



DATE: October 29, 2019

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Awarding a Contract to Asbestos Management Group of CA, Inc. in the Amount of \$1,300,708 and Authorizing an Administrative Change Order Contingency of \$130,092 for a Total Not to Exceed Contract Amount of up to \$1,800,000 for the Abatement and Deconstruction for Route 238 Bypass Property Project

RECOMMENDATION

That Council adopts the attached resolution awarding the contract to Asbestos Management Group of CA, Inc. in the amount of \$1,300,708, authorizing an Administrative Change Order contingency of \$130,092 and authorizing the expenditure of up to \$1,800,000 for the total project.

SUMMARY

Buildings on property recently acquired by the City from the California Department of Transportation (Caltrans) as part of the Route 238 Bypass Property project (Route 238) require hazardous materials clean-up prior to deconstruction. EnviroNova, LLC., a hazardous materials and environmental consulting firm, was hired to provide hazardous material surveying, testing, and abatement plan reports for each of the twenty-five properties. Staff prepared construction contract documents using the available reports, issued a call for bids, and now recommends Asbestos Management Group of CA, Inc., as the qualified selected contractor to perform the clean-up and deconstruction of these twenty-five residential buildings.

BACKGROUND

On June 19, 2018, Council approved a Professional Services Agreement (PSA) with EnviroNova, LLC., (EnviroNova) for Hazardous Material Testing Reports for fifty-three Route 238 properties. The testing and subsequent abatement and deconstruction of each of these properties was scheduled as the properties were vacated by former Caltrans tenants.

On November 13, 2018, Council approved an award of a construction contract to Asbestos Management Group of CA, Inc., for Phase 1 of the deconstruction project, which called for abatement and deconstruction of nineteen buildings. That action also authorized the City Manager to approve plans and specifications, and Call for Bids for future phases of the Route 238 Bypass Property Project. The Phase 1 project is substantially complete.

On September 16, 2019, staff issued a call for bids for the Phase 2 project. There were six addenda issued, which added two properties with vacant buildings, provided additional hazardous material abatement reports and responses to bidder questions, and revised the bid opening date to October 9, 2019.

DISCUSSION

Project Plans and Specifications

Staff initially proposed to include eighteen properties in this Phase 2 project and authorized testing for those properties. As tenants vacated additional properties, staff authorized additional testing and included seven additional properties in the Phase 2 project to minimize and address community concerns pertaining to vacant buildings.

As additional properties were added to this Phase 2 project, staff directed EnviroNova, LLC., to begin the abatement testing. Three abatement reports were not available at bid opening. Bidders were directed to consider the scope of the abatement for these three buildings to be similar to that addressed in the other abatement reports. Staff will confirm this condition and issue an administrative change order as soon as the reports are available, similar to the manner in which this was addressed for properties included late in the Phase 1 bid process.

On October 9, 2019, four bids were received for the project. Based on the total for the Base Bid and Alternate No. 1, Asbestos Management Group of CA, Inc. of Oakland, California, (AMG) submitted the low bid of \$1,300,708, which was 8.42% below the engineer's estimate of \$1,420,300. Resource Environmental Inc., of Long Beach, California, (REI) submitted the second low bid in the amount of \$1,301,303, which was 8.38% below the engineer's estimate. The four bids ranged from \$1,300,708 to \$1,504,260.

Staff has found Asbestos Management Group of CA, Inc. bid documents to be responsive, has confirmed that they have licenses appropriate for this work, and the alternate bid price is reasonable. Therefore, staff recommends that Council award the contract to Asbestos Management Group of CA, Inc., in the amount of \$1,300,708, which includes the Base Bid and Alternate Bid No. 1. Staff further recommends that Council authorize an Administrative Change Order contingency of \$130,092.

This project is exempt from environmental review per Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations to Land), and 15305 (Minor Alterations in Land Use Limitations) of the California Environmental Quality Act (CEQA) Guidelines.

Bid Protest

On October 15, 2019, the City received a written bid protest from REI's legal counsel asserting that AMG's bid was non-responsive "due to material miscalculations on its bid sheet". Specifically, the letter stated:

“Line Item 37 calls for the unit price of BAAQMD notifications, with an estimated quantity of 18. AMG wrote “twenty-two thousand four hundred” as its unit price AND total price, failing to multiply the unit price by 18. The City’s bid results spreadsheet contains the same error. The correct calculation for the line item (18 x \$22,400) is \$403,200. Therefore, AMG’s actual base bid, after correctly tabulating its bid sheet, is \$1,261,000. AMG’s correct total with alternates is \$1,681,515.”

The bid specifications for this project, at P3 “DIRECTIONS TO BIDDERS”, states, in part, as follows:

In case of discrepancy between the item price and the total set forth for a unit basis item, the item price shall prevail, provided however, if the amount set forth as an item price is ambiguous, illegible or uncertain for any cause, or is omitted, **or in the case of unit basis items, is the same amount as the entry in the “Total” column, then the amount set forth in the “Total” column for the item shall prevail in accordance with the following** (emphasis added):

- (1) As to lump sum items, the amount set forth in the “Total” column shall be the item price.
- (2) **As to unit basis items, the amount set forth in the “Total” column shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price.**

Based on the above, AMG’s entry for Line Item 37 is evaluated as follows: The “Total” entry of \$22,400 would be accepted as the total price and the unit price would be obtained by dividing \$22,400 by 18 (the estimated quantity), yielding a unit price of \$1,244.44.

Since the bid specifications provide a mechanism for evaluating this specific situation, AMG’s entry of \$22,400 in the “Total” column and unit price column is an inconsequential deviation from the bid requirements that did not affect the bid amount. Furthermore, since the bid specifications provide a mechanism for reviewing the line item in question, AMG would not have been allowed to withdraw their bid without forfeiting their bid bond. Consequently, the City Council may waive the informality since it would not provide AMG a competitive advantage over the other bidders. Based on the foregoing, staff recommends that the City Council reject the bid protest and proceed with award to AMG.

Bid protest correspondence from REI, AMG, and the City’s response to REI’s legal counsel are included as Attachment III to this item.

ECONOMIC IMPACT

The future development of these City-owned Route 238 parcels is likely to have a positive long-term economic impact.

FISCAL IMPACT

The estimated demolition (Phase 2) project costs are as follows:

Construction Contract	\$1,300,708
Construction - Administrative Change Orders	\$ 130,092
Design and Administration	\$ 195,000
Construction Inspection and Testing	<u>\$ 174,000</u>
Total Estimated Project Cost:	<u>\$1,799,800</u>

The costs associated with demolition will be funded using proceeds from previously sold properties in the Route 238 Corridor Lands Parcel Groups 1 & 10. The demolition described above will eliminate the ongoing property maintenance costs that the City would otherwise be responsible for.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play for all. This agenda item supports the following goals and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 1: Increase neighborhood safety and cohesion.

Objective 2: Foster a sense of place and support neighborhood pride.

Objective 4: Create resilient and sustainable neighborhoods.

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Objective 1: Centralize and expand housing services.

Objective 2: Facilitate the development of diverse housing types that serve the needs of all populations.

Objective 4: Increase supply of affordable, safe and resilient housing in Hayward.

SUSTAINABILITY FEATURES

The action taken for this agenda report will not result in a new physical development, purchase or service, or a new policy or legislation. This agenda item will only result in a demolition and clean-up related activities. Deconstruction of the parcels will adhere to City's Construction and Demolition Debris Recycling and will attempt to recycle materials as much as possible.

PUBLIC CONTACT

Staff has been in direct and frequent communication with residents and neighborhood groups within the Route 238 area. Area residents are awaiting the City’s action to deconstruct and clean-up the vacant properties.

NEXT STEPS

If Council adopts the attached resolution and awards the contract, the Abatement and Deconstruction for Route 238 Bypass Property project schedule is estimated as follows:

Begin Abatement and Deconstruction, Phase 2	November 2019
Complete Aboveground Deconstruction	February 2020
Phase 2 Project Completion	May 2020

Prepared by: Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager