

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 06/21/05

AGENDA ITEM 5

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Water Pollution Control Facility Improvements, Phase I – Approval of Addenda and Rejection of Single Bid, and Authorization to Procure in the Open Market Through Negotiations

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution that:

1. Approves Addenda Nos. 1, 2, 3, and 4 that make minor changes to the plans and specifications;
2. Rejects the single bid submitted by Kiewit Pacific Corporation; and
3. Authorizes the City Manager to procure construction of the project in the open market through negotiations.

DISCUSSION:

On January 11, 2005, the City Council approved the plans and specifications and called for bids for the Water Pollution Control Facility Phase I Improvements. Subsequently, the eight general contracting firms that had been prequalified by the City were notified that bid documents were available and bids would be accepted on March 1, 2005. On February 8, 2005, a mandatory pre-bid conference was held and six of the prequalified contractors were in attendance.

It became obvious early in the bid period that the City would likely receive no more than two or three bids due to unusual bid-market conditions. In an effort to achieve competitive bidding, the bid date was delayed three times to accommodate schedules of two contractors who appeared committed to submitting a bid. One of the two remaining contractors informed the City four days before the bid date that they had dropped out due to an unforeseen change unrelated to Hayward. On May 10, 2005, a single bid was submitted by Kiewit Pacific in the amount of \$53,826,000, which is about 34 percent greater than the most recent estimate of \$40,000,000.

After review and discussions with Kiewit Pacific, staff has concluded that the wide difference between the bid price for the City's project and the engineer's estimate is due to several factors:

1. A number of cities and special districts are bidding similar projects and the number of contractors qualified to do this kind of work is limited. Thus, we have a situation of high competition for a limited number of contractors.
2. The cost for basic materials, particularly for steel but also concrete and other materials and equipment, purported to be related to Asian development, has dramatically increased in the past two years.
3. The suppliers and subcontractors used the more recent sharp increase in the value of materials and equipment to escalate their cost to mid point of construction thereby inflating their bids.
4. The value of the electrical work appears to have been particularly underestimated by Brown and Caldwell by about \$5 million.

Procurement of Construction in Open Market

Based on staff's review of the significant number of similar projects that are currently out to bid or will be in the near future, and due to the limited number of contractors with bonding capability and expertise to do this work, staff believes that rebidding the project at this time may not produce significantly different results. We could wait and readvertise in the fall, but the prices may not be lower then, and competition may not have eased either. The City Municipal code provides that if all bids are rejected, the City Council may authorize procurement in the open market. Kiewit Pacific is aware of that and has offered to work with the City and negotiate certain reductions in scope and cost for the project. Because the City had received only one bid, it is permissible for the City to reject the bid and negotiate in the open market, including with the low bidder. Depending on the results of these negotiations, staff may either come before the Council again to award the project at a lower cost, or to call for bids again in the fall or winter.

Project Funding

Staff continues to pursue a loan from the State Water Resources Control Board State Revolving Fund (SRF) for Construction of Wastewater Facilities. The SRF makes low-interest loans available to public entities for construction and retrofit of wastewater treatment facilities. The principal advantage of the SRF loan is that the total cost of borrowing, including interest, is substantially less than open market municipal bond financing, having a cost comparable to less than a two percent interest rate compared with the five percent range for open market financing.

The State has approved the City's plans and has determined that Hayward is eligible for funding under this program. Actual funding is contingent on the sale of bonds by the State, which is expected to occur later this year.

In addition, staff is continuing to review the impact of proceeding with this project will have on the sewer rate structure and will return to the Council soon with a recommendation in this regard.

CONCLUSION:

It is recommended that the Council reject the sole bid and authorize negotiations with Kiewit Pacific. Staff proposes to return to the Council prior to the August recess with a formal recommendation.

Prepared by:



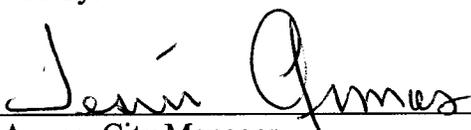
For Alex Ameri, Deputy Director of Public Works

Recommended by:



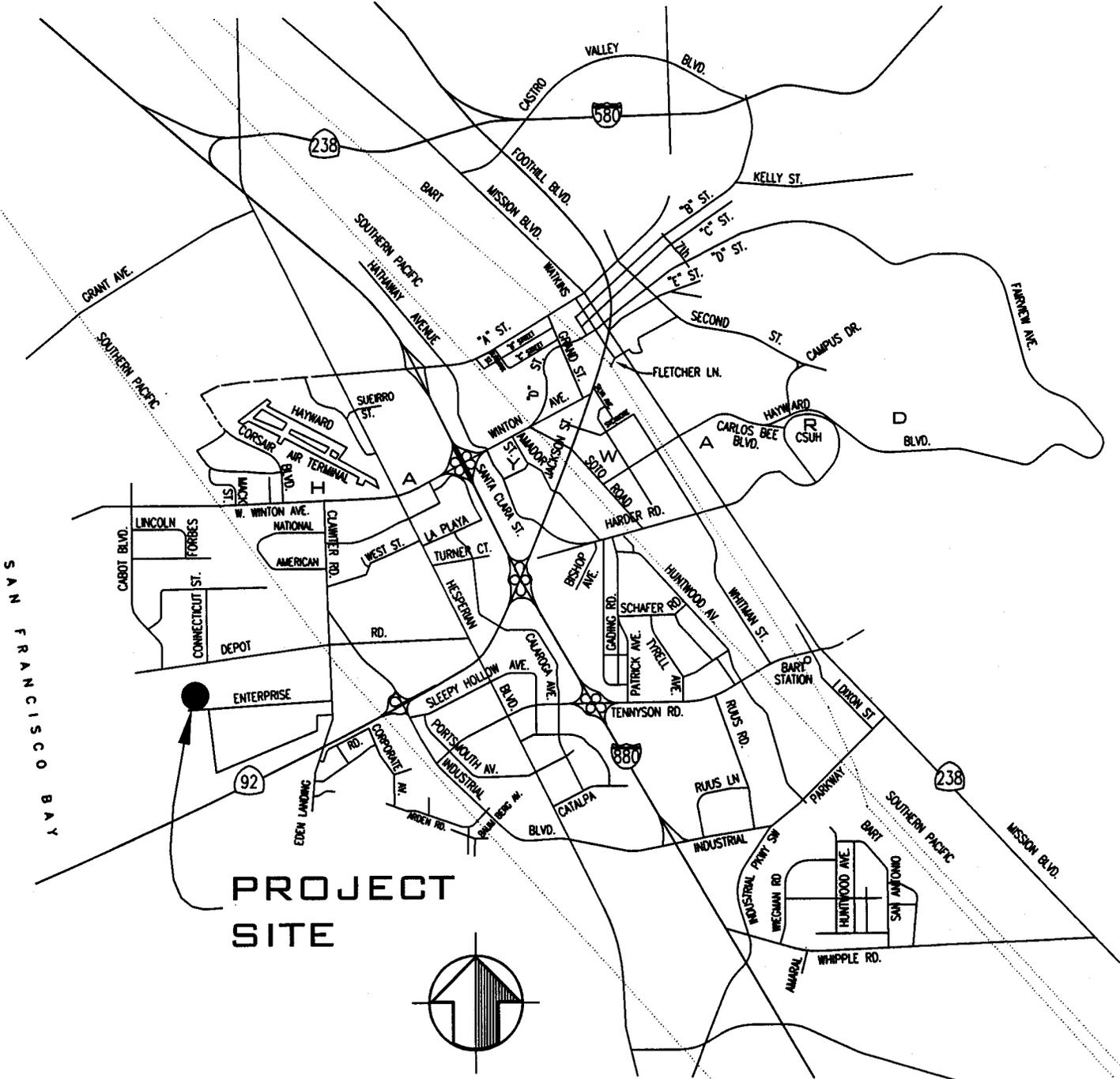
Dennis L. Butler, Director of Public Works

Approved by:



Jesús Armas, City Manager

Attachments: Exhibit A – Project Location Map



**PROJECT
SITE**

**EXHIBIT A
PROJECT LOCATION**

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 05-

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDA NOS. 1, 2, 3, AND 4,
REJECTING THE SINGLE BID FOR THE WATER
POLLUTION CONTROL FACILITY IMPROVEMENTS,
PHASE I PROJECT, PROJECT NO. 7518, AND AUTHORIZING
PROCUREMENT OF CONSTRUCTION ON THE OPEN
MARKET THROUGH NEGOTIATION

WHEREAS, on January 11, 2005, the City Council approved the plans and specifications for the Water Pollution Control Facility Improvements, Phase I Project, Project No. 7518 and called for bids to be received on March 1, 2005; and

WHEREAS, Addenda Nos. 1, 2, 3, and 4 contain minor changes to the plans and specifications; and

WHEREAS, due to unusual bid-market conditions and, in an effort to achieve competitive bidding, the bid date was delayed; however, on May 10, 2005, a single bid was received from Kiewit Pacific in the amount of \$53,826,000, which is 34 percent higher than the most current estimate of \$40,000,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Addenda Nos. 1, 2, 3, and 4 are hereby approved and adopted as part of the plans and specifications for the project.

BE IT FURTHER RESOLVED that pursuant to 2-8.07 of the Hayward Municipal Code, the City Council of the City of Hayward hereby rejects the sole bid proposal and authorizes the City Manager to provide for the work to be procured in the open market.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2005

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