



DATE: November 13, 2018

TO: Mayor and City Council

FROM: Interim Director of Public Works

SUBJECT Abatement and Deconstruction for Route 238 Bypass Property Project: Award of Construction Contract to Asbestos Management Group of CA, Inc.

RECOMMENDATION

That Council adopts the attached resolution (Attachment II):

1. Awarding the contract to Asbestos Management Group of CA, Inc. in the amount of \$906,250 and authorizing the expenditure of up to \$1,405,000 for the total project, including contingencies;
2. Authorizing the City Manager to Approve Plans and Specifications and Call for Bids for future phases of Hazardous Material Testing Reports for the Route 238 Bypass Property Project; and
3. Authorizing appropriation of \$1,405,000 from Fund 411 – Property Development Fund Balance to Fund 411-238 Property Development Program 6710.

SUMMARY

Several buildings 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 testing and clean-up prior to deconstruction. EnviroNova, LLC., a hazardous materials and environmental consulting firm, provided hazardous material surveying, testing, and abatement plan reports for ten (10) properties acquired from Caltrans and one (1) additional City-owned downtown property in Phase 1 of the deconstruction project. The City continues to work with tenants who signed leases with Caltrans to find new housing and to vacate the remaining properties. Because these homes were recently vacated, staff added eight (8) more properties to the Phase 1 scope of work and expects reports for these added properties to be available during November 2018. 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 Phase 1 parcels.

The Request for Proposals dated April 16, 2018, identified fifty-three parcels to be included for deconstruction and abatement. Staff continues to work with the consultant to prepare the

Plans and Specifications for the remaining parcels. To expedite future deconstruction and abatement, staff requests Council's authorization for the City Manager to approve Plans and Specifications, once available, and call for bids for future phases of Route 238.

BACKGROUND

On June 19, 2018, Council approved a Professional Services Agreement with EnviroNova, LLC., (EnviroNova) in an amount not-to-exceed \$353,000 for Hazardous Material Testing Reports for Route 238 properties.

On July 24, 2018, Council approved the plans and specifications for the Abatement and Deconstruction for Route 238, Phase 1, for eleven (11) properties and called for bids to be received on August 14, 2018. Staff later revised the call for bids date to September 26, 2018. Addenda Nos. 1 through 7 revised the scope of the project by adding eight (8) more properties, provided clarifications and responses to bidder questions, and revised the bid opening date to October 16, 2018.

DISCUSSION

Project Plans and Specifications

The initial proposal for the Abatement and Deconstruction for Route 238, Phase 1 included eleven (11) properties. Staff identified the following eight (8) properties as vacant and included them as bid alternative number 1:

1. 25721 Maitland Drive
2. 25386 Bunker Hill Court
3. 25655 Bunker Hill Boulevard
4. 25314 Bunker Hill Court
5. 25346 Bunker Hill Court
6. 25373 Bunker Hill Court
7. 25879 Bunker Hill Boulevard
8. 25600 Maitland Drive

Staff directed EnviroNova to begin the testing and completion of reports for the above eight (8) parcels and will make the final reports available to Asbestos Management Group of CA, Inc., as they are completed.

On October 16, 2018, four bids were received for the project. Asbestos Management Group of CA, Inc., of Oakland, submitted the low bid of \$906,250 which was 4.61% below the engineer's estimate of \$950,000. Resource Environmental Inc., of Long Beach, submitted the second low bid in the amount of \$993,000 which was 4.53% over the engineer's estimate. The four bids ranged from \$906,250 to \$1,293,225. The City reserved the right to award only the Base Bid or the Base Bid plus Alternate Bid No. 1.

On October 22, 2018, the City received a written bid protest from Resource Environmental Inc. (Resource) (Attachment III). The bid protest was accompanied by payment of the \$500

administrative processing fee pursuant to section 3-1.04A of the plans and specifications for the project. The City forwarded the bid protest to each of the bidders. On October 24, 2018, the City received a written response to the bid protest from Asbestos Management Group of California, Inc. (AMG). (Attachment IV).

Resource alleges that AMG's failure to list a subcontractor for hydroseeding is a defect that renders the bid non-responsive. Resource bases the protest on Section 4106 of the Public Contract Code which requires a contractor to list all sub-contractors that will perform more than ½ of 1% of the total contract price. A contractor that does not specify a subcontractor as required agrees that it is qualified to perform that portion of the work and shall in fact perform that portion of the work. Resource argues that since AMG failed to list a hydroseeding sub-contractor, AMG must self-perform the hydroseeding work for this project. However, according to Resource, since AMG does not have a Class C-61/D-59 limited specialty contractor license for hydroseeding, AMG cannot self-perform the work. Therefore, AMG's bid should be rejected as non-responsive and the contract should be awarded to Resource.

AMG responds that it intends to self-perform the hydroseeding scope of work for the project and may do so because it is properly licensed to perform the work required by this contract. AMG bases its response on Business and Professions Code Section 7057. This section generally prohibits a general contractor from taking any prime contract that does not involve framing or carpentry unless the contract requires at least two unrelated trades or crafts (other than framing and carpentry) or unless the general contractor holds the appropriate license classification or subcontracts with an appropriately licensed sub-contractor to perform the work. AMG states that it holds the necessary licenses (General Building Contractor B license, Asbestos Abatement C-22 license, and Demolition C-21 license) to carry out the tasks required by the project and may perform the project pursuant to Business and Professions Code Section 7057.

Staff has reviewed the bid protest documents submitted by Resource and AMG as well as the statutory provisions each party has relied upon for their positions. Staff recommends that the City Council reject the bid protest by Resource Environmental Inc. and award the contract to the low bidder, Asbestos Management Group of CA, Inc.

In addition to Business and Professions Code Section 7057, Section 832.61 of Title 16, Division 8 of the California Code of Regulations allows a specialty contractor, to perform work within the field and scope of the operations of the C-61 limited specialty license if the work is consistent with established usage and procedure in the construction industry and is related to the specialty contractor's classification.

In this case, AMG holds a C-21 demolition license, which is a specialty contractor license pursuant to the California Code of Regulations. Consequently, AMG may perform the hydroseeding scope of work, even without holding a D-59 hydroseeding specialty license, as long as such work is consistent with established practice and usage in the industry and related to the C-21 demolition license.

Staff has determined that the hydroseeding scope of work is related to the demolition scope of work, for which AMG is appropriately licensed and the performance of hydroseeding in this context is consistent with established usage and procedure in the construction industry.

Staff finds Asbestos Management Group of CA, Inc., bid documents to be responsive, has confirmed that they have licenses appropriate for this work, and that 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 \$906,250, which includes Alternate Bid No. 1. Staff also recommends that Council authorize the Interim Director of Public Works to expend an additional \$498,750 for construction Administrative Change Orders (ACO), design and administration, and construction administration, inspection, and testing. The ACO amount is \$181,250 (20% of construction cost) because the hazardous materials abatement reports were not completed prior to bid and there is a possibility that there may be more abatement required than could reasonably be expected.

To expedite the demolition of vacant homes on City owned properties and to reduce community concerns about boarded-up buildings, illegal dumping and squatters, staff recommends that Council authorize the City Manager to approve Plans and Specifications and Call for Bids for future phases of Hazardous Material Testing Reports for the Route 238 Property Project. Staff will approach the Council for subsequent approvals of award of construction contracts for each future phase of the project.

This project is exempt from environmental review based upon 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.

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 July 24, 2018, Council approval was for an estimated project cost of \$800,000. The estimated project cost was subsequently revised to include the estimated cost for the additional eight (8) parcels, which brought the final estimated project cost to \$1,405,000.

The estimated demolition (Phase 1) project costs are as follows:

Construction Contract	\$906,250
Construction - Administrative Change Orders	\$181,250
Design and Administration	\$136,250
Construction Inspection and Testing	\$181,250
Total Estimated Project Cost:	\$1,405,000

The project will be funded by the proceeds of the William Lyons Homes SOHAY Project. Cost of future demolition and testing will be recovered with the future sale of these properties to developers who submit development proposals and are selected by Council. Demolition will immediately relieve the City of ongoing property maintenance costs.

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 of related activities. Deconstruction of the parcels will adhere to City's Construction and Demolition Debris Recycling protocols.

PUBLIC CONTACT

City 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 demolish 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 Deconstruction	Phase 1	December 2018
Complete Deconstruction	Phase 1	June 2019

Prepared by: Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Interim Director of Public Works

Approved by:



Kelly McAdoo, City Manager