



REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

CONSENT
August 19, 2008

Honorable Mayor and
Members of the City Council

Title: Takeover Agreement: North Laguna Bike Trail Rehabilitation (K19005100)

Location/Council District: Between Franklin Boulevard and Jacinto Avenue / Council District 8

Recommendation: Adopt a **Resolution:** 1) approving the Takeover Agreement in the amount of \$263,771.26 to Indemnity Company of California in reference to terminated City Contract No. 2007-252 for the North Laguna Bike Trail Rehabilitation project; and 2) authorizing the City Manager to execute the Takeover Agreement for the project.

Contact: J.P. Tindell, Park Planning & Development Manager, 808-1955

Presenters: Not applicable

Department: Parks and Recreation

Division: Park Planning & Development Services

Organization No: 19001121

Description/Analysis

Issue: The North Laguna Bike Trail Rehabilitation is a 2,585 linear foot bike trail located in South Sacramento. This trail project was originally awarded by City Council to K & L General Engineering, Inc. on October 16, 2007 (City Contract No. 2007-252). The contractor completed 63% of the project; however, on February 14, 2008, the contractor informed the City that they were unable to complete the work due to financial reasons. As a requirement of the original awarded contract, Indemnity Company of California is obligated to complete the work per the full value of the performance bond #569942P (\$263,771.26).

A summary of the project history is included as Attachment 1 (page 4) and a location map is included as Attachment 2 (page 6).

Policy Considerations: Providing parks and recreation facilities are consistent with the City's strategic plan to enhance livability in Sacramento's neighborhoods by expanding park, recreation, and trail facilities throughout the City.

Environmental Considerations:

California Environmental Quality Act (CEQA): The Development Services Department, Environmental Planning Services Division has reviewed this project and determined that it is exempt from the provision of CEQA under Class 1, Section number 15301(c) and 15301(d) and Class 2, Section number 153021(c). Projects exempted under Class 1, Section number 15301(c) consist of the replacement of the existing paving on an existing bike trail with asphalt to serve as an easier surface to walk on for safety purposes, Class 1, Section number 15301(d) which consist of replacement of the deteriorating asphalt to paving and Class 2, Section number 15302(c) which consist of the replacement or reconstruction of the trail involving negligible or no expansion of capacity.

Sustainability Considerations: The North Laguna Bike Trail Rehabilitation has been reviewed for consistency with the goals, policies and targets of the Sustainability Master Plan. The existence of the trail advances City sustainability goals, policies, and targets by providing an alternate mode of transportation. This project is also using a 100% recycled aggregate base in construction.

Rationale for Recommendation: The formal bidding process for the North Laguna Bike Trail Rehabilitation project was posted in accordance with City Code 3.60 and Administrative Policy Instruction #48. The project was posted and the bids were opened on August 29, 2007. The staff/engineer's estimate for this project was \$313,000 and staff received 10 bids.

Pursuant to City Code Section 3.60.020, it was determined that K & L General Engineering, Inc. had the lowest, responsible base bid. The project award was for the base bid in an amount not to exceed \$263,772. City Council awarded a construction contract to the apparent low bidder on October 16, 2007, Resolution number 2007-749.

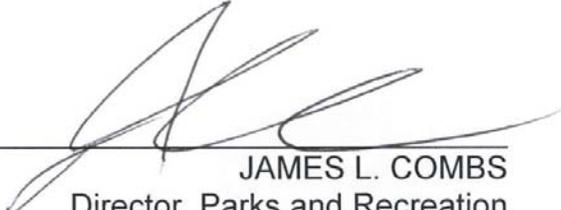
The contractor commenced execution of the work and completed approximately 63% of it; however, on February 14, 2008, the contractor notified the City that it was unable to fulfill its obligation under Section 8 of the contract to diligently execute the work to final completion. On March 3, 2008, the contract with K & L General Engineering, Inc. was terminated. Indemnity Company of California will

arrange for the performance and completion of the work called for in the City Contract No. 2007-252 through its agents or through an independent contractor, Sierra Asphalt.

Financial Considerations: The remaining balance of the work to be done (37%), up to the amount of \$92,744.26, will be paid by the City in accordance with the payment provisions of the contract. Any costs incurred past that amount will be incurred by Indemnity Company of California.

Emerging Small Business Development (ESBD): The selection of consultants and contractors for this project followed City established guidelines for inclusion of ESBD firms.

Respectfully Submitted by:


JAMES L. COMBS
Director, Parks and Recreation

Recommendation Approved:


RAY KERRIDGE
City Manager

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Attachment 1**Background Information**

The North Laguna Bike Trail Rehabilitation Project was identified as a priority project in the 2002 and 2004 *Parks and Recreation Programming Guides*. As a result the City applied for, and was successful in obtaining, a Recreational Trails Program (RTP) grant in the amount of \$119,341. The Department of Parks and Recreation took the approval of this grant to City Council in Resolution Number 2006-256.

This existing bike trail in South Sacramento is a vital bike trail link for the North Laguna Bike Trail system which starts from the west side of Highway 99 and currently ends at Franklin Boulevard. This portion of the trail referenced in this agreement is from Jacinto Avenue to Franklin Boulevard.

The City had the existing trail tested by a geotechnical engineer and it was recommended that the existing trail be removed and a thicker, 13" aggregate base be installed over a 2½" asphalt path. This project consists of removing 2,585 linear feet of existing trail between Jacinto Avenue to Franklin Boulevard, plus additional soil to accommodate additional base rock. The installation also includes thermoplastic traffic stripe and drainage cobble swale along a portion of the trail edge.

On October 16, 2007, the City and K & L General Engineering, Inc. ("Contractor") entered into City Contract No. 2007-252 (Contract) for the North Laguna Bike Trail Rehabilitation (HC47, K19005100) project. Indemnity Company of California (ICC), as surety to the contractor, issued a Performance Bond #569942P to complete the project for the sum of \$263,771.26. Contract was incorporated into, and made part of, the Performance Bond #569942P, as if ICC were a party to the Contract.

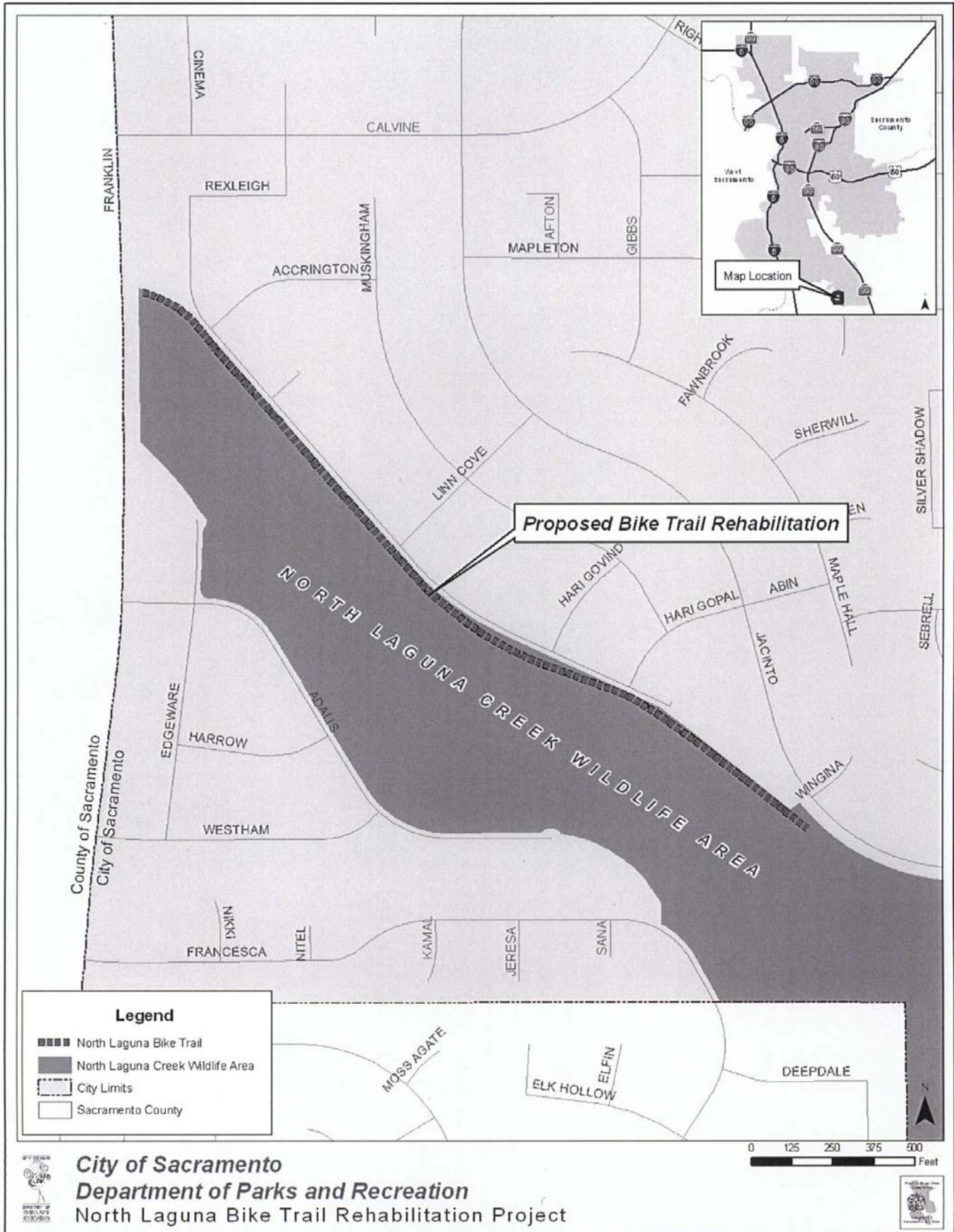
City issued the Notice to Proceed to the Contractor on October 22, 2007. The Contractor commenced execution of the work and completed approximately 63% of it; however, on February 14, 2008, the Contractor notified the City that it was unable to fulfill its obligation under Section 8 of the Contract to diligently execute the work to final completion. On February 22, 2008, the City provided the Contractor and ICC with written notice, pursuant to Section 28 of the Contract, to correct the situation by resuming the work no later than March 3, 2008, or the Contract would be terminated; neither Contractor nor ICC resumed the work by March 3, 2008; therefore, the Contract terminated on March 3, 2008. The City made progress payments to the Contractor in the amount of \$171,027, while retaining \$17,102.70, for the work completed and accepted by the City prior to termination of the Contract.

Upon termination of the Contract, ICC, under the Performance Bond, became fully responsible for all of the Contractor's remaining obligations of performance under the Contract as if ICC were a party to the Contract, including without limitation Contractor's obligations, as provided in the contract documents, to arrange for completion and provide a one-year warranty of the entire work, pay liquidated damages and indemnify, defend and hold harmless City as provided in the Performance Bond, up to the full amount of the

Performance Bond.

Both the City and ICC desire to have the work completed in an expeditious manner. ICC has elected to undertake to arrange for the performance and completion of the work called for in the Contract through an independent contractor, Sierra Asphalt.

All work shall be brought to final completion in the fall of 2008.



RESOLUTION NO. 2008-

Adopted by the Sacramento City Council

August 19, 2008

**APPROVING A TAKEOVER AGREEMENT: NORTH LAGUNA BIKE TRAIL
REHABILITATION (K19005100)**

BACKGROUND

- A. North Laguna Bike Trail Rehabilitation is a 2,585 linear-foot bike trail located in South Sacramento.
- B. On October 16, 2007, the City and K & L General Engineering, Inc. (Contractor) entered into City Contract No. 2007-252 for the North Laguna Bike Trail Rehabilitation Project. On February 14, 2008 the Contractor informed the City it would not be able to fulfill its obligation to complete the project under Section 8 of the contract. The contract was terminated on March 3, 2008.
- C. Through a Takeover Agreement between the City and Indemnity Company of California (ICC), ICC has elected to undertake arranging for the performance and completion of the work called for in the Contract through an independent contractor, Sierra Asphalt.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

- Section 1. The Takeover Agreement in the amount of \$263,771.26 to ICC in reference to the terminated City Contract No. 2007-252 for the North Laguna Bike Trail Rehabilitation (K19005100) is approved.
- Section 2. The City Manager is authorized to execute the Takeover Agreement with Indemnity Company of California to bring the North Laguna Bike Trail Rehabilitation project to final completion.