



City of Rialto

Legislation Text

File #: 21-0880, **Version:** 1

For City Council Meeting [December 14, 2021]

TO: Honorable Mayor and City Council

APPROVAL: Marcus Fuller, City Manager

FROM: Michael Tahan, Interim Public Works Director

Request City Council to: (1) Award a Construction Contract to Senitica Construction, Inc., a California corporation in the amount of \$1,466,200 for the Cactus Trail Improvements Project, City Project No. 170801; (2) Award a Professional Services Agreement to Fountainhead Consulting Corporation, a California corporation in the amount of \$259,855; and (3) Authorize the City Manager to Execute All Documents.

(ACTION)

BACKGROUND

City Council adopted the Fiscal Year 2017/2018 and Fiscal Year 2019/2020 budgets, which included \$500,000 in FY2017/2018, and \$800,000 in FY2019/2020 from the Open Space Development Impact Fee Fund for the design and construction of the Cactus Trail Improvements Project.

The Cactus Avenue Trail Improvements project will improve a 1.5-mile trail along the Rialto flood control channel, adjacent to Cactus Avenue from Baseline Avenue to Rialto Avenue in the City of Rialto. The project includes repaving an existing dirt path to a paved trail with a two-way bike path, and a paved pedestrian path. The trail will be accessible by all residents and visitors regardless of mode of travel, including by car, bus, rail, bike, wheelchair, and by walking from adjacent residences, schools, parks, and businesses. The project connects active transportation systems from the north section of the City to the Pacific Electric Trail, and to the downtown area.

The project extends within San Bernardino County Flood District (SBCFCD) right-of-way and is subject to their requirements for continued access for maintenance to the Rialto Channel.

On February 2018, the City was notified that the California Transportation Commission (CTC) awarded \$1,260,000 to the City for the Cactus Trail Improvements Project as part of the Augmented 2017 Active Transportation Program (SB1), the "ATP Grant".

On April 10, 2018 the City Council adopted Resolution No. 7319 accepting the ATP Grant and concurrently awarded a Professional Services Agreement (PSA) with KOA Corporation, in the amount of \$194,025 for the Cactus Trail Design, City Project No. 170801.

In August 2018, the City conducted community outreach to obtain design input from the public during the Citywide Bike Rodeo, which occurred along the Pacific Electric Trail near Cedar Avenue. On March 26, 2019, City Council considered the concepts for the trail and provided direction.

On February 12, 2019, Council authorized the submittal of an Urban Greening Grant (UGG) application for landscaping improvements along Cactus Avenue for the Cactus Trail project. The grant application was submitted on February 28, 2019, requesting \$1,775,549 for the landscaping component of the project. The City was later notified in December 2019 that the application had not been selected for funding.

The ATP Grant has strict timelines for performance. On April 29, 2019, the City requested a time extension for the project. At their June 26-27 meeting, the CTC granted time extension to June 30, 2020.

On April 23, 2020, the City requested an amendment to the previously approved time extension. At the June 24, 2020 meeting, the CTC granted an amendment and extended the allocation deadline to February 28, 2021.

On September 22, 2020, City Council authorized the release of the Request for Bid for the Cactus Trail Improvements Project, City Project No. 170801, excluding any landscaping improvements and deferring the parking lot location decision based on the Pacific Electric Trail Feasibility Study.

At the December 2-3, 2020 meeting, the CTC allocated \$1,260,000 for construction of the Cactus Trail Improvements Project.

ANALYSIS/DISCUSSION

On December 10, 2020, the City released RFB No. 21-019 for the Cactus Trail Improvements Project, City Project No. 170801, and published the Notice Inviting Bids in the San Bernardino County Sun, on the City of Rialto website, and on PlanetBids.com.

On January 14, 2021, the City received eighteen (18) bids, tabulated in **Table 1** below:

Table 1

	Company Name	Bid Amount
1	Hillcrest Contracting	\$ 1,058,782.00
2	Senitica Construction	\$ 1,466,200.00
3	Powell Construction Inc	\$ 1,584,340.00
4	LA Engineering	\$ 1,605,660.00
5	H&H General Contractors	\$ 1,616,155.00
6	Universal Construction	\$ 1,643,400.00
7	SJD&B	\$ 1,656,590.00
8	Kasa Construction	\$ 1,746,310.00
9	Three Peaks Corp	\$ 1,749,050.08
10	Trinity	\$ 1,753,557.88
11	Jergenson Construction	\$ 1,779,448.75
12	Vido Samarzich	\$ 2,105,600.00
13	Moreno Valley Construction	\$ 2,112,845.00
14	Caliba Inc	\$ 2,169,675.00
15	CT&J Concrete Pavement	\$ 2,212,135.00
16	Aid Builders	\$ 2,288,250.00
17	Gentry General Engineering	\$ 2,320,920.00
18	NR Development Inc	\$ 2,434,640.00

A full bid summary is included as **Attachment 1**. The engineer's estimate was \$2,148,790 to \$2,363,669. The lowest responsible and responsive bid was \$1,058,782.00 submitted by Hillcrest Contracting.

On January 18, 2021, Hillcrest Contracting formally notified the city of their decision to withdraw their bid from consideration due to a clerical error during the bid tabulation. The letter submitted by Hillcrest Contracting is included as **Attachment 1A**.

Award of a contract was presented to the City Council at its meeting of January 26, 2021. At that time, City Council did not approve the award of this project and directed staff to submit a request to the CTC requesting an extension of time, and to seek additional grant funds to allow incorporation of landscaping into the project.

California Transportation Commission

The current deadline to award a construction contract is December 31, 2021. Staff has coordinated with Caltrans and submitted a request to extend the deadline to award the construction contract. The request is scheduled for the CTC's December 8-9, 2021, meeting. At the time this staff report was prepared it was not known if the City's request will be granted by the CTC.

In light of the pending deadline to award a contract, and with the potential for additional funds through Supervisor Baca Jr.'s office (as discussed further in the staff report), Staff recommends the City Council award a contract to satisfy the current CTC deadline

Discretionary ARPA Funds through Supervisor Baca's Office

On November 9, 2021, the City Manager and Mayor Pro Tem met with Supervisor Baca Jr. and his staff to discuss the Cactus Trail Improvement Project. At that meeting, Supervisor Baca advised that he was allocated a certain amount of San Bernardino County's American Rescue Plan Act (ARPA) State and Local Recovery Funds (SLRF). The Supervisor recommended the City submit a funding request for the Cactus Trail Improvement Project to allow for funding to incorporate all of the landscaping elements originally proposed as part of the facility.

On November 10, 2021, the City Manager submitted a request to Supervisor Baca's office requesting \$3,000,000 in SLRF to fund the cost of the landscaping and the construction of a new trailhead parking lot on County property located at the southeast corner of Baseline Road and Cactus Avenue. A copy of the City's request is included as **Attachment 2**.

On the basis that Supervisor Baca Jr. will approve the City's funding request, Staff recommends the City Council award to the second lowest bidder, Senitica Construction, Inc., in the amount of \$1,466,200. Staff reviewed the bid and found Senitica Construction, Inc., to be properly licensed and qualified. A Disclosure Statement is also included as **Attachment 3**. Staff recommends that the City Council accept the bid received from Senitica Construction as the lowest responsible and responsive bid. A construction contract with Senitica Construction for the project is included as **Attachment 4**.

Staff notes that the original bid submitted on January 14, 2021, was guaranteed for a period of 90 days, and as the award date has exceeded the guarantee period, Staff discussed the original bid prices with the contractor to determine if the prices would be modified due to the delay in award. The Contractor advised he and the subcontractors would honor their bid prices, with the exception of the fencing subcontractor who identified a 236% increase in pricing for cable fencing (original unit price of \$27.25 and new unit price of \$64.25) increasing that item of work by \$240,500. Given this price increase, Staff will negotiate a change in material type or design element with the cable fencing to maintain the construction cost.

On November 6, 2020, the City released Request for Proposal (RFP) No. 21-013 for construction management, inspection, labor compliance, geotechnical and materials testing for the Cactus Trail Improvements Project, City Project No. 170801, and posted it on PlanetBids.com and the City's website.

On December 7, 2020, the City received seven (7) proposals from the following firms, listed in alphabetical order:

- American Engineering Laboratories, INC.
- Dudek
- Engineering Resources of Southern California (ERSC)
- FCG Consultants
- Fountainhead Consulting Corporation
- PdM Consulting, INC.
- Southstar Engineering

The City assembled an evaluation panel to review the proposals that included City staff. The City follows a qualifications-based selection process. The panel evaluated the seven (7) proposals and

shortlisted the four (4) top firms, Engineering Resources of Southern California (ERSC), Fountainhead Consulting Corporation, FCG Consultants and Southstar Engineering, based on the evaluation criteria, including project understanding, scope of work, staff qualifications, firm qualifications, and project schedule.

The panel conducted interviews of the four (4) top ranked firms and then evaluated the consultants in categories such as project management, work plan and approach, project issues, relevant experience, communication and community outreach, schedule, and task management.

Based on the interviews, staff recommends awarding a construct to Fountainhead Consulting Corporation to provide the requested services for the Cactus Trail Improvements Project in the amount of \$259,855. The negotiated fee is 17.7% of the construction contract amount, and within the reasonable range of 15% to 20% expected for this type of service on a capital project.

A copy of the Professional Services Agreement (PSA) and Disclosure Statement are included as **Attachments 5 and 6**, respectively.

In accordance with the new Purchasing Ordinance, Section 2.48.240 “Change Orders” of the Rialto Municipal Code, the City Manager may approve Change Orders for public projects up to the amount identified in Public Contract Code section 22032(b), currently \$200,000 or such other amount delegated by City Council at the time of contract award. In this case, the City Manager will carefully review and approve all required Change Orders (if any) that might be required during construction, in the cumulative amount not to exceed \$200,000.

ENVIRONMENTAL IMPACT

Construction of the Project is subject to state environmental review pursuant to the California Environmental Quality Act (CEQA). The City, acting as the lead agency pursuant to CEQA, prepared an Initial Study and a Mitigated Negative Declaration (MND) for the Project. On September 22, 2020, the City approved the MND.

GENERAL PLAN CONSISTENCY

This action is consistent with Guiding Principle 3A in the General Plan:

Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.

Approval of this action also complies with the City of Rialto General Plan Goal and Policies:

Goal 3-11: Provide community facilities that adequately support established programs, can accommodate future needs, and are accessible to all members of the community.

Goal 3-11.1: Allocate resources for the maintenance and operations of City facilities; explore alternative funding options for maintenance and operational costs of new facilities.

LEGAL REVIEW

The City Attorney has reviewed and supports the staff report. Additionally, in response to City Council request, the City Attorney opines that the City’s Open Space Development Impact Funds may be appropriately used to fund this project. Gov. Code 66001(a)(2) states that development

impact fees must have a “use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan..., may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.” (Home Builders Assn. of Tulare/Kings Ctys., Inc. v. City of Lemoore, 185 Cal. App. 4th 554, 564-65 (2010)) [“ It would be unreasonable to demand the specificity urged by [the plaintiff] and require local agencies to make a concrete showing of all projected construction when initially adopting a resolution. Such a resolution might be in effect for decades.”)]

The City Council created the Open Space DIF with the following purpose: “An open space development fund is established for the costs of acquisition of open space, as well as the design, engineering, construction and installation of any infrastructure for the use of such open space by the public, necessary or desirable to accommodate new development.” RMC 3.33.320. Funds collected from open space development impact fee shall be used for the following purposes:

1. Preparation or development of an open space master plan or other special studies, including but not limited to habitat conservation plan(s) as necessary, to identify and designate appropriate open space and habitat areas for preservation of threatened or endangered species, and other studies determined to be necessary by the city;
2. Acquisition of real property, easements or other rights for the development of additional open space areas;
3. Design, engineering, construction and installation of improvements or facilities for the use, access and preservation of open space areas;
4. Establishment and endowment of on-going biological or cultural monitoring or interpretive programs necessary to maintain the viability of habitat conservation areas.

The City has reasonable leeway to use these fees, and subsection no. 3 of authorized uses above provides authorization for the type of open space uses as described in the Conceptual Master Plan for the proposed Cactus Avenue Trail Project.

FINANCIAL IMPACT

Operating Budget Impact:

The proposed action will not impact the Operating Budget.

Capital Improvement Budget Impact:

Funding sources for the Cactus Trail Improvements Project, City Project No. 170801, are shown in **Table 2** Below:

Table 2

Project Funding Sources	Amount
State SB 1 ATP	\$ 1,260,000
Open Space DIF	\$ 1,300,000
Total Funding	\$ 2,560,000

The unspent funds for this project in the SB1 Grant Fund Account, Account Number 203-500-7305-

3001-170801-05, in the amount of \$1,260,000 and from Open Space DIF Account, Account Number 220-500-8348-3001-170801 in the amount of \$942,093 will be carried forward for fiscal year 2021/2022.

The Construction Contract with Senitica Construction in the amount of \$1,466,200 will be funded from the SB1 Grant Fund Account, Account Number 203-500-7305-3001-170801-05, in the amount of \$1,260,000 and from Open Space DIF Account, Account Number 220-500-8348-3001-170801-22 in the amount of \$206,200.

The Professional Services Agreement with Fountainhead Consulting Corporation in the amount of \$259,855, will be funded from the Open Space DIF Account, Account No. 220-500-8348-3001-170801-16.

The total estimated cost of the project is shown on **Table 3**.

Table 3

Project Funding Sources	Amount
State SB 1 ATP	\$ 1,260,000
Open Space DIF	\$ 1,300,000
Total Funding	\$ 2,560,000
Project Expenses	
Design/Administration	\$ 357,907
Construction	\$ 1,466,200
CM & Inspection Services	\$ 259,855
Design Support - Construction Phase	\$ 14,600
10% Construction Contingency	\$ 170,000
Estimated Expense	\$ 2,268,562
Estimated Project Balance	\$ 291,438

Licensing

A Business License Tax at the Professional Services rate in the amount of \$1,529 based on the construction amount of \$1,466,200 will be assessed against the project and paid by interoffice transfer.

A Business License Tax at the Professional Services rate in the amount of \$304 will be paid by Fountainhead Consulting Corporation prior to execution of the Purchase Order.

RECOMMENDATION

Staff recommends that the City Council:

- (1) Award a Construction Contract to Senitica Construction, Inc., a California corporation in the amount of \$1,466,200 for the Cactus Trail Improvements Project, City Project No. 170801;
- (2) Award a Professional Services Agreement to Fountainhead Consulting Corporation, a California corporation in the amount of \$259,855; and
- (3) Authorize the City Manager to Execute All Documents