



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Barry Ng  
Angel Rios, Jr.  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** February 21, 2017

Approved

Date

3/2/17

**COUNCIL DISTRICT: 4**

**SUBJECT: REPORT ON BIDS AND AWARD OF CONTRACT FOR  
CONSTRUCTION OF THE 7673 - AGNEWS DEMOLITION PROJECT  
AND ADOPTION OF APPROPRIATION ACTION IN THE  
CONSTRUCTION TAX AND PROPERTY CONVEYANCE TAX FUND:  
PARKS PURPOSES COUNCIL DISTRICT 4**

## RECOMMENDATION

- (a) Report on bids and award of the construction contract for the 7673 – Agnews Demolition Project to the low bidder, AMPCO Contracting, Inc., for the base bid and Bid Alternate Nos. 1 and 2 in the amount of \$3,278,508, and approval of a contingency in the amount of \$656,000.
- (b) Adoption of appropriation actions in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4:
  - (1) Increase the Agnews Property Development appropriation to the Parks, Recreation and Neighborhood Services Department by \$1,299,000;
  - (2) Decrease the Agnews Property Development Reserve by \$2,650,000; and
  - (3) Increase Council District #4 Ending Fund Balance by \$1,351,000.

## OUTCOME

Award of the construction contract to AMPCO Contracting, Inc., (AMPCO) will enable the Agnews Demolition Project to proceed. Approval of a twenty percent contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the project.

## **BACKGROUND**

On January 30, 2014, the California Department of General Services (CDGS) issued a Notice of Award of the Conditional Selection of Interested Party by selecting the Santa Clara Unified School District (District) and City of San Jose's (City) joint proposal for the purchase of the 81 acre Agnews Property site at 3500 Zanker Road in North San Jose. On June 30, 2014, the District and City closed escrow on the former Agnews Developmental Center site, of which the City acquired approximately 21.6 acres of the 81-acre site for \$12,160,019.

The City's 21.6 acres include 17 buildings and a number of site improvements that need to be demolished in order to clear the site for the future development of a park. The buildings and many site improvements contain hazardous materials, including asbestos, lead-based paint, mold and polychlorinated biphenyl (PCB) in transformers and window caulking.

In developing a project to demolish the buildings and site improvements, the City utilized consultant services to investigate and design the hazardous materials abatement plan, and perform both the biological and archeological studies required by the Environmental Impact Report (EIR) for the site. In addition, consultant services were utilized to prepare the Storm Water Pollution Prevention Program (SWPPP) for the demolition process.

Since this project is entirely a demolition project, it is the City's goal to salvage or recycle as much nonhazardous construction demolition as feasible, including metals, concrete and asphalt, and has emphasized this importance by requiring contractors to develop a waste management plan and submit monthly waste reduction progress reports to the City. All waste disposal will be in compliance with CalRecycle guidelines for construction and demolition materials.

On September 19, 2016, the Director of Public Works approved the plans and specifications for the project. The bid for the project consists of the following elements:

1. **Base Bid:** Abate hazardous materials and demolish ten buildings, excluding foundations, for a total building removal of approximately 101,000 square feet.
2. **Bid Alternate No.1:** Abate hazardous materials and demolish the remaining seven buildings, excluding foundations, for a total building removal of approximately 195,000 square feet.
3. **Bid Alternate No. 2:** Demolish all building foundations in the base bid and Bid Alternate No. 1 and demolish the above and below grade site improvements to depth of 3 feet.

The site is served by an existing storm sewer pump station that collects piped storm water from inlets throughout the project site. Due to vandalism, the original pumps inside the storm sewer pump station are not operable. To maintain storm water control during the wet season, PRNS rents a portable storm water pump placed at the storm sewer pump station. The rented pump will be maintained after this phase of demolition is complete. Staff estimates future pump rental and

maintenance costs of \$36,000 per year to keep the site from flooding after the demolition project is complete. When the final use of the site is determined and constructed, the new site storm sewer system will be engineered to connect to a storm sewer main in the adjacent street without the need for a pump station and a rental pump.

PRNS has provided private patrol and fire watch services for the site since July 2014 at a cost of approximately \$20,000 per month. Expenditures to date total \$589,725 and the services will cease once the Notice To Proceed is issued. Construction is scheduled to begin in May 2017 and complete in June 2018.

### ANALYSIS

Bids were opened on November 3, 2016, with the following results:

Contractor	Base Bid	Bid Alt 1	Bid Alt 2	Total Bid	Variance Amonut	Over / (Under) Percent
AMPCO Contracting, (Anaheim)	\$1,292,726	\$1,416,639	\$569,143	\$3,278,508	(\$9,318,492)	(0.74)
Evans Brothers, Inc., (Livermore)	2,734,590	2,204,720	360,640	5,299,950	(7,297,050)	(0.58)
CVE Contracting (Fresno)	1,791,826	2,963,320	1,054,125	5,809,271	(6,787,729)	(0.54)
FERMA Corp. (Mountain View)	2,184,327	3,748,801	1,060,000	6,993,128	(5,603,872)	(0.44)
Silverado Contractors (San Jose)	2,277,500	2,993,000	2,192,500	7,463,000	(5,134,000)	(0.41)
<b>Engineer's Estimate</b>	<b>3,442,000</b>	<b>5,836,000</b>	<b>3,319,000</b>	<b>12,597,000</b>		

The project specifications state that the lowest bid shall be determined by the total of the base bid plus Bid Alternates not to exceed \$10,000,000. The bid submitted by AMPCO had the lowest combination of base bid plus Bid Alternates and did not exceed \$10,000,000. AMPCO's total bid is 74 percent below the Engineer's Estimate and is considered acceptable for the work involved.

The variance between the low bid and the Engineer's Estimate was studied by staff. Prior to bidding, staff utilized three different cost data references that are recognized industry standards to calculate the Engineer's Estimate. Additionally, staff conducted searches on the internet for similar projects to compare unit costs. Each of the data sources provided estimates within 15 percent (+/-) of each other. Due to the infrequent nature of projects with demolition work on this scale, staff deliberately moved forward with the more conservative higher estimate for use as the Engineer's Estimate.

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Staff researched other projects to verify AMPCO's bid and to determine their performance on past projects. After the bid opening, staff became aware of an active demolition project for dormitory buildings at San Jose State University (SJSU) that could be used as a comparison. Staff communicated with the University's project manager to understand the parameters of their project and their contract costs. The unit cost per square foot for the SJSU project was determined to be comparable with unit costs in AMPCO's bid. Staff then questioned AMPCO about their bid amount, and bid quantities, and they responded with detailed information that aligned with the comparable local projects. Although AMPCO is a large and reputable demolition contractor in southern California, they have not had previous experience on City projects. AMPCO is now entering the northern California market and recently completed a large demolition project in San Jose for a local developer. Staff contacted the developer listed on AMPCO's reference list, and inquired about AMPCO's performance on that project, and was given a favorable review.

Staff concluded that AMPCO's bid proposal is a favorable price for this work and recommends awarding the project with Bid Alternate Nos. 1 and 2 to AMPCO.

Council Policy provides for a standard contingency of 15 percent on public works projects involving the renovation or work to existing buildings. However, on this project, a contingency of 20 percent is recommended due to limited information regarding hidden hazardous materials and limited documentation from the State on the buildings and underground utilities installed since the 1930's. Upon approval of the reallocation of funds that are recommended in this memorandum, sufficient funds will be available to provide for the recommended contingency.

The Agnews future park site will be developed when Phase II development in North San José begins within 5-10 years. Funding to develop the park is anticipated to be generated by in-lieu park impact fees paid by residential developers at that time. Up to a maximum of 16,000 residential dwelling units (up to 12,800 market rate units and up to 3,200 affordable units) are slated to be built in the North San Jose Policy Area as par to Phase 2. The current in-lieu fee for multifamily dwellings five stories or higher is currently \$38,800 per dwelling unit in the North San Jose. In-lieu fees paid during Phase 2 development under the North San Jose Policy are expected to fund the development of the Agnews future park site as well as other parks and trails to serve North San Jose. Until funding is available, the site will remain secured and be managed as a land banked property.

#### **Bid Protest:**

On November 14, 2016, CVE Contracting Group, Inc.(CVE), the third lowest bidder, submitted a protest requesting the City to determine AMPCO's bid as nonresponsive and award to the next lowest responsive bidder. CVE assumed that they were the second lowest bidder, but they are the third lowest bidder. The protest contained three items that were analyzed by Public Works with the following determinations:

**PROTEST ITEM 1:** The protest claims that AMPCO's failure to list a subcontractor for the permanent fencing portion of the work results in AMPCO's bid being nonresponsive.

Bidders are required to list subcontractors that will perform work in an amount in excess of ½ of 1 percent of the total bid. If a bidder does not list a subcontractor for work in excess of ½ of 1 percent of the total bid, then the bidder is obligated to self-perform the work.

AMPCO submitted a response stating that their bid value for the permanent fence was less than ½ of 1 percent, and that bidders are not required to list subcontractors for work that is less than ½ of 1 percent. Moreover, even if the bid value was over ½ of 1 percent, this would result in AMPCO having to self-perform the work, not in AMPCO's bid being non-responsive.

PROTEST ITEM 2: The protest claims that AMPCO's bid is nonresponsive because AMPCO did not list a subcontractor for the security services portion of the work. The subcontractor listing requirements only apply to subcontractors. Security services providers are not licensed by the Contractor's State License Board (CSLB) and are considered a vendor, not a contractor. Accordingly, AMPCO was not required to list its security service provider in its bid.

PROTEST ITEM 3: The last item protested is that AMPCO did not properly endorse their bid bond because the contractor did not sign the bid bond on the correct line. Other than putting the signature on the wrong line, the contractor properly signed and endorsed the bond. The fact that the contractor signed the bond on the wrong line is not material. AMPCO submitted a letter from their bonding company confirming the bid bond is approved and issued for this project.

After evaluation of the bid protest documents brought forth, there is no merit to CVE's claims that AMPCO's bid is non-responsive and staff recommends the City Council award the contract to the lowest bidder, AMPCO.

### **EVALUATION AND FOLLOW-UP**

Approval of this recommendation will enable the Project to move forward into the construction phase. No subsequent Council action on this issue is expected.

### **PUBLIC OUTREACH**

To solicit contractors, this project was listed on BidSync and advertised in the *San José Post Record*. The complete bid package and project information for all Department of Public Works construction projects is available on BidSync for interested contractors, contractor organizations and builder's exchanges. This memorandum will be posted on the City's website for the March 14, 2017, City Council agenda.

### **COORDINATION**

The project and memorandum have been coordinated with the Department of Planning Building and Code Enforcement and the City Attorney's Office.

**COMMISSION RECOMMENDATION/INPUT**

This project and memorandum have not been reviewed and/or commented upon by any City commission.

**COST SUMMARY/IMPLICATIONS**

- |    |  |                    |
|----|--|--------------------|
| 1. | AMOUNT OF RECOMMENDATION/COST OF PROJECT:          | \$3,278,508        |
|    | Project Delivery                                   | \$1,115,062        |
|    | Construction                                       | 3,278,508          |
|    | Contingency  | <u>656,000</u>     |
|    | <b>TOTAL PROJECT COSTS</b>                         | <b>\$5,049,570</b> |
|    | Prior Years Expenditures                           | <u>(552,022)</u>   |
|    | <b>REMAINING PROJECT COSTS</b>                     | <b>\$4,497,548</b> |
| 2. | COST ELEMENTS OF CONTRACT:                         | \$3,278,508        |
| 3. | SOURCE OF FUNDING:                                 |                    |
|    | 375 – Subdivision Park Trust Fund                  |                    |
|    | 381 – Construction Tax and Property Conveyance Tax |                    |
|    | Fund: Parks Purposes Council District #4           |                    |

A total of \$6.1 million is budgeted for this project in 2016-2017, including \$2,449,000 in the Park Trust Fund and \$3,650,000 in the Council District 4 Construction and Conveyance Tax Fund (\$750,000 in a project appropriation and \$2.9 million in a reserve). The reserve funding of \$2.9 million was expected to be allocated at the time of award based on the actual bids. It was originally anticipated that the funding available would fall below the cost for demolition and a financing plan would be necessary. However, because bids came in well below the engineer's estimate, the current project funding of \$6.1 million exceeds the remaining project cost of \$4.5 million. As a result, only \$1.3 million of the \$2.9 million reserve is needed to fund the project at this time, leaving a balance of \$1.6 million. Of that amount, it is recommended that \$250,000 remain in reserve for potential future site stabilization activities, such as removal of the storm sewer pump, and \$1.35 million be reallocated to the Council District 4 Construction and Conveyance Tax Fund Ending Fund Balance. This funding will be available for other Council District 4 park priorities and may be appropriated to other projects as part of a future budget process.

4. **OPERATING COST:** The operating and maintenance impact for the Agnews Property costs are anticipated to be \$58,000 annually. Of this amount, \$22,000 was previously allocated to the Parks, Recreation and Neighborhood Services Department for weed abatement and illegal dumping. Additional funding of \$36,000 is needed for operating and maintenance costs related to a storm water pump that will be needed annually during the rainy season. Funding of \$36,000 will be included in the 2018-2022 Five-Year General Fund Forecast.

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**BUDGET REFERENCE**

The table below identifies the fund and appropriations proposed to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	Current Total Appn	Rec. Budget Action	Amt. for Contract	2016-2017 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
375	7644	Agnews Property Development	\$2,449,000		\$1,229,508	V-533	10/18/2016, Ord. 29803
381	7644	Agnews Property Development	\$750,000	\$1,299,000	\$2,049,000	V-359	10/18/2016, Ord. 29803
381	8442	Agnews Property Development Reserve	\$2,900,000	(\$2,650,000)	N/A	V-364	06/21/2016, Ord 29762
381	8999	Unrestricted Ending Fund Balance	\$470,301	\$1,351,000	N/A	V-357	10/18/2016, Ord 29803

**CEQA**

Addendum Draft EIR No. PP14-033, dated April 2014.

/s/

BARRY NG  
Director of Public Works

/s/

ANGEL RIOS, JR.  
Director of Parks, Recreation &  
Neighborhood Services



JENNIFER A. MAGUIRE  
Senior Deputy City Manager/  
Budget Director

Attachment: Agnews Demolition Project Site Map

For questions, please contact Michael O'Connell, Deputy Director, Department of Public Works at (408) 535-8300.



# AGNEWS DEMOLITION PROJECT