF	4" BOMANITE PAVING - MAINTENANCE BAND (1')	15.00	23,250.00	15.66	24,268.35 *	13.50	20,925.00
7	23	EA	UPRIGHT BOULDERS (HIDDEN VALLEY BLOND)	600.00	13,800.00	400.12	9,202.78 *	270.00	6,210.00
8	19	EA	FLAT ROCKS (HIDDEN VALLEY BLOND)	500.00	9,500.00	502.12	9,540.22	280.00	5,320.00
9	1	LS	IRRIGATION SYSTEM NIC WATER METER	44,000.00	44,000.00	39,753.21	39,753.21	48,675.00	48,675.00
10	480	CY	IMPORTED TOPSOIL	35.00	16,800.00	48.57	23,313.60 *	34.00	16,320.00
11	5,885	SF	SOIL PREPARATION AND FINISHED GRADING	0.50	2,942.50	0.52	3,071.97 *	0.50	2,942.50
12	5,885	SF	CEDAR MULCH	0.35	2,059.75	0.45	2,624.71 *	0.40	2,354.00
13	2	EA	24" BOX SWAN HILL OLIVE	650.00	1,300.00	480.43	960.85	495.00	990.00
14	156	EA	5 GALLON SHRUBS	24.00	3,744.00	29.11	4,541.47 *	38.50	6,006.00
15	160	EA	2 GALLON SHRUBS - PHORMIUMS (SMALL)	12.00	1,920.00	10.55	1,688.00 *	27.50	4,400.00
16	351	EA	1 GALLON SHRUBS	12.00	4,212.00	9.55	3,351.00 *	11.00	3,861.00
17	80	EA	4" POTS - SUPPLIED BY CITY	5.00	400.00	3.17	253.84 *	5.50	440.00
18	1	LS	180-DAY MAINTENANCE PERIOD	7,500.00	7,500.00	6,964.13	6,964.13	3,300.00	3,300.00
19	1	LS	ADMINISTRATIVE CHANGE ORDERS	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00
			TOTAL		228,208.25		215,367.12 *		220,469.50

* TOTAL DIFFERENT THAN SUBMITTED BID

CITY OF HAYWARD
 FOOTHILL BOULEVARD MEDIAN LANDSCAPING GROVE WAY TO CITY LIMITS
 PROJECT NO. 6925
 BIDS OPENED: MARCH 13, 2001

(NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY				ENGINEER'S ESTIMATE		CLEARY BROS LANDSCAPE 521 DIABLO ROAD DANVILLE CA 94526 (925) 838-2551 - phone (925) 838-8716 - fax		DEL CONTE'S LANDSCAPING 41900 BOSCELL ROAD FREMONT CA 94538 (510) 353-6030 - phone (510) 353-6037 - fax	
ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	TRAFFIC CONTROL	15,000.00	15,000.00	27,109.60	27,109.60	29,260.00	29,260.00
2	1	LS	DEMOLITION	35,000.00	35,000.00	27,825.00	27,825.00	44,410.00	44,410.00
3	1	LS	IRRIGATION ELECTRICAL SERVICE	5,000.00	5,000.00	2,800.00	2,800.00	3,125.00	3,125.00
4	740	SF	6" BOMANITE PAVING - MVP	18.00	13,320.00	15.14	11,203.60	16.34	12,091.60
5	705	SF	4" BOMANITE PAVING - MEDIAN NOSES	12.00	8,460.00	12.91	9,101.55	12.48	8,798.40
6	1,550	SF	4" BOMANITE PAVING - MAINTENANCE BAND (1')	15.00	23,250.00	16.26	25,203.00 *	16.54	25,637.00
7	23	EA	UPRIGHT BOULDERS (HIDDEN VALLEY BLOND)	600.00	13,800.00	185.65	4,269.95 *	250.00	5,750.00
8	19	EA	FLAT ROCKS (HIDDEN VALLEY BLOND)	500.00	9,500.00	184.21	3,499.99 *	300.00	5,700.00
9	1	LS	IRRIGATION SYSTEM NIC WATER METER	44,000.00	44,000.00	51,016.00	51,016.00	48,880.00	48,880.00
10	480	CY	IMPORTED TOPSOIL	35.00	16,800.00	36.75	17,640.00	27.00	12,960.00
11	5,885	SF	SOIL PREPARATION AND FINISHED GRADING	0.50	2,942.50	0.68	4,001.80 *	0.52	3,060.20
12	5,885	SF	CEDAR MULCH	0.35	2,059.75	0.49	2,883.65 *	0.33	1,942.05
13	2	EA	24" BOX SWAN HILL OLIVE	650.00	1,300.00	539.00	1,078.00	519.00	1,038.00
14	156	EA	5 GALLON SHRUBS	24.00	3,744.00	26.76	4,174.56 *	17.00	2,652.00
15	160	EA	2 GALLON SHRUBS - PHORMIUMS (SMALL)	12.00	1,920.00	23.36	3,737.60 *	9.20	1,472.00
16	351	EA	1 GALLON SHRUBS	12.00	4,212.00	10.59	3,717.09 *	8.10	2,843.10
17	80	EA	4" POTS - SUPPLIED BY CITY	5.00	400.00	2.36	188.80 *	1.90	152.00
18	1	LS	180-DAY MAINTENANCE PERIOD	7,500.00	7,500.00	6,720.00	6,720.00	4,630.00	4,630.00
19	1	LS	ADMINISTRATIVE CHANGE ORDERS	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00
			TOTAL		228,208.25		226,170.19 *		234,401.35

* TOTAL DIFFERENT THAN SUBMITTED BID

CITY OF HAYWARD
 FOOTHILL BOULEVARD MEDIAN LANDSCAPING GROVE WAY TO CITY LIMITS
 PROJECT NO. 6925
 BIDS OPENED: MARCH 13, 2001

(NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY				ENGINEER'S ESTIMATE		WATKIN & BORTOLUSSI, INC. 77 LARKSPUR STREET SAN RAFAEL CA 94901 (415) 453-4691 - phone (415) 453-4129 - fax	
ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	TRAFFIC CONTROL	15,000.00	15,000.00	15,000.00	15,000.00
2	1	LS	DEMOLITION	35,000.00	35,000.00	104,421.00	104,421.00
3	1	LS	IRRIGATION ELECTRICAL SERVICE	5,000.00	5,000.00	500.00	500.00
4	740	SF	6" BOMANITE PAVING - MVP	18.00	13,320.00	14.00	10,360.00
5	705	SF	4" BOMANITE PAVING - MEDIAN NOSES	12.00	8,460.00	11.00	7,755.00
6	1,550	SF	4" BOMANITE PAVING - MAINTENANCE BAND (1')	15.00	23,250.00	14.00	21,700.00
7	23	EA	UPRIGHT BOULDERS (HIDDEN VALLEY BLOND)	600.00	13,800.00	400.00	9,200.00
8	19	EA	FLAT ROCKS (HIDDEN VALLEY BLOND)	500.00	9,500.00	370.00	7,030.00
9	1	LS	IRRIGATION SYSTEM NIC WATER METER	44,000.00	44,000.00	50,000.00	50,000.00
10	480	CY	IMPORTED TOPSOIL	35.00	16,800.00	30.00	14,400.00
11	5,885	SF	SOIL PREPARATION AND FINISHED GRADING	0.50	2,942.50	0.40	2,354.00
12	5,885	SF	CEDAR MULCH	0.35	2,059.75	0.40	2,354.00
13	2	EA	24" BOX SWAN HILL OLIVE	650.00	1,300.00	600.00	1,200.00
14	156	EA	5 GALLON SHRUBS	24.00	3,744.00	24.00	3,744.00
15	160	EA	2 GALLON SHRUBS - PHORMIUMS (SMALL)	12.00	1,920.00	8.00	1,280.00
16	351	EA	1 GALLON SHRUBS	12.00	4,212.00	8.00	2,808.00
17	80	EA	4" POTS - SUPPLIED BY CITY	5.00	400.00	2.00	160.00
18	1	LS	180-DAY MAINTENANCE PERIOD	7,500.00	7,500.00	8,000.00	8,000.00
19	1	LS	ADMINISTRATIVE CHANGE ORDERS	20,000.00	20,000.00	20,000.00	20,000.00
TOTAL					228,208.25		282,266.00

DB Landscape
588 Turquoise Ct. Redding, CA. 96003
(530)244-9301 Fax: Same
License # C27 445401

18 April 2001

City of Hayward
777 B Street
Hayward, CA.

Attn: Mr. Dennis Butler
Director of Public Works
Re: Foothill Blvd. Landscape Project

Dear Mr. Butler,

We request that you assist us in resolving your Department's recommendation to not award the above mentioned project. We believe that your staff is obtaining very one sided, incomplete and misleading references, causing them to have the evaluation of not recommending DB Landscape for this project.

Please find enclosed our letters dated 4-9-01 and 4-18-01. We have 17 years and 90 projects worth of experience, and, while a few of the 90 projects have had minor issues, I believe our average is above other landscape contractors in regards to ratio of projects v/s auto accidents, employee injuries, litigation, etc..

Please review the accompanying letters so that you can instruct your staff to recommend DB Landscape for this project. Otherwise we will have no choice but to file a bid protest, which will cause wasted time and effort, delay to the project, and possible ill feelings between parties. Please respond by 5:00 PM, Friday, April 20.

Respectfully,

Don Betrus



DB Landscape

588 Turquoise Ct., Redding, CA. 96003
(530)244-9301 Fax: Same
License # C27 445401

18 April 2001

City of Hayward
777 B Street
Hayward, CA.

Attn: Mr. Robert Bauman
Ms. Jeannette Peck
Re: Foothill Blvd. Landscaping Project

Dear Ms. Peck,

You informed us, verbally, during our phone conversation on 4-16-01 that your department's continuing position was to recommend rejection of BD Landscape to your City Council, even after receiving a prompt two page, factual response/rebuttal to Mr. Bauman's April 6 letter, and a letter from our attorney. Therefore, we formally request/demand that a formal bid protest be filed by way of this written request, reserving all legal rights and remedies.

We also request/demand a prompt, full and detailed list of alleged negative references, specifically the agency's name, contact's name and issues (detailed) raised. It is our position that the word "issue" is very misleading. An issue can be anything; a field discussion, a letter for clarification, a specification interpretation, a different interpretation than normally received, a request for extra compensation to perform, or a disagreement to the interpretation. Be advised that during two conversations, the organizations verbally mentioned were the Foundation for Fair Contracting, Cities of Redding, Walnut Creek, San Jose and Antioch, and CalTrans.

Finally, be aware that we have spoken to the Inspector for the City of San Jose, who stated that he has not responded, as yet, to the request for reference. We have also contacted Cliff Adams of CalTrans and Steven Yee of City of Dublin. Mr. Adams stated that he was never contacted for a reference, but said he would give a positive one. Mr. Yee stated that he gave a positive reference, including traffic control and safety.

Please respond fully by 5:00 PM, Thursday, April 19, 2001, so that we can respond to your Council by Tuesday, April 24, 2001.

Respectfully,

Don Betrus



cc: Mr. Dennis Butler

DB Landscape

588 Turquoise Ct., Redding, CA. 96003
(530)244-9301 Fax: Same
License # C27 445401

9 April 2001

City of Hayward
777 B Street
Hayward, CA., 94541

page 1 of 2

Re: Foothill Blvd. Median Landscape
Project #6925
Attn: Mr. Robert Bauman

Dear Mr. Bauman,

We are in receipt of your letter dated April 6, 2001. We also thank you for your "pre letter" call, which provided important information.

We are saddened by your tentative recommendation and hope and pray that the information contained in this letter will cause you to recommend acceptance of DB Landscape for the Foothill Blvd. Median Landscape project. During our phone conversation you stated that your received negative, and unsolicited, information from the Foundation for Fair Contracting. That act contradicts the organization's name; the allegations are unproved and possibly defamatory, and further points to the growing opinion that the F.F.C. is behaving as though it has some kind of authority, which it does not. The Foundation referenced the only two projects of DB Landscape's for which they have ever filed a complaint, out of 90 plus public works projects in our 17 year business history; City of Walnut Creek and City of Redding.

In Walnut Creek, we used the Tree Trimmer classification 2E for 3 men for 6 days for tree removal, which we were later told was strictly for PG&E contractors, though the Department of Industrial Relations classifications states *nothing* about *any* such restrictions (copy enclosed). We are currently disputing this claim and have offered to use the Utility Landscape Tradesman rate and pay the approximate \$2.00 pr. hr. difference, although this offer has been rejected. Local 355 agrees that trees can be removed by Utility Tradesman.

The City of Redding had partial Federal funds (80%), but our competitive bid made the project 100% Federally funded, which changed the rules from State wages to Federal wages. We have paid the difference long ago. When we spoke, you said that the City of Redding, Assistant City Attorney, stated that they had had safety issues and project compliance issues with us. I am surprised they had any comments, since in 17 years and 90 plus projects, the City of Redding is the first and only agency that we have been forced to file suit against. One out of 90 is an exceptional rate in my opinion.

This same project included a CalTrans encroachment permit and we had two minor safety issues; one was an unwritten, unspecified requirement to encircle the median with cones when working in the island. The other was 3 [unidentified] citizen complaints about

DB Landscape

588 Turquoise Cr., Redding, CA. 96003
(530)244-9301 Fax: Same
License # C27 445401

page 2 of 2

delays, in one week, out of 27,500 cars per day. We do have miscellaneous compliance issues, such as an Amber colored concrete stain specification that must match existing "green" stamped concrete (?); and a project manager who had, by his own admission, minimal landscape experience. My attorney is briefly writing you directly at my request.

We are confident that our positive references from the Cities of Turlock, San Jose and Dublin x 2, CalTrans and even the City of Walnut Creek (with the exception of labor) referenced us well in regards to compliance, completion and cooperation; the rest of our business history should far outweigh two partial bad references. Our company continues to receive compliments regarding the City of Redding project. We have also had two previous projects with your City, which I believe were successful.

A few last thoughts; we did not bid on any number of projects that we could have between March 13 and April 6 because of this project with your City. Not proceeding with this project will most certainly damage our company, as well as employees and their families. Also, our honest comment on our bonding just recently being increased failed to state that it was overdue by about 3 years, and your project, minus CCO funds and the concrete subcontractor, is \$120,000.00.

In 17 years and 90 projects we have never had a traffic accident; within or around any traffic safety in our history (70% of our projects require shoulder or lane closures).

In 17 years and 90 projects we have had 3 minor claims of public injury, all of which were found to *not* be the fault of DB Landscape (one person admitted to riding his bicycle drunk, but claimed anyway).

In 17 years and 90 projects only one employee sustained injuries requiring hospitalization.

In 17 years and 90 projects we have never had a contractor's license violation, and we retain our original license #445401.

In 17 years and 90 projects we have only filed one lawsuit.

In 17 years and 90 projects we have never not been awarded a project due to references.

I am certain that your tax paying citizens would not want to see \$40,000.00 wasted by rejecting a company of our caliber, who has completed two City of Hayward projects. We have spent adequate time reviewing the plans, specs, onsite traffic and previous phase of work and confidently believe that we will perform in a satisfactory manner.

We humbly request that you recommend DB Landscape for this project.

Sincerely,



Don Betrus

Robert A. Rehberg

A LAW CORPORATION
STATE BAR # 31434

RECEIVED

APR 11 2001

429 Redcliff Drive, Suite 220
Post Office Box 1045
Redding, California 96099
(530) 223-0660
Fax 223-2517

E-Mail: rarlaw@snowcrest.net

DEPT. OF PUBLIC WORKS
ENGINEERING AND
TRANSPORTATION DIVISION

April 9, 2001

Robert A. Bauman
City Engineer/Deputy Director of Public Works
777 B Street
Hayward, CA 94541-5007

Re: Foothill Boulevard Median Landscaping,
Your Project No. 6925

Dear Mr. Bauman:

ROUTE TO	DATE	INITIAL
	DIR. PUBLIC WORKS	
1	CITY ENGR.	MB
CC	MAURICE (Edme)	
	Dennis	
	FILE	Jessette

I am attorney for Donald Betrus who submitted a bid on this project which apparently is the low bid. By letter of April 6, 2001 you advised Mr. Betrus that notwithstanding that fact you intend to recommend that the City Council not award the contract to Mr. Betrus because your contacts with non-disclosed sources has "raised concerns" about Mr. Betrus's compliance with the law and the plans and specifications on projects involving those whom you contacted. You invite Mr. Betrus to respond to that information although I take it you understand that a rational response is virtually impossible without knowing who the accusers are and what the accusations are. For that reason I am asking that you provide me and/or Mr. Betrus with that information as soon as possible.

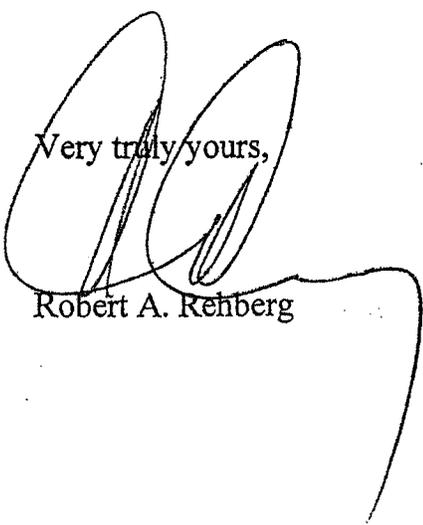
By way of illustration of our problem, Mr. Betrus advises me that you may have been contracted by the "Foundation for Fair Contracting" and the City of Redding. The Foundation is, I understand, affiliated with labor unions and functions as an advocate to protect preferential wage rates on public works. The burden of meeting that advocacy falls squarely on the contractor since the contracts typically require that the contractor comply with wage laws. You can therefore anticipate that there will from time to time be conflict between contractors and these union functionaries regarding the application of public works preferential wage rates. That is hardly a ground to disqualify that contractor from future bidding.

With regard to the City of Redding, I represent Mr. Betrus in a legal action filed by him now pending against the City. That dispute deals to a large extent with compliance with the specifications of the contract as it was modified by the City from time to time. A major issue in that case is the level of competence of Redding's

project management personnel, some of which have since been replaced. I would anticipate that if your information in that case came from the Public Work's or the City Attorney's Office you have heard one side of the story. After representing public agencies for 18 years I am well aware, as I am sure you are, that performance on its part of a contract by a city isn't always exemplary. No decision by a court has been made in the suit with the City of Redding and I would suggest that until it is it would be inappropriate to rely on the City's version of that dispute in deciding that Mr. Betrus is a "non-responsible bidder".

If your intention continues to be to recommend that the award not be made to Mr. Betrus ^{then} and I request that the information about your sources be provided to us as soon as possible.

Very truly yours,


Robert A. Rehberg

RAR/ws
cc: Donald Betrus

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDUM NO. 1; REJECTING LOW BID; AWARDING CONTRACT TO CONTRA COSTA LANDSCAPING, INC. FOR THE FOOTHILL BOULEVARD MEDIAN LANDSCAPING - GROVE WAY TO CITY LIMITS PROJECT, PROJECT NO. 6925; AND AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACT

WHEREAS, by resolution on February 13, 2001, the City Council approved the plans and specifications for the Foothill Boulevard Median Landscaping - Grove Way to City Limits Project, Project No. 6925, and called for bids to be received on March 13, 2001; and

WHEREAS, Addendum No. 1 was issued to allow minor revision to the plans and specifications; and

WHEREAS, on March 13, 2001, six bids were received ranging from \$174,955.50 to \$282,266, and DB Landscape submitted the low bid in the amount of \$174,955.50, which is 23 percent below the Engineer's Estimate of \$228,208; and

WHEREAS, based on subsequent information received from the State Labor Commission, the City of Redding, the City of Walnut Creek, the City of Antioch, and evidenced produced at the Council meeting, staff recommends that the City Council confirm staff's determination that DB Landscape is a non-responsible bidder; and

WHEREAS, Contra Costa Landscaping of Martinez submitted the second low bid in the amount of \$215,367.12, which is 5.6 percent below the Engineer's Estimate.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hayward as follows:

1. That Addendum No.1 is hereby approved and adopted as part of the plans and specifications for the project.

2. Based upon the evidence contained in the staff report and testimony presented at the City Council meeting, the Council finds that DB Landscape has had previous problems with the State Labor Commission and the Cities of Redding, Walnut Creek and Antioch. The Council further finds that the aforementioned problems raise significant concern regarding DB Landscape's ability to satisfactorily perform this project. It is therefore determined that DB Landscape is a non-responsible bidder for the purposes of Project No. 6925.

3. That Contra Costa Landscaping of Martinez is hereby awarded the contract for the Foothill Boulevard Median Landscaping - Grove Way to City Limits Project, Project No. 6925, in an amount not to exceed \$215,367.12, in accordance with the plans and specifications adopted therefor and on file in the office of the City Clerk of the City of Hayward, at and for the price named and stated in the bid of the hereinabove specified bidder, and all other bids are hereby rejected.

4. That the City Manager is hereby authorized and directed to execute the contract with Contra Costa Landscaping of Martinez, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING AN APPROPRIATION OF FUNDS FOR THE FOOTHILL BOULEVARD MEDIAN LANDSCAPING - GROVE WAY TO CITY LIMITS PROJECT, PROJECT NO. 6925

WHEREAS, the estimated costs for the Foothill Boulevard Median Landscaping - Grove Way to City Limits Project, Project No. 6925, is \$240,000 and it is recommended that this amount be appropriated in the Capital Improvement Fund for completion of this project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward authorizes the appropriation of \$40,000 from the Capitol Improvement Fund to the Foothill Boulevard Median Landscaping - Grove Way to City Limits Project, Project No. 6925.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward