



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Public Works

MEETING DATE: April 15, 2025

STAFF REFERENCE: Alex Tachiki, Director

AGENDA LOCATION: AR-1

GOVERNMENT CODE SECTION 84308 APPLIES: Yes

TITLE: Award of Contract to RG General Engineering, Inc., for the Satoru Tsuneishi Park Project, Project # G-1000, in an Amount Not to Exceed \$838,042.00, Reject Bid Protest, Approve a Contingency Amount Not to Exceed \$83,800.00, Approve Park Design, and Approve Task Order No.121 with Merrell Johnson Engineering, Inc., for Construction Management and Inspection Services in an Amount Not to Exceed \$83,655.00

OBJECTIVE: To award a contract to RG General Engineering, Inc. (RG General), for the Satoru Tsuneishi Park Project, Project # G-1000 (Project), and approve a task order with Merrell Johnson for construction management of the project

BACKGROUND: In 2021, the City Council approved the necessary entitlements to develop a 2.09-acre site with a 4,562 square foot Chick-fil-A drive-thru restaurant and a 2,200 square foot drive-thru Starbucks Café on Huntington Drive. As part of this new development, the property owner dedicated approximately 8,600 square feet of land adjacent to the project to the City of Monrovia for future development into a community park.

Subsequently, the City Council approved a consultant services agreement with RHA Landscape Architects-Planners, Inc. (RHA), for the development of plans and specifications to construct the park. The design development included working extensively with the Community Services Commission and conducting community engagement and input to identify the park name and develop an overall park design. In 2024, the City Council approved naming the new park as Satoru Tsuneishi Park, a notable Monrovia who was the first Asian American to graduate from Monrovia Arcadia Duarte High School.

In February of 2024, the City Council approved purchase of playground equipment for the Satoru Tsuneishi Park, and authorized staff to conduct a formal bidding process for the Project. The approved project scope includes:

- Construct a 1,975-square-foot playground area, including grading and curbing, 1,330 square foot open turf, and 4,517 square foot low water native landscape and irrigation
- Install lighting and perimeter fencing
- Install various public art components, including 4 Haiku *Footnote* poems, 3 Interpretive signs, Big Belly trash cans wrapped with historic photos, 2 murals, and a little library
- Picnic Tables, Benches, Drinking Fountains, and bike rack
- Install a new park monument sign
- Construction of a 6 foot block wall at the park's southern perimeter for development of a public art mural

Staff advertised the Project, solicited competitive bids in accordance with the California Public Contracts Code and the City's Purchasing Policy. A Notice Inviting Bids was published in the local newspaper of general circulation. A total of six (6) firms attended the Pre-Bid Meeting.

On March 26, 2025, the City Clerk’s Office received and publicly read six (6) timely bids with the following result:

Rank	Company	Location	Base Bid Amount
1	RG General Engineering, Inc.	Norco, CA	\$ 838,042.00
2	Earthscapes Landscape, Inc.	Ontario, CA	\$ 844,068.63
3	H2M Construction, Inc.	Rancho Cucamonga, CA	\$1,090,000.00
4	Pokrajac Corporation	Monrovia, CA	\$1,119,044.66
5	D.F. Perez Construction, Inc.	Anaheim, CA	\$1,120,814.19
6	PUB Construction, Inc.	Diamond Bar, CA	\$1,623,666.75

The engineer’s estimate for this project was \$978,608.00. On April 1, 2025 the City received a bid protest from the apparent second low bidder, Earthscapes Landscape, Inc., arguing that the apparent low bidder is ineligible to perform landscape and irrigation work based on Earthscape’s interpretation of California license requirements. A copy of the protest letter and staff’s response is attached.

ANALYSIS: Staff reviewed the bid documents for completeness and investigated the contractor’s background, references, and recent projects for competency. RG General is identified as the lowest responsive bidder and is qualified to complete the work as specified for this project. RG General is a general contractor with a California Contractor’s License “A,” and has successfully completed multiple park projects for several local governments, including the cities of San Bernardino, Stanton, and Yorba Linda, and is currently completing a park project with the City of Norco.

After consultation with the City Attorney, staff recommends that the City Council reject the bid protest from Earthscapes Landscape, the apparent second low bidder, for the reasons stated in staff’s response letter (attached). Earthscapes’ interpretation of the contractors’ license requirements for the project is incorrect, and RG General has the appropriate license to meet the City’s requirement. Further, RG General proposes to complete over 50% of the project with its own personnel, meeting the “self-performance” requirements under State law.

Staff recommends that the City Council award the contract to the lowest responsive bidder, RG General, and reject the bid protest. The Project has specified 175 working days from the Notice to Proceed to complete the Project. Project and construction management will be performed through an existing agreement with Merrell Johnson.

Staff is also requesting approval of a task order with Merrell Johnson for engineering services and construction management on the Project. These services will be provided on a time and materials basis, within the approved budget, and these costs are consistent with industry norms for similar scopes of work. For these services, staff is requesting the authorization of a task order with Merrell Johnson in an amount not to exceed \$83,655.00.

Finally, staff recommends that the City Council give final approval for the design of Tsuneishi Park, by approving the plans and specifications for the Project.

ENVIRONMENTAL IMPACT: On August 3, 2021, the City Council adopted a Final Initial Study/Mitigated Negative Declaration (Final MND), which was the environmental document prepared for the Chick-fil-A and Starbucks development, including the development of an 8,600 square foot park, located at 820 Huntington Drive in accordance with the California Environmental Quality Act (CEQA). Pursuant to CEQA and the City’s local CEQA Guidelines, the Final MND concluded that the development project would result in impacts that could be mitigated to a “less than significant” level, if mitigation measures were implemented; therefore, a Mitigation Monitoring and Reporting Program was prepared and incorporated into the entitlements as conditions of approval. There are no new environmental impacts associated with the award of contract for construction of the 8,600 square foot park.

FISCAL IMPACT: In addition to the base amount of \$838,042.00 proposed for the work, staff is requesting a construction contingency of \$83,800.00 (approximately 10%) to cover the cost of any unforeseen conditions or additional work that arises through the execution of this Project. The City

Council previously authorized purchase and installation of playground equipment from Landscape Structures, Inc. (LSI), for a total authorization of \$451,821.88, including purchase amount and contingency. As such, the total requested funding for this Project is as follows:

Construction Contract Award – RG General	\$ 838,042.00
Construction Contingency	\$ 83,800.00
Construction Subtotal	\$ 921,842.00
Playground Installation – LSI	\$ 410,821.88
Playground Contingency	\$ 41,000.00
Construction Management – Merrell Johnson	\$ 83,655.00
Total Budget	\$ 1,457,318.88

Funding for all components of the Tsuneishi Park Project is available in the Measure K Fund. The City Council approved \$1,600,000 for Tsuneishi Park as part of the 2025 Measure K Spending Plan.

OPTIONS: The following options are presented for consideration:

1. Approve the Plans and Specifications for Project #G-1000, reject the bid protest, award a contract to RG General Engineering, Inc., for the Satoru Tsuneishi Park Project, Project #G-1000, in an amount not to exceed \$838,042.00, approve a contingency amount Not to Exceed \$83,800.00, and approve Task Order 121 with Merrell Johnson Engineering, Inc., for Construction Management and Inspection in an amount not to exceed \$83,655.00
2. Do not approve staff's recommendation and provide further direction.

RECOMMENDATION: Staff recommends Option 1.

COUNCIL ACTION REQUIRED: If City Council concurs, the appropriate action would be a motion to approve the Plans and Specifications for Project #G-1000, award a contract to RG General Engineering, Inc., for the Satoru Tsuneishi Park Project, Project #G-1000, in an amount not to exceed \$838,042.00, reject the bid protest, approve a contingency amount not to exceed \$83,800, approve Task Order 121 with Merrell Johnson Engineering, Inc., for Engineering and Construction Management in an amount not to exceed \$83,655.00, and authorize the City Manager to execute the necessary documents in a form approved by the City Attorney.



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April 1, 2025

**Office of the City Clerk
City of Monrovia**

Re: Protest Letter for Project No. G-1000 – Tsuneishi Park Project

Dear Mr. Alex Tachiki,

This formal letter serves as a protest regarding the bid submitted by RG General Engineering, Inc. for the Tsuneishi Park Project #G-1000. Our protest is based on our determination that RG General Engineering, Inc. possesses only a Class A – General Engineering Contractor’s State License and lacks a C-27 Licensed Subcontractor listing.

- Although Irrigation is listed in the Class A – General Engineering license description, this project does not fall under the guidelines of a project on a railroad, highway, street, road, tunnels, nor airports, as stated in Division 3, Chapter 9, Article 4, attached.
- According to the Contractors State License Board, a C-27 Landscaping Contractor License is required to perform the irrigation & landscape scope shown for this project, as this is an area designed to aesthetically improve the grounds within or surrounding a structure or a tract or a plot of land, as stated in Title 16, Division 8, Article 3 attached.

Upon review of their bid documents and Bid Schedule, Bid Item #46 (Landscape Irrigation) and Bid Item #47 (Landscape Planting), the total planting and irrigation scope is \$78,646, approximately 9.38% of RG General Engineering’s bid amount of \$838,042.

We believe RG General Engineering, Inc. deliberately did not list a C-27 Landscaper to stay within the 50% Self Performed requirement for this project. Their Designation of Subcontractors lists 41% in Subcontracted Work for Concrete, Fencing, Striping & Electrical. The unlisted irrigation & planting scope, 9.38% of the bid amount, will put them over 50% subcontracted work, thus under the required 50% Self Performed requirement.

For your consideration, Earthscapes Landscape Inc. holds both the Class A License & C-27 License, making us eligible to perform the required irrigation and planting work as mentioned on the Contractors License Board. With 14 years of experience in the Landscape Construction industry, we are more than capable of performing on a project such as this.

Thank you for considering this protest. Should you have any questions, please do not hesitate to contact me.

Best Regards,

Brian Olsen, President and CEO
603 S Milliken Ave, Unit J, Ontario, CA 91761

O: (714) 936-7810



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April 10, 2025

Mr. Brian Olsen, President and CEO
Earthscapes
603 S. Milliken, Unit J
Ontario, CA 91761

RE: City of Monrovia - Tsuneishi Park

Dear Mr. Olsen:

This responds to your protest letter regarding the above-referenced project, dated April 1, 2025. Respectfully, after researching the matter and consulting with the City Attorney, we have determined that your protest is not valid. We will recommend that the City Council reject the protest and award the contract to the apparent low bidder. Our recommendation regarding the protest is based on, but not limited to, the following:

1) The City has correctly determined the classification of contractor's license required.

Under Public Contract Code Section ("PCC") 3300, the awarding agency is required to "specify the classification of the contractor's license which a contractor shall possess at the time a contract is awarded...." See also, PCC Section 7059(b)(1). This decision is in the City's sole discretion as the contracting entity. See, *M&B Construction, et al. v. Yuba County Water Agency*, (1999) 68 Cal.App. 4th 1353, 1361. The City made the determination and included the requirements in the bid documents. The Contract Documents and Specifications for the Tsuneishi Park project ("Project") specify the following license requirement:

"LICENSES - Each Bidder shall possess a valid Class "A" (General Engineering), or "B" Building Contractor, or "C-27" Landscaping Contractor's license or any combination of licenses stated, issued by the California State Contractors License Board at the time of the Bid submission. The successful Contractor will be required to obtain a current City business license. (emphasis added)"

The City made the determination at the outset of the bidding process that any one of the three license type would be appropriate for the project and, as explained below, that determination was correct. We have no record of any question, request for clarification, or complaint about the accuracy of this license requirement from Earthscapes or any other potential bidder during the bidding process. It was only after the bids were opened, with Earthscapes being the apparent second low bidder, that Earthscapes raised the unique claim that a C-27 license is required for the landscaping and irrigation portions of the Project.



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2) The class A “General Engineering” license includes the required irrigation and park landscaping work.

Business and Professions Code Section 7056 defines in detail the work that falls within the scope of a Class A license. The full text of that section reads as follows:

“A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the above-mentioned fixed works.”

A reading of the full text above shows that the work required for the project is included within the specifications for a Class A license. Your letter incorrectly states that “irrigation” work must be done in the context of “a project on a railroad, highway, street, road, tunnels, [or] airports....” There is no such requirement. The full text of Business and Professions Code Section 7056 makes it obvious that the word “irrigation” is not connected to the various terms you appear to have lifted at random from other portions of the statute.

Additionally, your letter ignores the fact that Section 7056 also includes “parks, playgrounds, and other recreational works” as types of projects for which a Class A license is appropriate. Although “landscaping” is not specifically included in the list in Section 7056, Business & Professions Code Section 7059 permits a contractor to perform specialty work that is “incidental and supplemental” to the work in the contractor’s license category. The regulations of the Contractors State License Board define “incidental and supplemental” as work that is essential to performing work in the contractor’s license category. It is self-evident that performing the landscaping and irrigation work for this Project will be essential to completing the “parks, playgrounds and other recreational works” work that is expressly authorized under a Class A license and essential to the completion of any park. Parks must have landscaping, and landscaping must be irrigated.



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3. A C-27 License is not “required” to perform the landscape and irrigation work required for the Project.

Your letter states that the Contractors State Licensing Board “requires” that a C-27 license is required for any landscape irrigation work for a park. There is no such “requirement.” Your interpretation might be beneficial to Earthscapes, but it is not at all consistent with State law, as evidenced by the full text of Business & Professions Code Section 7056. Again, as stated above, State law provides that the City determines which license categories are necessary for the contract the City intends to award. The apparent low bidder complies with the licensing requirements rightly established by the City.

4. The apparent low bid complies with the self-performance requirement.

City staff verified that the apparent low-bidder did not exclude the work items you have protested from the bid amounts. The self-performed work equals 52.2% of the bid amount. You provided no evidence to support your speculation regarding the apparent low bidder’s motive for not subcontracting work that actually is within the bidders’ license category. Indeed, the bid documents and State law required every bidder to provide information regarding subcontractors, and this bidder did not list subcontractors for the work specified in your protest.

We appreciate your interest in this project but, as specified above, will recommend that the City Council reject the protest and award the contract for the Project to the apparent low bidder.

Sincerely,

Alex Tachiki
Director of Public Works

cc: Dylan Feik, City Manager
Craig Steele, City Attorney