City Council Meeting
08-10-26
Item
1.B.7.

Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Nathaniel McLean, Assistant Engineer

Reviewed by: Tatiana Holden, Assistant Public Works Director/City Engineer

Approved by: Joseph D. Irvin, City Manager

Date prepared: July 14, 2026 Meeting date: August 10, 2026

Subject: Award 2026 Annual Street Maintenance Project

RECOMMENDED ACTION: 1) Approve the award and authorize the Mayor to execute a construction contract with Toro Enterprises, Inc. in the amount of $883,812 for the construction of the 2026 Annual Street Maintenance Project, Specification No. 2116; and 2) Authorize the Public Works Director and/or their appointee to approve any potential change orders up to 15% of the contract amount.

FISCAL IMPACT: No additional appropriation is required. Funding for this agreement/project is included in the Adopted Budget for FY 2026-27 in Account No. 310-9002-7902 (Annual Street Overlay).

Project Funding	
Proposition C Local Return	$232,126
Measure R Local Return	$160,000
Measure M Local Return	$160,000
RMRA	$480,000
STPL	$232,262
Project Total Funding	**$1,264,388**
Project Estimate	
Estimated Construction Cost	$883,812
Contingency (15%)	$132,572
Project Total Costs	**$1,016,384**

STRATEGIC PLAN IMPLEMENTATION: N/A

DISCUSSION: The Pavement Management Plan (PMP) is a tool used by the Public Works Department to evaluate the condition of the City streets, develop street maintenance strategies, and plan and budget maintenance funds effectively. On June 6, 2022, the PMP was updated by Kimley Horn and provides maintenance and rehabilitation work for the next five years.

Streets selected for this year's pavement maintenance project were based on the City's PMP, Pavement Management System Report, field observations, and factors related to the Palisades Fire as the roads previously planned for this year resurfacing were affected by the fire and, therefore, rescheduled for a future project.

The 2026 Annual Street Maintenance Project will repair and overlay roads on Portshead Road, Boniface Drive, Grayfox Street, and Wildlife Road. Work will include repairing failed pavement, sealing cracks, preparing roadway surfaces, adjusting utility covers, constructing asphalt berms, replacing speed bumps, restoring pavement striping, and implementing traffic control and stormwater protection measures.

A two-inch asphalt rubber hot-mix overlay will be placed on Portshead Road, Boniface Drive, Grayfox Steet, and Wildlife Road, and slurry seal overlay will be placed on Selfridge Drive and portions of Wildlife Road to extend the useful life of pavement.

On May 21, 2026, the final project plans and specifications for the above-mentioned work were advertised for formal competitive bidding. Four bids were received and opened on June 18, 2026, with the following results:

Contractor	Bid Amount
Toro Enterprises, Inc.	**$883,812**
All American Asphalt	$1,017,981
Handy & Harper, Inc.	$1,050,000
Onyx Paving Company, Inc.	$1,067,000

City staff has reviewed the four bids received and found the bid from Toro Enterprises, Inc. (Toro) to be in order and in conformance with the bid requirements. Staff has checked the contractor's license with the Contractor's State License Board and found it to be current and active. References contacted by staff have verified Toro's work and found their work to be satisfactory. Toro has previously completed numerous street resurfacing projects over 31 years including projects for the City of Malibu. Staff have determined that Toro is qualified to complete the proposed work for the project.

Staff recommends the Council approve the award and authorize the Mayor to execute a construction contract with Toro and authorize the Public Works Director and/or their

appointee to approve potential change orders up to 15% of the agreement amount. Once approved, staff will process the agreement and issue a Notice to Proceed for the project. The construction for this project is anticipated to occur between August and September 2026.

ATTACHMENTS:

1. Public Works Agreement with Toro Enterprises, Inc.
2. 2026 Annual Street Maintenance Project Map

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CITY OF MALIBU
PUBLIC WORKS AGREEMENT

This Public Works Agreement ("Agreement") is made and entered into as of the date executed by the Mayor and attested to by the City Clerk, by and between Toro Enterprises, Inc. a California corporation (hereinafter referred to as "CONTRACTOR") and the City of Malibu, California, a municipal corporation (hereinafter referred to as "CITY").

R E C I T A L S

A. Pursuant to the Notice Inviting Sealed Bids for the 2026 Annual Street Maintenance Project, bids were received, publicly opened, and declared on the date specified in the notice.

B. On August 10, 2026, Malibu's City Council declared CONTRACTOR to be the lowest responsible bidder and accepted the bid of CONTRACTOR.

C. The City Council has authorized the Mayor to execute a written contract with CONTRACTOR for furnishing labor, equipment and material for the 2026 Annual Street Maintenance Project in the City of Malibu.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CITY agrees to engage CONTRACTOR and CONTRACTOR agrees to furnish all necessary labor, tools, materials, appliances, and equipment for and do the work for the 2026 Annual Street Maintenance Project in the City of Malibu. The work shall be performed in accordance with the Plans and Specifications dated (and as generally described in the "Notice Inviting Bids," attached as Exhibit A) and in accordance with bid prices set forth in CONTRACTOR'S Bid Proposal (attached as Exhibit B) and in accordance with the instructions of the City Engineer, or City Manager's designee.

2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The contract documents for the aforesaid project, a complete set of which is on file with the Malibu City Clerk's Office, shall consist of the Notice Inviting Bids, Instructions to Bidders, Bid Proposal, Standard Specifications, Special Provisions, and all referenced specifications, details, standard drawings, and appendices; together with this Agreement and all required bonds, insurance certificates, permits, notices and affidavits; and also, including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to insure its completion in an acceptable manner. All of the provisions of said contract documents are made a part hereof as though fully set forth herein. This Agreement is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this Agreement, and the Standard Specifications, in that

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order, shall control. Collectively, these contract documents constitute the complete agreement between CITY and CONTRACTOR and supersede any previous agreements or understandings.

3. COMPENSATION: CONTRACTOR agrees to receive and accept the prices set forth in its Bid Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid contract documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

4. TIME OF PERFORMANCE: CONTRACTOR agrees to complete the work within 45 consecutive working days from the date of the notice to proceed. By signing this Agreement, CONTRACTOR represents to CITY that the contract time is reasonable for completion of the work and that CONTRACTOR will complete such work within the contract time. In accordance with Government Code Section 53069.85, CONTRACTOR agrees to forfeit and pay CITY as liquidated damages, not as a penalty, the sum of $500 per day for each and every day of unauthorized delay beyond the completion date, which amount shall be deducted from any payments due or to become due the CONTRACTOR.

5. PREVAILING WAGES:

A. Pursuant to Labor Code Section 1720, and as specified in Title 8, California Code of Regulations, Section 16000 et seq., CONTRACTOR must pay its workers prevailing wages. It is CONTRACTOR's responsibility to interpret and implement any prevailing wage requirements and CONTRACTOR agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.

B. In accordance with Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are available upon request from CITY's Engineering Division or the website for State of California Prevailing wage determination at http://www.dir.ca.gov/DLSR/PWD. CONTRACTOR must post a copy of the prevailing rate of per diem wages at the job site.

C. CITY directs CONTRACTOR's attention to Labor Code Sections 1777.5, 1777.6 and 3098 concerning the employment of apprentices by CONTRACTOR or any subcontractor.

D. Labor Code Section 1777.5 requires CONTRACTOR or subcontractor employing tradesmen in any apprenticeship occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate must also fix the ratio of apprentices to journeymen that will be used in the

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performance of the contract. The ratio of apprentices to journeymen in such cases will not be less than one to five except:

(1) When employment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15 percent in the 90 days before the request for certificate, or

(2) When the number of apprentices in training in the area exceeds a ratio of one to five, or

(3) When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis state-wide or locally, or

(4) When CONTRACTOR provides evidence that CONTRACTOR employs registered apprentices on all of his contracts on an annual average of not less than one apprentice to eight journeymen.

(5) CONTRACTOR is required to make contributions to funds established for the administration of apprenticeship programs if CONTRACTOR employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.

(6) CONTRACTOR and any subcontractor must comply with Labor Code Sections 1777.5 and 1777.6 in the employment of apprentices.

(7) Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Department of Industrial Relations (DIR), ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

E. CONTRACTOR and its subcontractors must keep an accurate certified payroll records showing the name, occupation, and the actual per diem wages paid to each worker employed in connection with this Agreement. The record will be kept open at all reasonable hours to the inspection of the body awarding the contract and to the Division of Labor Law Enforcement. If requested by CITY, CONTRACTOR must provide copies of the records at its cost.

F. CONTRACTOR and its subcontractors must comply with Labor Code Sections 1725.5 and 1777.1, including the requirement that registration with the DIR be maintained through the term of the Project. The City may, from time to time, request evidence of current registration.

6. LEGAL HOURS OF WORK: Eight (8) hours of labor shall constitute a legal day's work for all workmen employed in the execution of this contract, and CONTRACTOR and any

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subcontractor under it shall comply with and be governed by the laws of the State of California having to do with working hours set forth in Division 2, Part 7, Chapter 1, Article 3 of the Labor Code of the State of California as amended.

CONTRACTOR shall forfeit, as a penalty to CITY, twenty-five dollars ($25.00) for each laborer, workman or mechanic employed in the execution of the contract, by him or any subcontractor under it, upon any of the work hereinbefore mentioned, for each calendar day during which the laborer, worker or mechanic is required or permitted to labor more than eight (8) hours in violation of the Labor Code.

7. TRAVEL AND SUBSISTENCE PAY: CONTRACTOR agrees to pay travel and subsistence pay to each worker needed to execute the work required by this Agreement as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

8. CONTRACTOR'S LIABILITY: The City of Malibu and its officers, agents and employees ("Indemnitees") shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof, or for any of the materials or other things used or employed in performing the work; or for injury or damage to any person or persons, either workers or employees of CONTRACTOR, of its subcontractors or the public, or for damage to adjoining or other property from any cause whatsoever arising out of or in connection with the performance of the work. CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever.

CONTRACTOR will indemnify Indemnities against and will hold and save Indemnitees harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of CONTRACTOR, its agents, employees, subcontractors or invitees provided for herein, whether or not there is concurrent passive negligence on the part of CITY. In connection therewith:

a. CONTRACTOR will defend any action or actions filed in connection with any such claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorneys' fees, expert fees and costs incurred in connection therewith.

b. CONTRACTOR will promptly pay any judgment rendered against CONTRACTOR or Indemnitees covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such work, operations or activities of CONTRACTOR hereunder, and CONTRACTOR agrees to save and hold the Indemnitees harmless therefrom.

c. In the event Indemnitees are made a party to any action or proceeding filed or prosecuted against CONTRACTOR for damages or other claims arising out of

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or in connection with the work, operation or activities hereunder, CONTRACTOR agrees to pay to Indemnitees and any all costs and expenses incurred by Indemnitees in such action or proceeding together with reasonable attorneys' fees.

CONTRACTOR'S obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of CITY under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless CITY for liability attributable to the active negligence of CITY, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where CITY is shown to have been actively negligent and where CITY active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

So much of the money due to CONTRACTOR under and by virtue of the contract as shall be considered necessary by CITY may be retained by CITY until disposition has been made of such actions or claims for damages as aforesaid.

It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law.

This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under this Agreement or any additional insured endorsements which may extend to Indemnitees.

CONTRACTOR, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the CONTRACTOR regardless of any prior, concurrent, or subsequent passive negligence by the Indemnitees.

9. THIRD PARTY CLAIMS. In accordance with Public Contracts Code Section 9201, CITY will promptly inform CONTRACTOR regarding third-party claims against CONTRACTOR, but in no event later than ten (10) business days after CITY receives such claims. Such notification will be in writing and forwarded in accordance with the "Notice" section of this Agreement. As more specifically detailed in the contract documents, CONTRACTOR agrees to indemnify and defend the City against any third-party claim.

10. WORKERS COMPENSATION: In accordance with California Labor Code Sections 1860 and 3700, CONTRACTOR and each of its subcontractors will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, CONTRACTOR, by signing this contract, certifies

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as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

11. INSURANCE: With respect to performance of work under this contract, CONTRACTOR shall maintain and shall require all of its subcontractors to maintain insurance as required in the Standard Specifications.

12. ASSIGNMENT: This contract is not assignable nor the performance of either party's duties delegable without the prior written consent of the other party. Any attempted or purported assignment or delegation of any of the rights of obligations of either party without the prior written consent of the other shall be void and of no force and effect.

14. INDEPENDENT CONTRACTOR: CONTRACTOR is and shall at all times remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents shall have control of the conduct of CONTRACTOR or any of CONTRACTOR'S employees, except as herein set forth. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of CITY.

15. TAXES: CONTRACTOR is responsible for paying all retail sales and use, transportation, export, import, special or other taxes and duties applicable to, and assessable against any work, materials, equipment, services, processes and operations incidental to or involved in this contract. CONTRACTOR is responsible for ascertaining and arranging to pay them. The prices established in the contract shall include compensation for any taxes CONTRACTOR is required to pay by laws and regulations in effect at the bid opening date.

16. LICENSES: CONTRACTOR represents and warrants to CITY that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to CITY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance, and approvals which are legally required of CONTRACTOR to practice its profession. CONTRACTOR shall maintain a City of Malibu business license, if required under CITY ordinance.

17. RECORDS: CONTRACTOR shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by CITY or any authorized representative, and will be retained for three years after the expiration of this Agreement. All such records shall be made available for inspection or audit by CITY at any time during regular business hours.

18. SEVERABILITY. If any portion of these contract documents are declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed

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modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect provided that it does not frustrate the mutual intent of the parties herein.

19. WHOLE AGREEMENT: This Agreement supersedes any and all other agreements either oral or written, between the parties and contains all of the covenants and agreements between the parties pertaining to the work of improvements described herein. Each party to this contract acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statements or promise not contained in this contract shall not be valid or binding. Any modifications of this contract will be effective only if signed by the party to be charged.

20. AUTHORITY: CONTRACTOR affirms that the signatures, titles, and seals set forth hereinafter in execution of this Agreement represent all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest herein. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party. This Agreement may be modified by written amendment. CITY's City Manager may execute any such amendment on CITY's behalf.

21. NOTICES: All notices permitted or required under this Agreement shall be in writing, and shall be deemed made when delivered to the applicable party's representative as provided in this Agreement. Additionally, such notices may be given to the respective parties at the following addresses, or at such other addresses as the parties may provide in writing for this purpose.

Such notices shall be deemed made when personally delivered or when mailed forty-eight (48) hours after deposit in the U.S. mail, first-class postage prepaid, and addressed to the party at its applicable address. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

CITY OF MALIBU
23825 Stuart Ranch Road
Malibu, CA 90265
Attn: Tatiana Holden, Assistant Public Works Director/Assistant City Engineer

CONTRACTOR
Toro Enterprises, Inc., a California corporation
2101 East Ventura Blvd.
Oxnard, CA 93036
Trent Royle, President

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22. DISPUTES. Disputes arising from this contract will be determined in accordance with the contract documents and Public Contracts Code Sections 10240-10240.13.

23. NON-DISCRIMINATION: No discrimination shall be made in the employment of persons in the work contemplated by this Agreement because of race, religion, color, medical condition, sex, sexual orientation, national origin, political affiliation or opinion, or pregnancy or pregnancy-related condition. A violation of this section exposes CONTRACTOR to the penalties provided for in Labor Code Section 1735.

24. NO THIRD PARTY BENEFICIARY. This Contract and every provision herein is for the exclusive benefit of the Contractor and the City and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of the Contractor's or the City's obligations under this Contract.

25. TIME IS OF ESSENCE. Time is of the essence for each and every provision of the Contract Documents.

26. ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

27. GOVERNING LAW: This Agreement shall be governed by the laws of the State of California, and exclusive venue for any action involving this Contract will be in Los Angeles County.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement with all the formalities required by law on the respective dates set forth opposite their signatures.

This Agreement is executed on this ____ day of _____, 2026, at Malibu, California, and effective as of _____, 2026.

CITY OF MALIBU:

_____
BRUCE SILVERSTEIN, Mayor

ATTEST:

_____
KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney

CONTRACTOR:
Toro Enterprises, Inc., a California corporation

DocuSigned by:
Trent Royle
EF544D16F48D4DD...

Trent Royle, President

CONTRACTOR'S State of California License No.

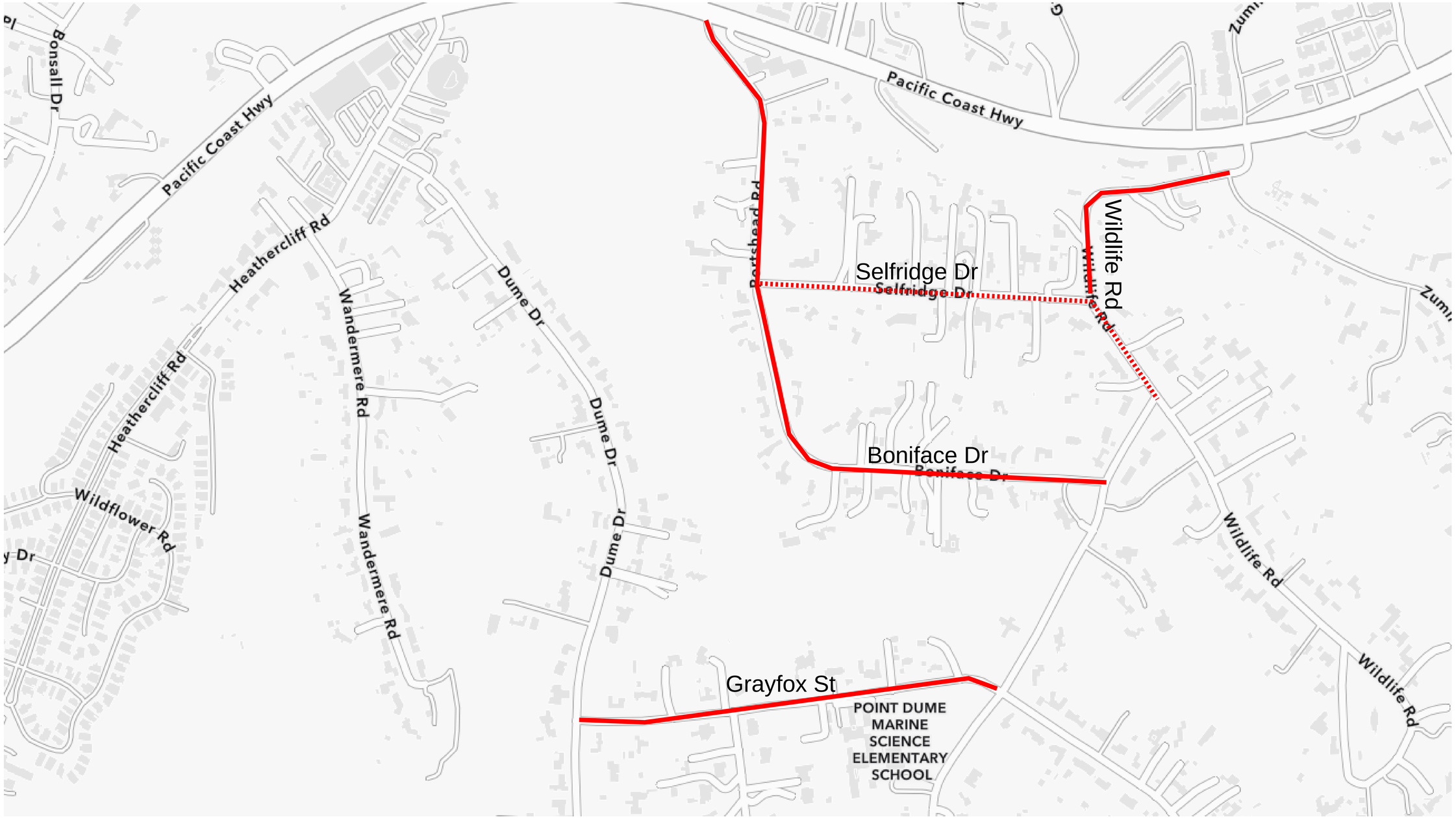
710580

CONTRACTOR'S Business Phone No.

8,054,834,515.00

CONTRACTOR'S Emergency Phone No. at which contractor can be reached at any time

8,059,477,660.00



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Type II Slurry Seal

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RECOMMENDED BY: _____

NO.	REVISION	BY	CHKD.	DATE

DESIGNED BY: DATE
DRAWN BY: DATE
CHECKED BY: DATE
SCALE
SPECIFICATION NUMBER:

CITY OF MALIBU
PUBLIC WORKS DEPARTMENT

APPROVED BY: DATE

Tatiana Holden, P.E., PH.D.
Interim Public Works Director/City Engineer
RCE NO.81995

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