

HAYWARD CITY COUNCIL

RESOLUTION NO. 24-

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDUM NUMBER 1, REJECTING THE BID PROTEST OF SPOSETO ENGINEERING, AWARDING A CONTRACT TO RADIUS EARTHWORK, INC. IN THE AMOUNT OF \$4,529,499 FOR THE MAIN STREET COMPLETE STREET PROJECT, PROJECT NUMBER 05283, AND APPROPRIATING ADDITIONAL FUNDS IN THE AMOUNT OF \$2,604,499

WHEREAS, by Resolution No. 23-265, on December 5, 2023, the City Council approved the plans and specifications for the Main Street Complete Street Project, Project No. 05283, and called for bids to be received by January 30, 2024; and

WHEREAS, Addendum No. 1 was issued to respond to bidders' clarifications; and

WHEREAS, on March 26, 2024, seven (7) bids were received ranging from \$4,117,499.30 to \$6,443,478. The low bid, submitted by Radius Earthwork, Inc., is approximately 6.2% above the Engineer's Estimate of \$3,878,935; and

WHEREAS, 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; and

WHEREAS, on March 29, 2024, Radius Earthwork Inc, provided documentation that they intended to delete Marina Landscape but erroneously left them in the listing of subcontractors. Marina Landscape agreed and withdrew their subcontract bid; and

WHEREAS, on March 29, 2024, the second low bidder, Sposeto Engineering submitted a bid protest letter requesting the City not award the contract to Radius Earthwork on the grounds that Radius Earthwork did not seal their bid proposal as required by the specifications; and

WHEREAS, on April 2, 2024, the City received a response to the bid protest from Radius Earthwork Inc. 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; and

NOW, THEREFORE, BE IT RESOLVED by the City Council that addendum No. 1 is hereby approved and adopted as part of the plans and specifications for the project.

BE IT RESOLVED that the bid protest letter from Sposeto Engineering is hereby rejected;

BE IT FURTHER RESOLVED by the City Council that Radius Earthwork, Inc., of Campbell, CA is hereby awarded the contract for the Main Street Complete Street Project, Project Number 05283, in accordance with the plans and specifications adopted therefore and on file in the office of the City Clerk of the City of Hayward, at and for the price named and stated in the final proposal of the hereinabove specified bidder, and all other bids are hereby rejected;

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute an agreement with Radius Earthwork Inc., on behalf of the City of Hayward in an amount not to exceed \$4,529,499 which includes a contingency for administrative change orders, in a form to be approved by the City Attorney;

BE IT FURTHER RESOLVED that the City Council authorizes the transfer and appropriation of funds in the amount of \$2,276,681 from Measure C (Fund 101) to the Street System Improvement (Fund 450), and \$327,818 from OBag funding to Street System Improvement Fund (Fund 450), for a total appropriation of \$2,604,499.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2024

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward