



PUBLIC WORKS DEPARTMENT

Council Meeting Date: February 26, 2008

Staff Report #: 08-030

Agenda Item #: D5

CONSENT: Adoption of the Proposed Negative Declaration for the Terminal Avenue Site Remediation Project

RECOMMENDATION

Staff recommends that the City Council adopt the proposed Negative Declaration for the Terminal Avenue Site Remediation Project.

BACKGROUND

In 2002, it was discovered that diesel fuel contaminates a portion of City-owned property (Assessor's Parcel Number 055-260-170) adjacent to Terminal Avenue (see map, Attachment A). The impacted site is that being proposed by Habitat for Humanity for a future housing development project. The organization is currently refining its proposal and is working with staff to enter into an Exclusive Negotiating Rights Agreement.

Because the City currently owns this property, it is legally obligated to remove the contamination. Acting on this requirement, Council approved approximately \$500,000 as part of the Fiscal Year 2005-06 mid-year budget adjustment process and an additional \$800,000 as part of the FY 2006-07 project priority-setting process for a remediation effort expected to cost \$1.3 million. In November 2005, the Community Development Agency authorized a contract in the amount of \$230,000 with Eler and Kalinowski, Inc. (EKI), for environmental consulting services for the Terminal Avenue Site Remediation (Terminal Avenue) Project, not including construction.

The California Environmental Quality Act (CEQA) defines an action that has the potential to result in a direct or indirect physical change in the environment as a project. Such projects are subject to CEQA regulations unless specifically exempted by certain statutory or categorical exemptions. Remediation projects costing less than \$1 million, for example, are categorically exempt from CEQA regulations.

Because the Terminal Avenue project will involve the excavation, off-hauling, and disposal of contaminated soil; the removal, treatment, and disposal of groundwater that may enter the excavation; and the backfilling of the excavated area with clean soil, it has the potential to result in a direct or indirect physical change in the environment. Consequently, it is deemed a CEQA project. Whereas the project would be considered exempt if it were to cost less than \$1 million, the City is proceeding with the process in anticipation that the lowest bid for construction might exceed \$1 million.

ANALYSIS

Projects subject to CEQA require that an initial study be conducted for the purpose of determining whether the project will have a significant effect on the environment. Staff prepared an initial study for the Terminal Avenue project (Attachment B) and found that the project would not have a significant effect on the environment. This finding was based, in part, on the fact that no significant adverse effect to water or air quality and no significant adverse impact to flora or fauna, traffic, land use, public structure, or infrastructure were identified.

When an initial study shows that there is no substantial evidence that the project may have a significant effect on the environment, CEQA requires that a proposed Negative Declaration be prepared and made available for public review. This being the case for the Terminal Avenue project, staff prepared a proposed Negative Declaration (Attachment C), published a notice of its availability, and provided a 20-day public comment period in compliance with CEQA guidelines.

As a result of the public comment period, City staff received two letters. One was from Tyco Electronics (Attachment D), and the other was from the San Mateo County Health Department (Attachment E). Tyco Electronics expressed concern about how dewatering operations planned for the project might impact its property located 200 feet away. Specifically, Tyco's principal concern was that the drawing down of the local groundwater table might cause known contamination at the Tyco site to flow from its current location. It was also concerned that there could potentially be ground settlement at its site. In addition, Tyco was interested in knowing how treated groundwater would be discharged. The letter from the San Mateo County Health Department echoed Tyco's principal concern.

On behalf of the City, EKI prepared a response (Attachment F) to the comments received. EKI explained that this project is not expected to impact the groundwater table. It is not the intent of this project to draw down the water table. Only water that enters the excavation will be pumped out and treated. Sheet pile walls and an impervious clay layer below the excavation area are expected to impede the flow of groundwater into the excavation. Consequently, the groundwater table should not be impacted and there should be no movement of contaminants or the occurrence of ground settlement. EKI further explained that the limited amount of water that will be treated will be discharged to the sanitary sewer system at a rate permitted by the Sanitary District.

On February 4, 2008, an e-mail was received from a Tyco representative which states that, "[t]he EKI response letter (for the remediation as proposed) appears adequate in addressing potential concerns..." (Attachment G).

CEQA guidelines require that before approving a project, the decision-making body shall consider the proposed Negative Declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed Negative Declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that

the project will have a significant effect on the environment and that the Negative Declaration reflects the lead agency's independent judgment and analysis. Staff recommends that the City Council, in accordance with CEQA guidelines, consider the initial study (Attachment B); consider the proposed Negative Declaration (Attachment C); consider the comments received from Tyco Electronics (Attachment D) and San Mateo County Health Department (Attachment E), the City's response to these comments (Attachment F), and Tyco's subsequent follow-up message (Attachment G); and adopt the proposed Negative Declaration.

Adoption of the proposed Negative Declaration will complete the public review process required by CEQA. Following adoption, the solicitation for construction bids to remediate the contamination can proceed. Staff will then return to the Council with a recommendation to award the construction contract to the lowest responsible bidder. Following contract award, construction can be expected to begin later this year.

IMPACT ON CITY RESOURCES

Adoption of the proposed Negative Declaration will have no impact on City resources.

POLICY ISSUES

Adoption of the proposed Negative Declaration does not represent any change to existing City policy.

ENVIRONMENTAL REVIEW

Adoption of the proposed negative declaration, followed by a filing of a notice of determination with the County Clerk, will complete the CEQA environmental review process.

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Senior Engineer

Charles Taylor
Transportation Manager

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENTS:

- A. [Site Map.](#)
- B. [Initial Study, dated 10/17/07.](#)
- C. [Proposed Negative Declaration, dated 10/17/07.](#)
- D. [Comment Letter from Tyco Electronics, dated 11/5/07.](#)
- E. [Comment Letter from San Mateo County Health Department, dated 11/7/07.](#)
- F. [Response Letter from EKI, dated 1/24/08.](#)
- G. [E-mail from Tyco Electronics, dated 2/4/08.](#)