



DATE: March 15, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Approving Addendum No. 1, Rejecting Bid Protest and Awarding a Construction Contract to Bear Construction, Inc., for the Municipal Parking Lot No. 1 Improvement Project, Project No. 05286 in the Amount of \$390,183.50, and Authorizing a Construction Contingency Change Order Budget of \$172,816.50

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) approving Addendum No. 1, which advertised a mandatory pre-bid conference held on February 15, 2022, rejecting the bid protest of Cato's Paving General Engineering, Inc., and awarding the construction contract to Bear Construction in the amount of \$390,183.50 for the Municipal Parking Lot No. 1 (Muni Lo Lot 1) Improvement Project, Project No. 05286, and authorizing a construction contingency change order budget of \$172,816.50.

SUMMARY

On February 22, 2022, seven (7) bids were received for the Municipal Parking Lot No. 1 (Muni Lot 1) Improvement Project. Bear Construction, Inc., of Hayward, submitted the low bid in the corrected amount of \$390,183.50, which is 6.6% lower than the Engineer's Estimate of \$418,000. Cato's General Engineering, Inc., of Hayward, submitted the second lowest bid in the corrected amount of \$413,825, which is 1.0% lower than the Engineer's Estimate. Radman Electric, of Hayward, submitted the third bid in the amount of \$478,050, which is 14.4% higher than the Engineer's Estimate.

The project is categorically exempt from environmental review under Section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance or minor alteration of existing facilities.

BACKGROUND

This project is part of an annual pavement rehabilitation and preventive maintenance program for the City's nine municipal parking lots. Improvements to Muni Lot Nos. 2, 3, 4, 5 & 6 have been completed and include: improving the pavement and the aesthetic condition of the parking lots; adding accessible parking spaces for American with Disabilities Act (ADA) compliance; providing for additional sidewalks for safe passage of pedestrian using the parking lot; and making lighting upgrades.

DISCUSSION

Muni Lot No. 1 is located in the Downtown area and services public parking needs for offices and retail businesses on Main Street, A Street, Mission Boulevard, and B Street. The entrances to Muni Lot 1 are on Mission Boulevard, B Street and Main Street. The project consists of improving the current condition of Muni Lot 1 by upgrading the parking configuration to City standards, construction of sidewalk, and ADA parking space requirements. Additional improvements include pavement rehabilitation, additional landscape planting and irrigation works, upgrading LED lighting and parking stall condition, striping, markings and signages, and the infrastructure necessary for future vehicle charging stalls.

Seven (7) bids were received by the City Clerk at City Hall, First Floor, 777 B Street, City of Hayward on February 22, 2022, for the Project. Staff verified all bid documents and licenses are in order. Bear Construction, Inc., (Bear Construction) submitted the low bid in the corrected amount of \$390,183.50, which is 6.6% lower than the Engineer's Estimate of \$418,000. The bids ranged from \$390,183.50 to \$569,420.

On February 24, 2022 the second low bidder, Cato's Paving General Engineering, Inc., (Cato) submitted a bid protest (Attachment IV) to the City Clerk alleging that Bear Construction's bid was not responsive to the bid specifications and should be rejected. Bear Construction provided a written response to the bid protest on February 25, 2022 (Attachment V). Staff reviewed the bid protest and determined that Bear Construction's bid was in fact responsive to the bid specifications.

Cato alleged that Bear Construction's submission of a copy rather than the original bid bond was not responsive to the specifications. However, the specifications do not require submission of the original bond. Cato further alleged that Bear did not properly specify the amount of the bond. The specifications require that the bond be at least 10% of the bid. Bear's bond states that the face amount of the bond is "ten percent of bid amount." Additionally, staff independently verified the authenticity of the bond with the surety. The bond is properly executed and complies with the specifications in all respects.

Cato also alleged that Bear did not list a sub-contractor for a specific portion of the work (painting of streetlights) and that Bear is not qualified to self-perform that work. Section

10-1.25 of the project specifications call for upgrade of existing streetlights, including painting. Section 10-1.25 also states that payment for that bid item includes the painting work. Bear’s bid proposal clearly listed subcontractor Bear Electrical as performing “Electrical” work for \$57,840. The corresponding unit price on the bid sheet (line 14 Upgrade Existing Streetlight) shows the same amount of \$57,840. Based on this, Bear clearly intends Bear Electrical to perform the streetlight work, which includes the painting of the streetlight. Based on this analysis, staff recommends that Cato’s bid protest be rejected.

On November 15, 2016¹, Council passed a resolution authorizing a Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC), which applies to City projects with construction costs of \$1,000,000 or more. The agreement requires contractors to use local union hiring halls, encourages contractors to employ Hayward residents or Hayward Unified School District graduates, and requires hired workers to pay union dues and other benefit trust fund contributions, etc. Because the construction cost estimate for the Muni Lot No. 1 Improvement Project is less than \$1,000,000, the CWA agreement does not apply to this project.

ECONOMIC IMPACT

The improvement of the parking amenities and provision of future electric vehicle charging stalls will provide convenience for visitors to the downtown area and may increase activities to nearby businesses.

FISCAL IMPACT

Project Expenditures:

Construction Contract	\$390,183.50
Construction – Administrative Change Order	172,816.50
Landscaping – City Staff	20,000
Design and Administration	8,500
Construction Survey, Inspection and Testing	8,500
TOTAL	\$600,000

Project Funding Source:

The Adopted FY 2022 Capital Improvement Program (CIP) includes a total of \$600,000 for Muni Lot 1 Improvement Project No. 05286 in the Street System Improvements – Fund 450.

STRATEGIC ROADMAP

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=2882111&GUID=118B2EF9-1D2C-471F-999E-4BE0929706A0&Options=&Search=>

This agenda item supports the Strategic Priorities to Improve Infrastructure. Specifically, this item relates to the implementation of the following project:

Project 1: Improve access and mobility in downtown Hayward.

Project 2: Expand EV charging infrastructure for City fleet and employees.

SUSTAINABILITY FEATURES

This project upgrades the condition of the parking lot pavement and adds accessible parking spaces, safe pedestrian pathways, and provision of future electric charging station.

The project requires the contractor to recycle all construction and demolition debris as a result of the project.

PUBLIC CONTACT

Staff has initiated discussion with some of the Downtown businesses and will continue dialogue with the business owners on the start of construction, project duration, and relevance of work phasing to maintain availability of at least two-third parking.

Immediately after the construction is awarded, a preliminary notice explaining the project will be distributed to the businesses adjacent to the limit of work. After the construction work has been scheduled, businesses will be notified at least seventy-two hours prior to the actual commencement of work.

NEXT STEPS

Begin Construction	April 4, 2022
Complete Construction	June 7, 2022

Prepared by: Hector M. Leuterio, Assistant Civil Engineer
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager