

DATE: 8/28/2019

FROM: Erik Harris, 512-560-7686, Milwood Neighborhood Association, Parks and Greenbelt Chair, Austin Ridge Riders, Balcones Park Trail Steward

TO: City of Austin Public Works

RE: Contractor non-performance regarding Tree Planting requirements - Segments 1-2 (CIP 3168.039; 5261.004) Scribe Ballfields to Mopac (project combined with Waters Park Relief Main Interceptor)

As part of the referenced CIP project, the contract documents required planting of Trees as follows:

**PROJECT NUMBER(S) 4570 2307 8837; 8114 8607 A134**

<b>BIDDER(S):</b>		<b>M A SMITH CONTRACTING CO., INC.</b>			
<b>LOCATION:</b>		<b>AUSTIN, TX</b>			
<b>GUARANTEE: BB-Bid Bond</b>		<b>BB</b>			
<b>ADDENDA ACKNOWLEDGED</b>		<b>3</b>			
<b>SECTION A-GENERAL ITEMS</b>					
<b>BID ITEM</b>	<b>QTY</b>	<b>UNIT</b>	<b>ITEM DESCRIPTION</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
101S-A	7.6	AC	PREPARING RIGHT OF WAY	\$ 20,000.00	\$ 152,000.00
602S-B	275	SY	ST. AUGUSTINE BLOCK SODDING	\$ 9.00	\$ 2,475.00
602S-D	1,290	SY	GRASS SODDING	\$ 10.00	\$ 12,900.00
604S-A	4,005	SY	NON-NATIVE SEEDING FOR EROSION CONTROL METHOD, HYDRAULIC PLANTING	\$ 3.00	\$ 12,015.00
604S-D	11,500	SY	NATIVE SEEDING FOR EROSION CONTROL METHOD, HYDRAULIC PLANTING	\$ 2.50	\$ 28,750.00
604S-G	440	SY	MULCH	\$ 49.00	\$ 21,580.00
608S-1(B)	15	EA	PLANTING TYPE "BURR OAK", SIZE IN INCHES 3	\$ 600.00	\$ 9,000.00
608S-1(C)	15	EA	PLANTING TYPE "CEDAR ELM", SIZE IN INCHES 3	\$ 600.00	\$ 9,000.00
608S-1(D)	20	EA	PLANTING TYPE "DESERT WILLOW" SIZE IN INCHES 2	\$ 475.00	\$ 9,500.00
608S-1(L)	17	EA	PLANTING TYPE "LACEY OAK" SIZE IN INCHES 2	\$ 465.00	\$ 7,905.00
608S-1(M)	11	EA	PLANTING TYPE "MOUNTAIN LAUREL", SIZE IN INCHES 1.5	\$ 500.00	\$ 5,500.00
608S-1(O)	5	EA	PLANTING TYPE "LIVE OAK", SIZE IN INCHES 3	\$ 660.00	\$ 3,300.00

<b>BIDDER(S):</b>		<b>M A SMITH CONTRACTING CO., INC.</b>			
608S-1(P)	5	EA	PLANTING TYPE "POSSUMHAW", SIZE IN INCHES 1.5	\$ 290.00	\$ 1,450.00
608S-1(T)	12	EA	PLANTING TYPE "TEXAS PERSIMMON", SIZE IN INCHES 1.5	\$ 290.00	\$ 3,480.00
608S-1(X)	25	EA	PLANTING TYPE "MEXICAN PLUM", SIZE IN INCHES 2	\$ 410.00	\$ 10,250.00

Shortly after the trees were planted, the irrigation system that supplied water to the trees planted along the shared use path near Mopac was damaged by storms. I personally observed the damage and reported the lack of irrigation and subsequent demise of these trees to project manager Larry Mendez. Please refer to the following chronology:

8/28/2018 emailed Larry Mendez "we would like to know the status of the following incomplete items from previous trail phase from Mopac to Scribe -

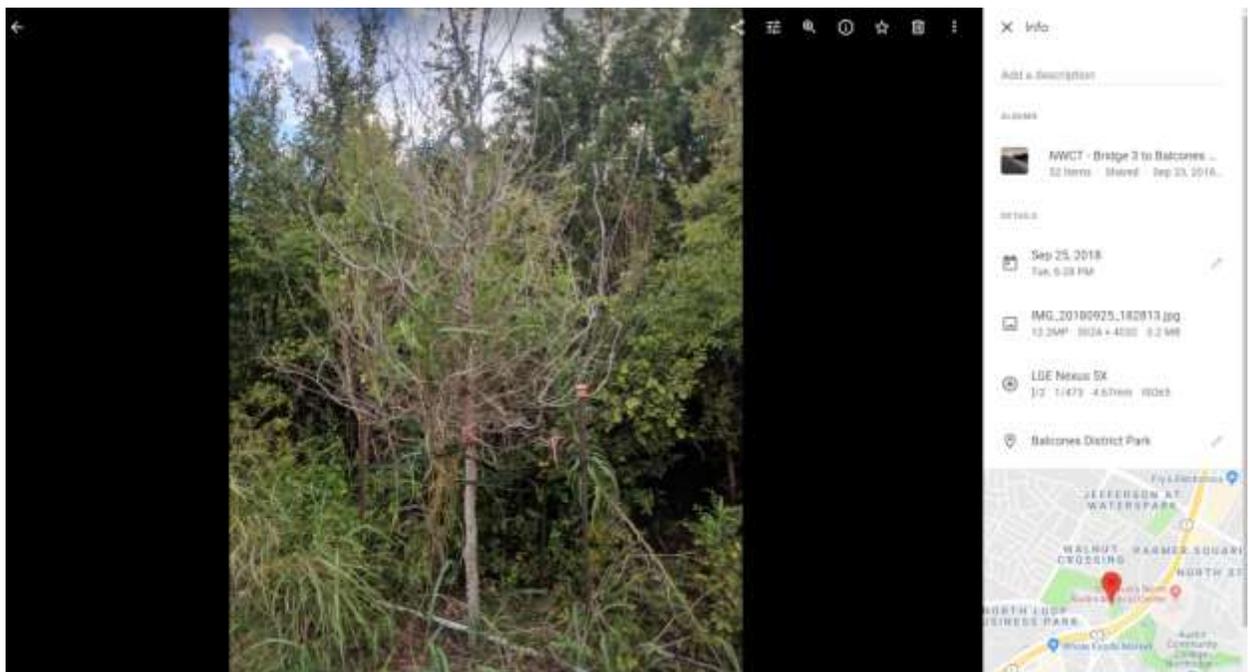
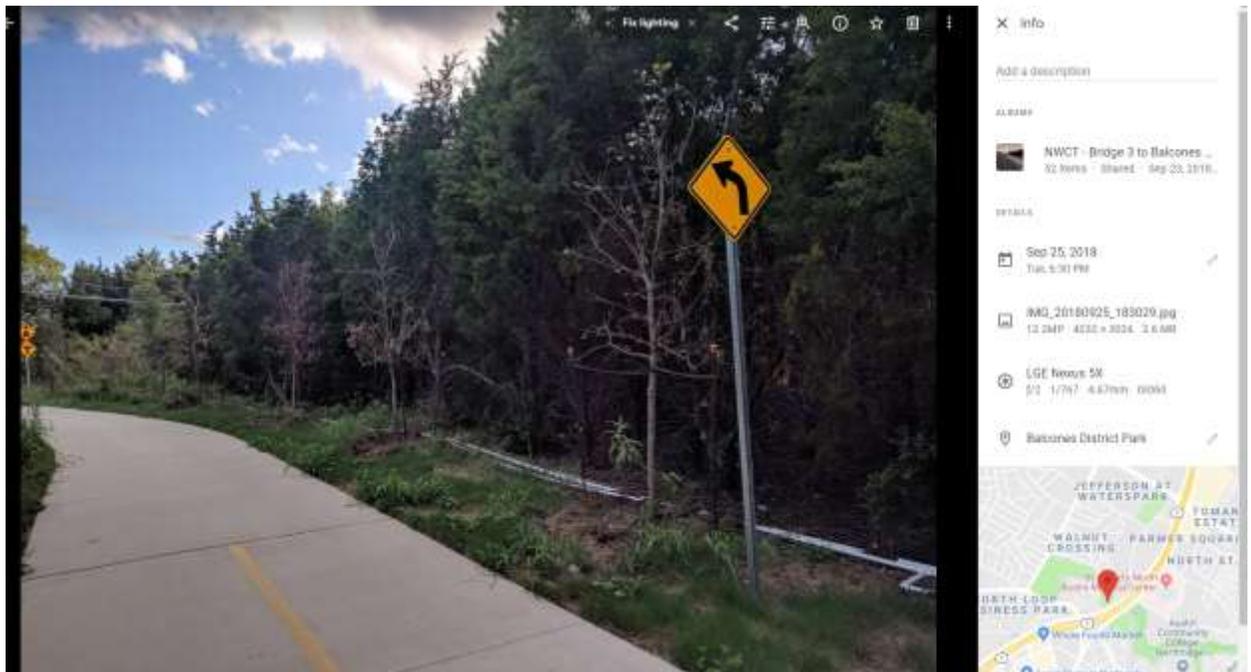
- 1) sediment removal from bridge deck-there is still a lot of dirt on the culvert bridge that was deposited on the bridge deck from erosion along the trail.
- 2) erosion repairs along trail near the culvert bridge.
- 3) revegetation along the trail near the culvert bridge - most vegetation is dead. Another effort is needed so that we won't have continued erosion and continued deposition of dirt on the bridge deck (see item 1).
- 4) tree replacements for the trees that have died - will replacements be planted? When? Planting in fall will be the best opportunity for roots to be established so that we aren't looking at another crop of dead trees a year from now. Will there be a warranty on replacements? "

8/30/2018 rec'd email from Larry Mendez " As for the previous project, the items 1-3 are items the Owner (COA) is responsible for maintaining. The Contract work has been completed by the Contractor in accordance with the contract documents and accepted. I will address these items with the responsible Departments/ Divisions for maintenance. **Item #4, the tree replacement is an item the contractor will need to correct prior to the end of the warranty period. We plan on addressing this in the fall during the planting season.**

9/23/2018 Photo of dead Burr oak



9/25/2018 Photos of dead trees



10/1/2018 Met Larry Mendez at site, looked at erosion and suggested using Erosion Control Blanket, Rip rap or articulated mats (Armorflex, flexamat). We looked at the trees, almost all the Mexican plums were dead and most of the Bur Oaks were dead. Larry advised that he would contact arborist and contractor to replace dead trees.

12/10/18 emailed Larry Mendez " Larry, regarding tree replacement on Segments 1-2, when will this occur? Also, when will the broken irrigation pipe be removed?"

12/11/18 Rec'd email from Larry Mendez " After the first onsite meeting to identify the tree replacement, the sub-contractor has become non-responsive. The City along with the Prime Contractor are working to resolve this situation."

3/29/19 emailed multiple city departments identifying issues with NCWT projects in Balcones Park

"ISSUE # 1 Dead trees have not been replaced - trees died due to failure of contractor to ensure adequate watering. This issue was identified Aug 28, 2018 and has not been resolved.

ISSUE # 2: Site stabilization has not been completed per City standards resulting in erosion in the following areas. This issue was identified Jan 16, 2018 and has not been resolved. The failure to stabilize the creekside areas leads to sediment deposition on the bridge deck. Volunteers have twice cleaned the deck to prevent the hazards presented by mud (several reports of bicyclists falling due to slipping on the mud).

- 1) northwest corner of the culvert bridge west to the Y
- 2) south side of trail at the Y
- 3) along wastewater line from NCWT to manhole #2"

8/28/2019 Met Ana Seivert and Katie Wettick and documented approximately 1/2 of the 48 trees in the area closest to mopac have zero live leaves, about 1/4 of the remaining trees are severely stressed (>50 canopy lost), and only about 1/4 (mostly Lacey Oaks are healthy).

Species/condition break-down follows:

Owed to Taxpayers

11 Mexican Plums (7 with no live leaves, 4 with <30% live leaves)	11 @\$410/ea = \$4510
9 Burr Oaks (8 with no live leaves, 1 with <20% live leaves),	9 @\$600/ea = \$5400
8 Cedar Elms (7 with no live leaves, 1 with 50% live leaves)	8 @ \$600/ea = \$4800
5 Lacey Oaks (4 healthy, 1 with 67% live leaves)	NA
<u>15 Desert Willow (none healthy)</u>	<u>15@ \$475 = \$7125</u>
Total	\$ 21,835