



DATE: October 28, 2020

TO: Council Infrastructure Committee

FROM: Director of Public Works

SUBJECT: Update on the Hayward 21st Century Library and Community Learning Center Improvement Project

RECOMMENDATION

That the Council Infrastructure Committee reviews this report and comments on the progress of the construction of the Library building and the Library Plaza Project.

SUMMARY

The 21st Century Library and Community Learning Center and Heritage Plaza project was approved by Council in May 2015. The project includes a new Main Library, deconstruction of the old Main Library and construction of the Heritage Plaza. The Library building and related facilities were commissioned in September 2019 and are nearly complete. The Library Plaza is under construction and expected to be completed by late December.

BACKGROUND

On May 26, 2015, the Council approved the plans for the Measure C-funded 21st Century Library and Community Learning Center and Heritage Plaza project. On September 15, 2015, the City entered into an agreement with T.B. Penick & Sons, Inc., (TBP) for a construction contract in a not-to-exceed amount of \$52,550,000. Phase 1 of the project, construction of the new Main Library, began on January 4, 2016. A “soft opening” ceremony with ribbon cutting was held on October 27, 2018. After obtaining a “Temporary Occupancy Permit,” the library opened to the public on September 14, 2019. Due to construction issues, this temporary occupancy did not allow public access to the children’s story time and homework rooms.

Phase 2 of the project began in October 2018 and included deconstruction of the old main library and construction of the Heritage Plaza. The Heritage Plaza encompasses a full city block in downtown Hayward. Staff presented concepts for the Plaza design to Council on November 9, 2010 and on July 16, 2013, and a more detailed design on October 18, 2014. An overview and refresher of the Heritage Plaza restoration and construction project plans and

specifications was presented to Council in a work session on July 10, 2018. On May 14, 2019, Council accepted a \$398,516 Housing Related Parks Program (HRPP) grant from the State to reimburse construction costs related to the Heritage Plaza. On July 2, 2019, Council received an update on the plaza construction and appropriated \$30,000 towards public heritage art and interpretive signage.

The Library Plaza also houses an underground cistern in the basement of the old main library. The cistern will collect rainwater from the library, garage, and plaza areas for use in irrigating plaza landscape and for the library toilets.

DISCUSSION

LIBRARY STATUS

As of September 30, the overall project is 90.6% complete. The library is approximately 99.7% percent complete and is operating under a Temporary Occupancy Permit. Recent significant progress includes work on a structural roof repair, green wall installation, and the garage elevator installation. Investigation into a report by Novum, the subcontractor who installed the cable supported glass wall along C Street, that one of their cables had lost tension led to the discovery of an unauthorized modification to a structural support beam. The cables have been re-tensioned, the beam re-strengthened, and rooftop concrete and waterproofing removed and replaced as needed to effectuate repairs and the glass windowpanes adjusted. Marina Landscaping has installed the green wall in the children's patio area. Replacement of dead or diseased plants around the library will occur with planting at the Plaza. Otis Elevator returned to the project site to install the garage elevator and support installation of other electrical, framing, and waterproofing activity.

Five major items of work remain in the library. These are millwork, HVAC, garage access, atrium stairs, and solar panels.

- 1) Millwork - After repeated attempts to install the wood ceiling and wall panels, book stacks, shelves, cabinets, and countertops, TBP terminated their subcontract with Providence Ventures Inc. (PVI), and began looking for a local contractor to repair or remove and replace the unacceptable millwork. These subcontractors indicated that the corrective repair efforts might take up to nine months to complete. However, before PVI's surety would fund any corrective actions by a replacement subcontractor, they demanded that TBP allow PVI another opportunity to repair the millwork. During September, PVI began work on identified punch list items on the third floor. A third-party inspector from Woodwork Institute (WI) looked at the repairs on October 2 to determine if the repair efforts are worth continuing or in vain. The WI report indicates that much of the repaired work still does not meet project specifications.

- 2) HVAC - After numerous attempts to resolve HVAC system cooling problems, Helwig, the mechanical subcontractor, believes that they have identified an intake/exhaust air conflict and provided a temporary fix. Noll + Tam, the City's architect, is working on the design for a permanent fix. Helwig is also fabricating a louver for the atrium at the smoke exhaust fans. This louver may be available for installation during early November. After its installation, Helwig should complete their air balancing in the library, conduct a final smoke exhaust air test, and complete the HVAC system commissioning.
- 3) Garage Access - The garage stairway and elevator work has made some recent progress noted above. Besides subcontractor payment issues, there have been issues with unhoused individuals occupying and damaging elevator cabs and other elevator materials. Now, the siding subcontractor must finish their work on the remaining exterior wall, additional lighting must be installed, and the fire alarm controls connected to the existing garage system, before Otis Elevator can complete their work on the elevator and the stairway subcontractor can complete the guardrail installation at the stairway perimeter. Once the stairway is complete, the State elevator inspection can be scheduled, the temporary stairway on Mission Boulevard removed, and the temporary concrete wall openings repaired. A large "PARKING" sign will also be installed at the Mission Boulevard entrance to the City Hall garage.
- 4) Atrium Stairs - The atrium stairs have developed unsightly cracks on most stair treads and landings. N+T and the stair tread fabricator, Stepstone, have determined that these cracks do not affect the structural integrity of the stairway. Stepstone has denied responsibility for the cracks and has offered to provide repair kits but has refused to attempt any repairs themselves. TBP has stated that they are still looking for a subcontractor or vendor to make repairs.
- 5) Solar Panels - The solar panels have been complete for some time but have not been approved for connection to the PG&E grid. Initially, the Collins Electric/Sun Light & Power application to connect the solar system to PG&E's grid was delayed while PG&E resolved internal documentation issues. Then, PG&E found that they had incorrectly designed the library's transformer by using the electrical demand for the library rather than the total electrical power that could be generated by the current and future PV system. Once PG&E redesigned the system and installed the correctly sized transformer, a PG&E inspector developed a punchlist for the PV system interconnect. All but one item on that punchlist were quickly resolved. The remaining item was related to exterior access through the gate at the garage entrance. TBP's subcontractors had missed a card reader required at that gate and spent some time obtaining materials to do the work and coming to an agreement about who was responsible for the electrical connections to the card reader. The City's building facilities vendor recently completed the electrical connections as a back charge to TBP. A final PG&E interconnect inspection was requested on October 6 and completed on October 21, 2020 with no reported issues.

PLAZA STATUS

As of September 30, the plaza is approximately 80% percent complete. Four major items of work remain in the plaza. These are completion of paver installations, irrigation and landscaping, PG&E transformer installation, which impacts the cistern commissioning and pedestrian lighting, and signage.

- 1) Paver Installations - Alpha Omega began pathway paver installation August 17. Their work is expected to be complete during early November.
- 2) Irrigation and Landscaping - Marina Landscape has installed the irrigation main water lines. They are currently working on valves and sprinkler/drip distribution lines. Plants and trees will arrive after removal of unacceptable soils and placement of soils amendments.
- 3) PG&E Transformer - The PG&E plaza transformer pad concrete was placed shortly after PG&E approvals were received on October 1. The PG&E transformer is scheduled for installation on November 3. Once the transformer and meter are installed, Collins Electric can complete the pedestrian lighting and convenience power hook ups adjacent to pathways and Phoenix Electric can begin work to commission equipment in the cistern mechanical rooms.
- 4) Signage - Plaza information signs will be installed concurrent with or just after landscape installation. Details have not yet been worked out for the Japanese memorial, the Yrgin (Ohlone tribelet) memorial, the Russell City commemorative sign, or the Guillermo Castro sign. The Hayward Chamber of Commerce and the Hill and Valley Club have asked the City to donate the Mission (or El Camino Real) Bell to the Hayward Area Historical Society, who has agreed to accept the bell as part of their collection. They have also asked if it would be practical to schedule a holiday tree lighting ceremony for the plaza.

DELAYS

The library project has been plagued by delays related to General Contractor management staff turnover and work stoppages related to subcontractor payment issues. Some delays have been related to the pandemic and wildfire smoke concerns. TBP has assigned at least five different project managers and eight superintendents to this project. The project's initial superintendent left after his assistant was laid off. She was brought back as the second superintendent but left after a few months because she was concerned about being laid off again. The next superintendent was on site for less than one week. He was followed by another superintendent who was laid off due to management style differences. On May 30, 2019, Jim Scates and Jeni Gray ended their employment with T.B. Penick. Jim Scates humorously noted that he was TBPs third, fifth, and seventh superintendent on this project. Jeni Gray had been the project engineer since the beginning of the project and took all TBPs remaining institutional knowledge of the project with her when she voluntarily departed in May. Jeff Diamond took over the project

supervision and engineering functions upon Jim Scates' departure. Jeff had some support from Ed Evans during November and December 2019. Jeff left the project in mid-June 2020. Juan Heredia is the current superintendent.

Steve Meek, TBP's initial project manager, left in early March 2019, Amanda Sebastian left in early July 2019, Alana Cirami left in mid-October 2019, and Shane Willis left in mid-September 2020. TBP staff has indicated during conversations that two or three other project managers had been assigned in the home office that were not introduced to City staff since the beginning of this project. Aaron Luecht is the current project manager for TBP.

Subcontractors have had a difficult time getting progress payments from TBP or their surety. After City staff began investigating the cause for numerous payment complaints early in the project, monthly progress payments were transmitted to the surety company to ensure payment to the subcontractors. Unfortunately, this did not guarantee timely payment for two reasons. First, the surety required an authorization from TBP indicating that each subcontractor had submitted their monthly documentation and detailing the progress payment due to that subcontractor. Second, with the rapid turnover of TBP's project management staff, TBP stopped submitting monthly billing statements. Because of the abrupt departure of TBP's staff in May 2019, City staff prepared the May billing statement for TBP and helped prepare the next few statements. Since August 2019, the billing statements, which are required to be submitted monthly, have been submitted for two- or three-month periods. Since June 2016, seventeen subcontractors have filed stop payment claims against this project. Most of these subcontractors refused to work or provide needed material for a period of time beginning prior to filing their claim until their claims were resolved. In some instances, TBP has had to locate other subcontractors, who were still willing to work with TBP, to complete the work. When a stop payment notice is received, the City must withhold 125% of the claimed amount from the next progress payments until a stop notice release or surety bond is received. This mandatory withholding of payments has created even more problems getting timely payments to subcontractors who are still working on the project.

During July 2019, City Council considered an action to remove Collins Electric from the project because of their negative impact on the project's progress. Since that time, Collins Electric has provided reasonable support to the project, while still complaining about overall project delays and the lack of timely payment and adequate TBP supervision on the project.

The project was shut down per the Alameda County Health Department's pandemic directive on April 1, 2020. A return to work letter was provided on May 4 and a pandemic protocol was in place to allow work to begin again on May 11. Although there has not been a complete job shut down because of recent record number of consecutive "spare the air" days, some subcontractors did decide to refrain from working outdoors during days when wildfire smoke was a major health concern.

ECONOMIC IMPACT

The 21st Century Community Learning Center project is a significant asset for residents and

visitors in downtown Hayward, a rapidly developing area for major new housing and other urban uses, where the need for library services and indoor homework, training, and community gathering spaces, is projected to grow significantly in the coming years.

Similarly, the Heritage Plaza restoration project will be a significant asset providing a large outdoor space for community gatherings, recreation, and celebration activities.

FISCAL IMPACT

At contract award on September 15, 2015, this project was estimated to take twenty-five months to complete and cost \$65,680,000, which included a construction contract of \$49,290,599 and a construction contingency of \$3,259,401 for a total of \$52,550,000. The project has been funded with Measure C financing proceeds, as well as with some corporate and developer contributions.

On May 14, 2019, City Council authorized an additional appropriation of \$398,516 from a Housing Related Parks Program grant offered by the State Department of Housing and Community Development. And, on July 2, 2019, City Council authorized another \$30,000 for Heritage Plaza art and interpretive signage from Measure C funds.

After processing the July-August-September 2020 billing statement from TBP, the City will have authorized payment of \$51,279,383.03 for the library and plaza work. Of that amount, \$48,747,094.45 has been paid to TBP or its surety and \$2,487,272.58 is being held in a retention account.

The construction contract includes a liquidated damages provision requiring contractor payment of \$8,500 per calendar day for each day that library construction completion is delayed beyond 370 working days and \$2,500 per day for each calendar day that plaza construction completion is delayed beyond 115 working days. The number of allowable working days is increased when work is impacted by any event outside the contractor's control that affects the critical path schedule. These events include things such as rain delay days, change orders, and health department closures (Covid-19 and smoke).

An additional appropriation will be required to complete the project. The need to issue change orders for unforeseen conditions, such as lead soil contamination, and for extended administrative costs will require some budget adjustments that will be presented in a future report to this Committee and Council when staff has a better picture of the cost and delay impacts. Any liquidated damages paid by the contractor as a result of delays may help to offset additional appropriations needed.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Support Quality of Life as it improves the quality of life for residents, business owners, and community members in all Hayward neighborhoods, and fosters a sense of place and supports neighborhood pride.

Project 6 Plan library operations and hours to leverage the new facility

The 21st Century Learning Center project is substantially complete. Staff is working with the general contractor to complete remaining punchlist items with the least possible impact on library operations.

SUSTAINABILITY FEATURES

The project has been designed to achieve Net Zero Energy and LEED Platinum eligible status. Solar panels have been constructed on the roof of the library and municipal parking garage and the Heritage Plaza features a water catchment and storage system that will provide irrigation water for plaza landscape and gray water for the library’s restroom toilets.

NEXT STEPS

Next steps for the project include a continuation of efforts to complete library punch list items, to complete plaza construction activities, and to prepare a report on anticipated additional project costs and delays, as well as the accounting for the liquidated damages due to the contractor delays.

Prepared by: Kevin Briggs, Senior Civil Engineer

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager