



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

SUBJECT: SAN JOSE ENVIRONMENTAL
INNOVATION CENTER PROJECT
(SJEIC)

DATE: September 27, 2012

Approved

Date

9/27/12

COUNCIL DISTRICT: 3

REASON FOR ADDENDUM

The City's contractor for the SJEIC construction, Applegate Johnston, Inc ("AJI"), is on hold pending hazardous material abatement. The recommended action is necessary to continue the renovation of an existing warehouse and mitigate further construction delays on this project.

RECOMMENDATION

Adopt a resolution authorizing the Director of Public Works to utilize up to \$250,000 in existing project construction contingency funding for the San José Environmental Innovation Center Project Rebid (Project) to fund a work order with Asbestos Management Group of California, Inc. ('AMG') to perform needed hazardous material abatement work for the Project.

OUTCOME

The recommended action will allow the City's contractor Applegate Johnston, Inc. ("AJI") to continue construction on the existing warehouse renovation, which has been placed on a temporary hold pending hazardous material abatement in that building.

BACKGROUND

The SJEIC is an approximately 48,000 square foot existing warehouse that was built in 1958 located on a 4.2 acre site as shown Attachment A: Location Map. The City completed Phase I construction in June 2010, which was limited to exterior improvements. Phase II construction is currently underway to renovate the existing warehouse building and add a new 10,000 square

foot Household Hazardous Waste ("HHW") building and associated parking, driveways, landscaping and site amenities.

The construction contract for Phase II was awarded by Council on May 24, 2011 to AJI. The total contract amount is \$11,094,935 with a 12% contingency in the amount of \$1,330,000.

The construction of Phase II is approximately 60% complete with all site underground utilities such as storm, water, sewer, underground electrical and fire water lines completed. The site concrete around the new HHW building is currently being formed and poured. The HHW building is framed and the interior concrete masonry unit walls have been built. Work on this portion of the Project is continuing.

To date, AJI has completed the rough in and layout of the electrical, mechanical, and plumbing as part of the renovation of the existing warehouse building. However, because remodeling and reconstruction of parts of the building are required, the interior renovation work has been temporarily halted pending the necessary mitigation of lead paint and asbestos from the building.

The renovation of the existing warehouse building required the removal of existing paint to allow new steel beams to be welded to existing steel beams. On or about August 17, 2012, AJI notified City that its testing determined that the existing paint was lead based. The Project plans and specifications had not included work involving the removal of lead paint.

On the same day that AJI notified the City about the lead-based paint, the City hired a consultant to inspect and test the warehouse for lead. The consultant's report stated that there was lead in the paint and asbestos that had to be remediated before construction work on the existing warehouse could proceed further. This work is unanticipated and not included in the original project bid documents.

The California Division of Occupational Safety and Health (Cal/OSHA) has opened a case as a result of these events.

ANALYSIS

The proposed work order ("WO") includes work to abate lead identified in the existing warehouse building. The scope of work includes the following: (1) the stabilization of lead paint throughout the main building, (2) the removal of lead dust throughout the main building, (3) the removal of lead paint where further welding and grinding activities will occur, and (4) the removal of lead paint in the basement so that waterproofing of the walls can be completed.

Staff believes it is in the best interest of the City to directly contract with a contractor to perform the abatement work as opposed to issuing a change order to AJI to perform the work. The City already has two Citywide open purchase orders executed for specialty contractors to perform lead-based paint and asbestos abatement work at City facilities. The proposed contractor, Asbestos Management Group of California, Inc., has a proven track record and has worked with

the City before on the abatement of hazardous materials. The work will be performed by qualified abatement workers using protocols specified by Cal/OSHA.

Public Works is requesting authority to use up to \$250,000 of the contingency established for the Phase II construction contract with AJI to hire Asbestos Management Group to perform the abatement work. Asbestos Management Group of California has provided the City an estimate of \$152,000 for performing the abatement work, although the cost of the work is still under negotiations. Staff believes the proposed WO represents a fair value for this type of work. Staff has received competing estimates that indicate that this work could cost significantly more. To allow for potential increased costs for remediation of the lead paint in accordance with Environmental Protection Agency ("EPA") and Cal/OSHA regulations, staff recommends authorizing up to \$250,000 of the contingency to be used for the abatement work.

Although the contractual completion date is currently February 2013, AJI's current schedule shows completion in July 2013. The delta between the contract end date and the schedule is likely to close by up to 90 days after potential change orders being processed are executed by the City.

During the course of construction there have been several unanticipated site and building conditions which have required changes to the original contract amount and duration. Contract Change Orders in the total amount of \$322,193 have been approved under the authority of the Department of Public Works. These change orders have increased the compensation for AJI to \$11,417,128 and extended the contract end date by 49 days to February 8, 2013.

There also are pending change orders in an aggregate amount of \$250,225 which will further increase compensation and extend the contract end date. Those change orders can be approved under the authority of the Director of the Department of Public Works and are in the process of review and approval. The remaining contingency after approval of these anticipated change orders will be \$757,582. Following use of up to \$250,000 of contingency to fund the hazardous materials abatement work the remaining contingency would be reduced to not lower than \$507,582.

EVALUATION AND FOLLOW-UP

The contingency for the project did not conform to the standard 15% contingency for building renovation projects and while project completion percentage matches the contingency usage to date, it is possible that additional funding may be necessary to adequately complete the project. Staff will return to Council only if additional recommendations are necessary.

POLICY ALTERNATIVES

Alternative #1: Execute a change order with AJI to complete the work.

Pros: The City would not have to manage a separate hazardous materials abatement contractor.

Cons: AJI's pricing would include their standard profit and overhead markup and the schedule might be further delayed by the process of subcontractor selection by AJI. Moreover, the City will have more direct control over the speed at which the abatement work is performed.

Reason for not recommending: Contingency funding is limited for the project so managing costs is a priority and existing agreements with Habitat for Humanity and Santa Clara County to occupy the completed buildings are time sensitive and the City does not want to put those relationships at risk by extending the schedule further.

PUBLIC OUTREACH/INTEREST

This recommendation does not meet any of the below criteria; however, this memorandum will be posted on the City's website for the October 2, 2012 Council Meeting Agenda.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Department of Environmental Services, the Office of Economic Development and the City Manager's Office.

COST SUMMARY/IMPLICATIONS

1.	AMOUNT OF RECOMMENDATION/COST OF PROJECT:	
	Project Delivery*	\$1,516,032
	Consultant Agreements**	3,206,581
	Construction	11,094,935
	Previous Change Orders	322,193
	Pending Change Orders	250,225
	Proposed Work Order with AMG (up to)	250,000
	Remaining Contingency	507,582
	Total Project Costs	<u>\$17,147,548</u>

*Project delivery costs are for Phase II construction of the EIC.

**Consultant agreements are with Group 4 and Gilbane.

2. SOURCE OF FUNDING: 423 – Integrated Waste Management Fund
3. OPERATING COSTS: There are no cost implications to the General Fund as a result of this action. For a discussion of the total costs associated with this project, please see attachment of the May 21, 2010 staff report “Site Development and Programming for the San Jose Environmental Innovation Center”, heard at the June 7, 2010 Transportation and Environment Committee meeting. Also reference items 7.3 of the May 24, 2011 7.1 of the October 21, 2011 Council meetings.

BUDGET REFERENCE

Fund #	App n #	Appn. Name	RC #	Total Appn	Amt. for Contract	Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
Project Funding Available							
423	7275	Household Hazardous Waste Las Plumas Facility	169005	\$8,410,547	\$250,000	XI-54*	6/19/12 Ord. No. 29102
Total Funding for Project				\$8,410,547	\$250,000		

* Appropriation budget was adopted by Council on 6/19/12 through MBA #46.

HONORABLE MAYOR AND CITY COUNCIL

September 27, 2012

Subject: SJEIC Project

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CEQA

A CEQA Negative Declaration for the renovation of the SJEIC was adopted on December 1, 2009 (PP09-138).

/s/

DAVID SYKES

Director of Public Works

For questions please contact Marybeth Harasz, Division Manager, at 408-535-8377.

