

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 08/30/07		Item Number: <u>A-1</u>	
AGENDA ITEM: 1) Award of Construction Contract to Malcolm Drilling Company Incorporated for the Slope Reconstruction Adjacent to Cranks and Tellefson Roads Project, P-867 as an urgency contract; 2) Approval of Amendment to the Existing Professional Services Agreement with Geo-Environmental for Design and Construction Management Services; and 3) Approval of a Related Budget Amendment			
Contact Persons/Dept.: Mate Gaspar and Charles Herbertson, PW		Phone Number: (310) 253-5602 and (310) 253-5635 respectively	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: Malcolm Drilling Co., Inc.; Calnex Engineering, and Clarke Contracting, via e-mail and phone call on August 29, 2007, and residents of 10745, 10747, and 10751 Cranks Road and 5722 and 5724 Tellefson Road and their respective attorneys were notified by e-mail on August 29, 2007, and Master Notification List on August 29, 2007.			
Department Approval: Charles D. Herbertson 08/29/07		City Attorney Approval: Heather Iker (08/29/07)	
City Controller Approval: Marlee Chang (08/29/07)		City Manager Approval: Jerry B. Fulwood (08/30/2007)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: 1) Award a construction contract to Malcolm Drilling Company Incorporated for the slope reconstruction adjacent to Cranks and Tellefson Roads, Project P-867 as an urgency contract. (Four affirmative votes are required to award the contract.) 2) Amend the existing Professional Services Agreement with Geo-Environmental for Design and Construction Inspection services; and 3) Approve a Budget Amendment to increase the Appropriation in the amount of \$1,302,218 from the Self-insurance Fund Reserve. A 4/5th vote is required to approve the budget amendment. <u>BACKGROUND:</u> On May 21, 2007, the City Council approved the final plans and specifications and authorized staff to advertise for bids for the construction of the slope reconstruction behind the properties located at 10745, 10747, 10751 Cranks Road and 5722 and 5724 Tellefson Road. On June 21 and June 28, 2007 the project was advertised for construction bids.			

**City of Culver City, California
City Council Agenda Item Report**

On July 26, 2007, the bids were publicly opened by the Deputy City Clerk, yielding the following bids:

CONTRACTOR	BID AMOUNT
Environmental Construction, Inc.	\$2,870,732.50
CalEx Engineering	\$4,163,000.00
Clarke Contracting	\$5,107,000.00

These bids greatly exceeded the estimated construction cost of the project.

The City's Charter provisions regarding public works contracts¹ give the City Council the authority to reject any and all bids presented. In addition, the Council, with four affirmative votes, may award a contract without complying with the bidding procedures, provided a public hearing is held on the award of the contract. In the event of a condition of urgent necessity, the City Council may award such a contract without a public hearing.

In accordance with the provisions of the Charter, on August 13, 2007, the City Council unanimously rejected all the bids for a construction contract for the slope reconstruction adjacent to Cranks and Tellefson Roads, P-867 and authorized staff to negotiate with the three bidders and other contractors on behalf of the City.

DISCUSSION:

Urgent Necessity

As discussed above, the City's Charter allows for the Council to award a contract without complying with the bidding procedures *and* without a public hearing in the event of a condition of urgent necessity for the preservation of life, health or property. **This will require four affirmative votes of the Council.**

Staff and the City Attorney's Office have determined that an urgent necessity exists under the current circumstances, as the contractor must order the steel for the project by August 31st or will have to wait until the Spring to place an order for steel. It is critical that the project be started now.

¹ Charter Section 2007 provides that the procedures for awarding public works contracts as set forth in the "old" Charter will remain in effect until such time as the City Council establishes, by ordinance, different procedures. Therefore, the current procedures are set forth in "old" Charter Section 1304.

City of Culver City, California
City Council Agenda Item Report

Negotiations

Negotiations immediately proceeded with CalEx Engineering, Clarke Contracting, and **Malcolm Drilling Company Incorporated**. Staff decided not to negotiate with Environmental Construction, Inc. due to their lack of experience with slope reconstruction projects and the fact that they had previously requested to withdraw their original bid from consideration citing a clerical error that they made in their bid. In addition to the two remaining bidders, staff negotiated with Malcolm Drilling, the contractor for the slope reconstruction to the south of the subject properties in 1993, who had expressed an interest in the project during the original bidding phase.

After the completion of the negotiations, a letter was mailed to each of the contractors requesting submission of a best offer to the Public Works Director/City Engineer by 3:00 P.M., Tuesday, August 28, 2007. The following are the bids received:

CONTRACTOR	BID AMOUNT
Malcolm Drilling Co. Inc.	\$3,207,700
CalEx Engineering	\$3,604,400
Clarke Contracting	\$4,384,000

The final cost amount provided by **Malcolm Drilling Co. Inc.** is the lowest. Also the following conditions were set by the City during the negotiations and **Malcolm Drilling Co. Inc. as part of their bid::**

- 100 working days to complete the project
- Demolishing the house on the City owned property at 10745 Cranks Road and utilizing the property for construction staging and access. (Based on discussions with the contractors on this project, it is necessary to demolish the home on City owned property at 10745 Cranks Road in order to provide access for construction of the upper portions of the slope. The contractors' bids are based on the assumption that the City will authorize the demolition of this house. The cost of the demolition is included in the bid amount. The estimated decrease in the value of the property due to demolition of the existing house is approximately \$300,000 and the expected recovery upon sale of the property is in the range of \$800,000 to \$850,000.____.
- The homes on the adjacent properties at 10747 and 10751 Cranks Road will remain in place and shall be protected.

City of Culver City, California
City Council Agenda Item Report

- Relocation of the Southern California Edison power pole lines at the top of the slope will be conducted by others.
- Landscaping and irrigation of the reconstructed slope will be done by others.
- All construction inspection services will be paid for by the City.
- The City will make available property at 10100 Jefferson Boulevard for stockpiling and material storage. (This is through a separate agreement with the Los Angeles Community College District).
- It is understood that all other specifications and provisions in the original bid apply to the project.

Staff reviewed all the bids and is recommending awarding a construction contract to **Malcolm Drilling Co. Inc.**, for the reconstruction of the slope adjacent to Cranks and Tellefson Roads

If awarded, the notice-to-proceed letter for the procurement of the steel materials will be faxed and mailed to **Malcolm Drilling Co. Inc.** on Friday, August 31, 2007, 8 A.M. This will facilitate the project by making sure that the steel materials necessary to construct the project are obtained at the earliest possible date. There is a 4-6 week lead time to procure all the steel beams for the construction. A second notice-to-proceed letter to commence construction will be issued at a later date following execution of the contract documents. The 100 working days on the project will begin after receiving delivery of the steel materials. There is a \$500 per day liquidated damage charge for the work not being completed on time. This does not include delays due to material delivery and inclement weather.

Staff is estimating that the notice-to-proceed letter to commence construction will occur sometime between October 1 and October 15, 2007. With 100 working days on the project, the estimated completion date of the project is March 31, 2008.

Malcolm Drilling Co. Inc. has extensive experience in slope reconstruction projects. Also the bonding capacity and insurance requirements were verified to be valid.

The construction management of the project will be performed by in-house personnel and Geo-Environmental, Inc. will perform construction inspection and material testing services under the existing approved agreement.

City of Los Angeles Sewer Trunk Line

City of Culver City, California
City Council Agenda Item Report

As mentioned in the May 21, 2007 City Council agenda report, staff and the consultant learned that the large City of Los Angeles 118 inch diameter sewer trunk mainline under the properties may be in conflict with a portion of the construction of the project. The depth of several of the soldier piles for the new retaining walls may be in conflict with the sewer trunk main based on an estimation of the depth of the sewer trunk line from the original construction plans. The sewer trunk line was tunneled in 1956. Staff was unable to verify the exact depth and location of the sewer trunk line with the City of Los Angeles. As a result, a portion of the final plans had to be redesigned to avoid a likely conflict with the sewer trunk line. The redesign includes a bridging structure.

Malcolm Drilling Co. Inc. has provided a cost of \$916,900 to construct the bridging structure and foundations. **Malcolm Drilling Co. Inc.** is required to pothole the sewer line to establish the depth and alignment as the first order of work on the project. If the sewer line is discovered to not be in conflict with the proposed construction, it will be a significant cost savings to the project. Staff will inform the City Council of the findings.

FEMA

FEMA previously denied the City's request for an extension of the deadline to complete the project by October 15, 2007. However, in May 2007, staff filed an appeal. We do not expect to receive word from FEMA regarding this appeal for several more months. However, in June the California Governor's Office of Emergency Services (OES) forwarded the City's appeal to FEMA with a recommendation that the appeal be approved. If the appeal is approved, staff will then request additional funding from FEMA to cover the additional construction costs required to avoid the potential conflict with the sewer trunk line (assuming the potholing referenced above does confirm a conflict). FEMA was not aware of this conflict when they made their original cost estimation for the project. Additionally, staff will request to increase the funding for the design costs as these costs have exceeded FEMA's original estimate as well.

Additional Costs and Reimbursements

Per the terms of a settlement agreement involving litigation that arose out of the slope failure, the City is required to reimburse living expenses to the owners of the properties at 10745 and 10747 Cranks Road and 5722 and 5724 Tellefson Road from September 30, 2007 until the time they are allowed to reoccupy their residences. The total cost to the City in this regard is \$9,850 a month. This amount is further reflected in the Fiscal Analysis section of this report.

Geo-Environmental, Inc.

City of Culver City, California
City Council Agenda Item Report

On May 22, 2006, the City Council approved a professional services agreement with Geo-Environmental, Inc. for the final design of the slope repair behind the properties located at 10745, 10749, and 10751 Cranks Road and 5722 and 5724 Tellefson Road and authorized the Public Works Director/City Engineer to approve an additional change order in the amount of \$30,080 for material testing and inspection service to Geo-Environmental, Inc. during the time of construction.

Due to the discovery of the potential conflict with the City of Los Angeles' sewer trunk line, staff directed Geo-Environmental to modify the plans and design a bridging structure. The complexity of this structure required much time to conduct structural calculations and design work to bridge over the sewer trunk line. As a result, Geo-Environmental is requesting additional compensation in the amount of \$36,450, for a total of \$125,000, for the final design of the project. Staff is recommending the City Council approve an amendment to the existing agreement with Geo-Environmental for the additional design services.

FISCAL ANALYSIS:

Estimated Project Expenses	
Construction contract	\$3,207,700
Construction Inspection and Material Testing	\$30,080
Additional design fees	\$36,450
Contingency (approx. 10%), if necessary	\$300,000
Settlement Agreement living expenses	\$59,100
City Match (6.25%) for FEMA reimbursable funding	\$55,338
Total Estimated Project Cost	\$3,688,668
FY 2007-08 Appropriation amount	(\$2,200,000)

Total Budget Amendment (shortage)	
From Self Insurance Fund Reserve	\$1,488,668

Potential Reimbursable Funding	
Funding Source	Amount
FEMA (75%) Reimbursable	\$664,060
California OES (18.75%) reimbursable	\$166,015
Sale of 10745 Cranks Road property	\$,850,000
Total =	\$1,680,075

City of Culver City, California
City Council Agenda Item Report

If it is discovered that the City of Los Angeles sewer trunk line will not be in conflict with the proposed improvements, there is an estimated cost savings of at least \$800,000. With the deletion of the bridging structure and foundation, the proposed retaining walls would then be constructed to extend across the top of the sewer trunk line.

ATTACHMENTS:

1. Malcolm Drilling Co. Inc.'s proposal dated August 28, 2007
2. Calex Engineering's proposal dated August 28, 2007
3. Clarke Contracting's proposal dated August 28, 2007
4. Vicinity Map
5. Cavanaugh Realtors evaluation of 10745 Cranks Road dated August 2, 2007

MOTIONS:

That the Council:

1. Award a construction contract to **Malcolm Drilling Company Incorporated** in the amount of \$3,207,700 for the Reconstruction of the Slope adjacent to Cranks and Tellefson Roads Project, P-867 as an urgency contract: **[Four affirmative votes are required to award the contract.]**
2. Authorize the Public Works Director/City Engineer to increase the Construction Contract with Malcolm Drilling Company Inc. and the professional services contract with Geo-Environmental Inc. by an aggregate amount not to exceed \$300,000 (approximately 10%), if necessary, due to unforeseen conditions;
3. Approve an amendment to the existing professional services agreement with Geo-Environmental Inc. for design services in an amount not-to-exceed \$36,450;
4. Authorize the City Attorney to prepare the appropriate contract documents, and authorize the City Manager to execute such documents on behalf of the City; and
5. Approve a budget amendment to increase the appropriation in the amount of \$1, 488,668 from the Self-insurance Fund Reserve to the budget line item Account # 42000867.730100 Slope Reconstruction adjacent to Cranks and Tellefson Roads, P-867. **[A four-fifths vote is required to approve the budget amendment.]**