



DATE: May 7, 2024

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt Resolution Approving Addendum No. 1, Rejecting the Bid Protest and Awarding a Construction Contract to Radius Earthwork, Inc., in the Amount of \$4,529,499 for the Main Street Complete Street Project, Project No. 05283, and Appropriating Additional Funds in the Amount of \$2,604,499

RECOMMENDATION

That Council adopts the attached resolution (Attachment II):

1. Approving Addendum No. 1 for providing responses to bidders' questions for the Main Street Complete Street Project, and;
2. Rejecting the bid protest of Sposeto Engineering, and;
3. Awarding a construction contract for the project to Radius Earthwork, Inc., in the amount of \$4,117,499, and authorizing an administrative change order budget of \$412,000, for a total not to exceed contract amount of \$4,529,499, and;
4. Transferring and appropriating additional funds in the amount of \$2,604,499

SUMMARY

On December 5, 2023¹, Council adopted a resolution approving the plans and specifications for the construction of the Main Street Complete Street Project. The project was advertised on February 23, 2024 after receiving the authorization document (E-76) from Caltrans on February 22, 2024.

Seven bids were received for the Project on March 26, 2024. On March 29, 2024, a bid protest was received from the apparent second low bidder Sposeto Engineering. City staff reviewed all bid proposals and the bid protest.

Staff is requesting Council's approval of Addendum No. 1 which provided clarifications to bidders' questions. Additionally, staff is also requesting that Council rejects the bid protest from Sposeto Engineering, and awards the contract to the responsible low bidder, Radius Earthwork Inc., in the amount of \$4,529,499.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6439971&GUID=11074871-1E86-4B78-8754-86B1C0EA2516&Options=&Search=>

BACKGROUND

Over the years, Council has taken several actions to develop a policy that ensures the City builds streets that are safe, convenient for travel regardless of age or ability, and accommodate motorists, pedestrians, bicyclists, and public transportation riders. On March 19, 2013, Council adopted Resolution No. 13-027, supporting a citywide Complete Streets Policy to support the design and development of a comprehensive, integrated transportation network to allow for safe, convenient travel along and across streets for all users.

Council has prioritized Main Street as one of the key streets that requires improvement due to its location in the core downtown area, which offers a wide range of housing choices (existing and planned future), including affordable housing options, retail stores, and services in close proximity to BART and other public transit services. Consistent with this policy and Council's priority of implementing complete streets elements, City staff developed a concept plan for converting Main Street between McKee Street and D Street into a Complete Street.

DISCUSSION

On December 5, 2023, Council approved the plans and specifications for the construction of the project and call for bids to be received after Caltrans provided the E-76, the authorization to proceed with construction. The E-76 is the Caltrans and Federal authorization of the funds for reimbursement of the construction phase as this project is partially funded by the One Bay Area Grant (OBAG). After receiving the E-76 from Caltrans on February 22, 2023, the project was advertised on February 23, 2024. Staff issued Addendum No. 1 on March 19, 2024, which responded to bidders' questions.

On March 26, 2024, seven (7) bids were received (Attachment III), ranging from \$4,117,499.30 to \$6,443,478. Radius Earthwork, Inc., (Radius) of Campbell, CA, submitted the lowest bid in the amount of \$4,117,499.30, which is 6.2% higher than the Engineer's Estimate of \$3,878,935. Sposeto Engineering of Livermore, CA, submitted the second lowest bid in the amount of \$4,437,170, which is 14.4% higher than the Engineer's Estimate.

Bid Protest by Sposeto Engineering

On March 29, 2024, the second low bidder, Sposeto Engineering submitted a bid protest letter (Attachment IV) requesting the City not award the contract to Radius on the grounds that Radius did not seal their bid proposal as required by the specifications. Radius responded to the bid protest on April 2, 2024 stating that they did not agree with Sposeto Engineering's protest because while the bid envelope was not sealed properly due to their oversight, their bid was closed and was not tampered or altered with any eraser or whitener. Furthermore, the bids were opened publicly. Staff was present from the time bids were received by the City Clerk to the time when bids were opened and at no time did anyone have access to the bids. Not sealing the bid envelope did not provide an advantage to Radius and is inconsequential to the bid results. Staff recommends rejecting Sposeto Engineering's bid protest.

Radius Earthwork, Inc. Information Received After Bid Opening

On March 28, 2024, the apparent low bidder, Radius Earthwork, Inc., indicated to staff that their listing of subcontractors included an error of listing two subcontractors, RMT Landscape and Marina Landscape for same items of work. On March 29, 2024, Radius provided documentation (Attachment V) that they intended to delete Marina Landscape but erroneously left them in the listing of subcontractors. Marina Landscape agreed and withdrew their subcontract bid. Staff reviewed the information and RMT Landscape's total subcontract amount correlates with the cost of the various bid items in Radius's bid to be performed by RMT Landscape. This error did not provide Radius an advantage and is inconsequential to the bid result. Staff recommends accepting Radius Earthwork's information.

Disadvantage Business Enterprise (DBE) Program

Since a portion of this project is funded by the One Bay Area Grant (OBAG), this project is required to meet DBE goals. This project requires a DBE goal of 20%. The apparent low, second bidder has provided documentation that they are committed to meet that goal; their commitment is 31.3% DBE participation.

Community Workforce Agreement

On November 15, 2016, 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 this Project is more than \$1,000,000, the CWA agreement does apply.

Staff recommend awarding the construction contract to the lowest-responsible bidder, Radius Earthwork, Inc., in the amount of \$4,117,499.30 plus \$411,999.70 for administrative change orders for a total \$4,529,499.

ECONOMIC IMPACT

The proposed Main Street Project improvements will help revitalize the core Downtown area, which offers a wide range of housing choices (existing and planned future), including affordable, retail stores, and services as well as housing developments, both existing and planned, in close proximity to BART and other public transit services.

FISCAL IMPACT

This project is partially funded by the OBAG program from the Metropolitan Transportation Commission, which provides \$2,002,818 for the project. The initial OBAG grant amount was \$1,675,000 and an additional \$327,818 was repurposed to this project from the West Winton Avenue pavement project which also received OBAG funding. The West Winton Avenue pavement project is on hold due to the Interstate 880-Route 92 Interchange project. The \$327,818 will need to be appropriated to Fund 450. As required by the grant, the City's contribution is \$550,000. The

\$550,000 City match was allocated (\$175,000 in FY18 and \$375,000 in FY19) in the Adopted FY18 Capital Improvement Program (CIP) for the design and construction phase. Finally, \$1 million has been reallocated from the Safe Routes for Seniors (SR4S) (Measure BB Paratransit – Capital) project. The SR4S project removed two intersections from that project since the scope of the Main Street Complete Street project included them.

The total funding for the project is:

OBAG Grant	\$1,675,000
Earmarked Repurposing	\$327,818
City of Hayward Contribution	\$550,000
Safe Route for Seniors (Measure BB Paratransit – Capital)	\$1,000,000
Total Funds Available	\$3,552,818

The estimated project costs are as follows:

	Estimated Cost
Design	\$700,000
Construction	\$4,117,499
Construction Contingency (ACO)	\$412,000
Construction Admin, Inspection, Testing	\$600,000
Project Total	\$5,829,499

Currently, there is a funding shortfall of \$2,276,681. Staff recommends the shortfall be funded by a transfer from Fund 101 – Measure C Fund and appropriation in Fund 450 – Street Improvement Fund.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority to Invest in Infrastructure. Specifically, this item relates to the implementation of the following project(s):

Invest in Multi-Modal Transportation

Project N6: Continue to add approximate 10 miles of bike lanes annually, with a focus on protected bike lanes and intersection that have high traffic/incidents

SUSTAINABILITY FEATURES

1. Environment:

This project increases pedestrian and bicycle transportation options which, among other benefits, will lead to a reduction in greenhouse gas emissions related to single occupancy vehicle use.

The project will also include permeable pavers to treat storm water runoff from the sidewalk and filter pollution from the storm water before entering the San Francisco Bay.

2. Energy:

This project will install streetlights with energy efficient LED lighting and dimming features to provide electricity and maintenance cost savings.

PUBLIC CONTACT

Listed below are previous public meetings or public outreach efforts performed by the City:

- At the July 24, 2017 CIC meeting, staff presented three design concepts to the Committee and public for feedback and comments.
- At the June 22, 2020 community meeting, staff re-introduced the two design concepts presented at the July 24, 2017 CIC to the community and public for feedback and comments.
- At the July 22, 2020 CIC meeting, staff presented a revised Concept 1 design based on feedback from the CIC members and public from the January 22, 2020 CIC meeting.
- At the October 28, 2020 CIC meeting, City staff presented the updated project cost and construction estimate to the CIC and public for feedback and comments. In addition, staff presented an alternative design to reduce project scope and incorporate SR4S improvements into the Main Street Project and request for transfer of \$1M from the SR4S project to the Main Street Project. The CIC concurred with Staff's recommendations and transfer of funds.
- At the April 28, 2021 CIC meeting, staff presented the updated cost estimate and scope reduction of Concept 1.
- At the June 16, 2022², CIC meeting, staff provided an update to the CIC and the community with Concept 4 that incorporated feedback from local businesses and the community for the development of the construction documents.
- On September 13, 2023, staff held a community meeting to provide a project update and the estimated project schedule.
- After the construction contract is awarded, staff will send notices to residents and businesses and make other outreach to inform them of the pending construction, the construction schedule and contact information. Staff will also provide periodic construction updates on the City's website.

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=5690742&GUID=D88A2404-F076-42AA-A88D-F1878E580B8A&Options=ID|Text|&Search=main+street+complete+street>

SCHEDULE

The following is the tentative construction schedule:

Begin Construction	June/July 2024
Complete Construction	Summer 2025

NEXT STEPS

If Council adopts the attached resolutions, staff will route the construction contract to Radius Earthwork, Inc. and appropriate \$327,818 from the earmark repurposing and \$2,276,681 shortfall from Fund 101 to Fund 450.

Prepared by: Dave Hung, Senior Civil Engineer
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Dustin Claussen, Interim City Manager