



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 MAY 28 AM 9:39

AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: Installation of Steel Barrier Rail at the
San Leandro St./105th Ave. Underpass

DATE: April 1, 2015

City Administrator
Approval

Date: 5/21/15

COUNCIL DISTRICT: 7

RECOMMENDATION

Staff recommends that the City Council:

Adopt A Resolution Awarding A Construction Contract To Mosto Construction, The Lowest Responsive, Responsible Bidder, In Accordance With Plans And Specifications For The Installation Of Steel Barrier Rail Around The San Leandro St./105th Ave. Underpass (Project No. C321730), And With Contractor's Bid In The Amount Of One Hundred Twenty-Six Thousand Two Hundred Twenty Dollars (\$126,220.00).

OUTCOME

Approval of this resolution will authorize the City Administrator to execute a construction contract with Mosto Construction, in the amount of \$126,220.00. This project will replace 926 linear feet of missing aluminum barrier rails that surrounded the retaining walls of the underpass where San Leandro Street tunnels beneath 105th Ave. The aluminum barrier rails were stolen and are now to be replaced with steel barrier rails.

BACKGROUND/LEGISLATIVE HISTORY

The aluminum barrier rails are typical and sit at the top of concrete retaining walls for underpasses. They provide a vehicular and pedestrian safety barrier at changes in elevation between underpass roadway and adjacent street or ground. The aluminum rails were stolen by unknown parties while the site was barricaded and under the control of Bay Area Rapid Transit (BART), during construction of seismic upgrades to its adjacent aerial track. BART was responsible to secure its construction area, and as such, is liable for the theft of the barrier rail that occurred within its construction zone. BART under a prior agreement with the City of Oakland for their seismic upgrade project has agreed to reimburse the City for the portion of barrier rail that was

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stolen within its construction zone. Since the theft of the rail occurred both within and outside of its construction area, only a portion, forty-eight percent (48%), of the total replacement costs will be reimbursed by BART. The City will pay the remaining fifty-two percent (52%) of the cost where the theft occurred outside of BART's construction zone. The replacement rails will be steel and the attachment bolts shall be non-removable, or anti-theft.

This project will use available Fiscal Year 2014-15 Measure B funds allocated for the annual Bridge Maintenance Program.

On March 12, 2015, the City Clerk received three bids for this project in the amount of \$126,220.00, \$268,908.00 and \$318,480.00 as shown in *Attachment B*. Mosto Construction was deemed the lowest responsive and responsible bidder at \$126,220.00 and therefore is recommended for the award. The Engineer's estimate for the work is \$228,991.84. Staff has reviewed the submitted bid, which is 55% lower than the engineer's estimate and determined that the bid reflects current market conditions.

ANALYSIS

Under the proposed contract with Mosto Construction, the Local Business Enterprise/Small Local Business Enterprise (LBE/SLBE) participation will be 50.64%. Local trucking was not required for this project, since barrier rails are delivered to the job site by the fabricator. The LBE/SLBE information has been verified by the Social Equity Division of the City Administrator's Office, Contracts and Compliance Division and is shown in *Attachment C*.

Construction work is anticipated to begin in July 2015 and should be completed by the end of October 2015. The contract specifies \$1,000 in liquidated damages per calendar day if the contractor exceeds the contract completion time of 80 working days. The project schedule is shown in *Attachment B*.

PUBLIC OUTREACH/INTEREST

The work is located in Council District 7 as shown in *Attachment A*.

The barrier rail replacement requires a traffic detour and closure of one lane within the tunnel for a maximum of 15 working days. Oakland Police and Fire Departments have been notified of the tunnel lane closure, and subsequent traffic detour. Prior to starting construction, residents and businesses in the area will be notified of the construction schedule, planned activities, traffic lane closure and detour, and contact information.

COORDINATION

The Office of the City Attorney and the Controller's Bureau were consulted in the preparation of this report.

COST SUMMARY/IMPLICATIONS

Approval of this resolution will allow the City Administrator to execute a construction contract with Mosto Construction in the amount of \$126,220.00.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Cost Element	Total Amount
Construction Contract (Bid Price)	\$126,220.00
TOTAL CONSTRUCTION COST	\$126,220.00

2. SOURCE OF FUNDING:

Funding Source	Amount
Construction Contract: Measure B (fund 2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project C321730	\$126,220.00
Total Construction Cost	\$126,220.00

3. FISCAL IMPACT:

This project will use Fiscal Year 2014-15 Measure B funds allocated for the Bridge Maintenance Program. The City is currently responsible for maintenance of this underpass. The maintenance responsibility will continue, but maintenance costs should be reduced after the replacement of barrier rails. BART will refund the City for 48% of costs through an existing agreement with BART related to their seismic improvement project.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

Contractor Performance Evaluation for Mosto, Inc. from a previously completed project was satisfactory and is included as *Attachment D*.

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SUSTAINABLE OPPORTUNITIES

Economic: This project replaces stolen barrier rail and restores the original height of the overall barrier wall at the underpass. Restoration of the rail will protect vehicular traffic from elevation changes per current vehicular roadway design codes. This contract creates job opportunities for local contractors.

Environmental: The contractor is required to deliver all concrete materials resulting from demolition to certified concrete recycling entities in accordance with the City Waste Recycling and Re-use Plan (WRRP).

Social Equity: Barrier replacement restores the former height and design of the barrier wall and thus, restores safety for vehicles travelling at grade level immediately adjacent to the underpass.

For questions regarding this report, please contact Gus Amirzehni, P.E., Engineering Design and Right-of-Way Manager at (510) 238-6601.

Respectfully submitted,



BROOKE A. LEVIN

Director, Oakland Public Works

Reviewed by:

Michael J. Neary, P.E.

Assistant Director, Bureau of Engineering & Construction

Reviewed by:

Gus Amirzehni, P.E.

Division Manager, Engineering Design & Right of Way

Prepared by:

Jaime Heredia, P.E., Supervising Civil Engineer

Engineering Design

Attachments (4)

Attachment A – Project Location Map

Attachment B – Project Bid & Construction Schedule

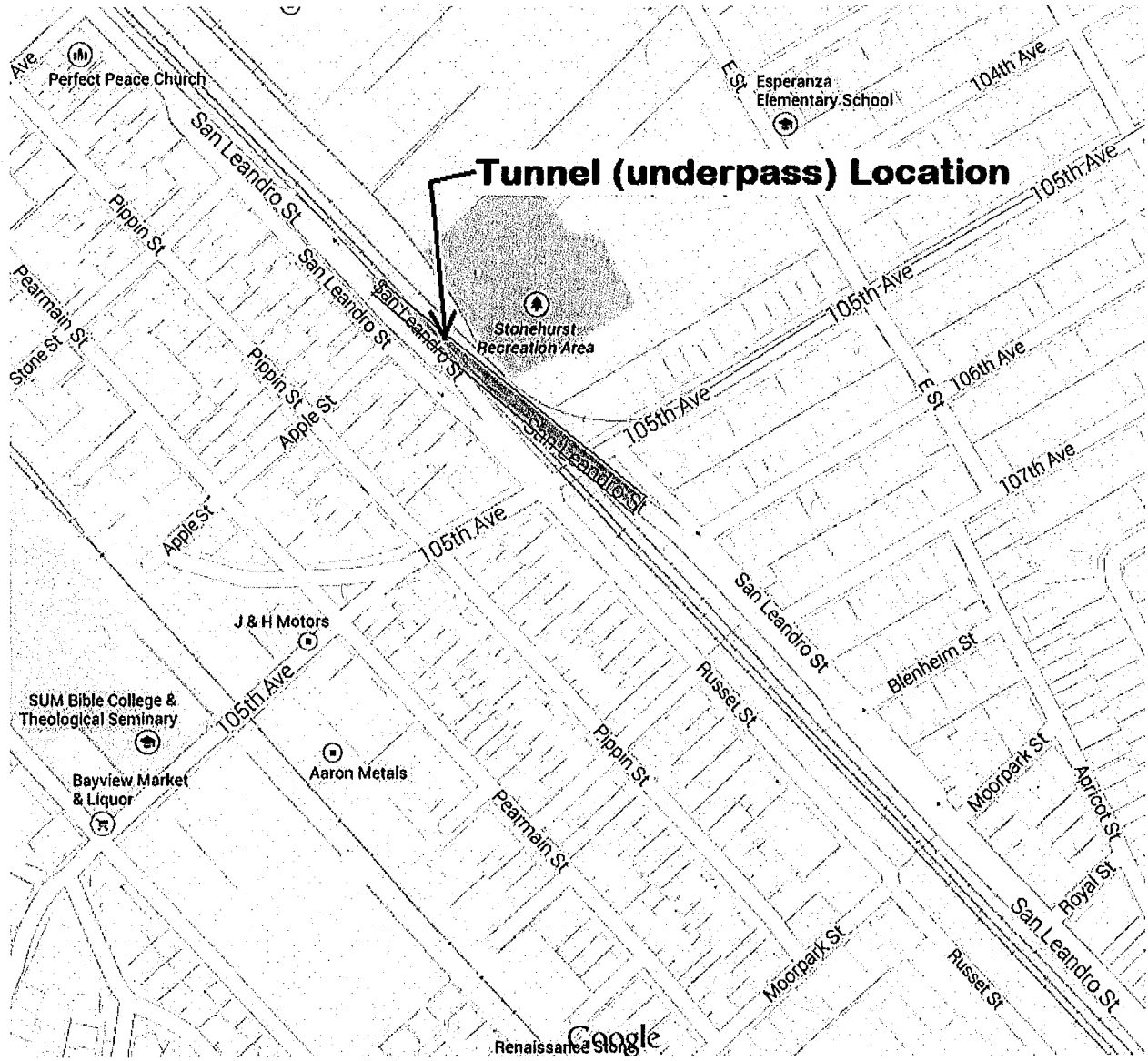
Attachment C – Contracts & Compliance Unit Compliance Evaluation

Attachment D – Contractor Evaluation

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ATTACHMENT A

PROJECT NO. C321730



San Leandro Street tunnels under 105th Ave.

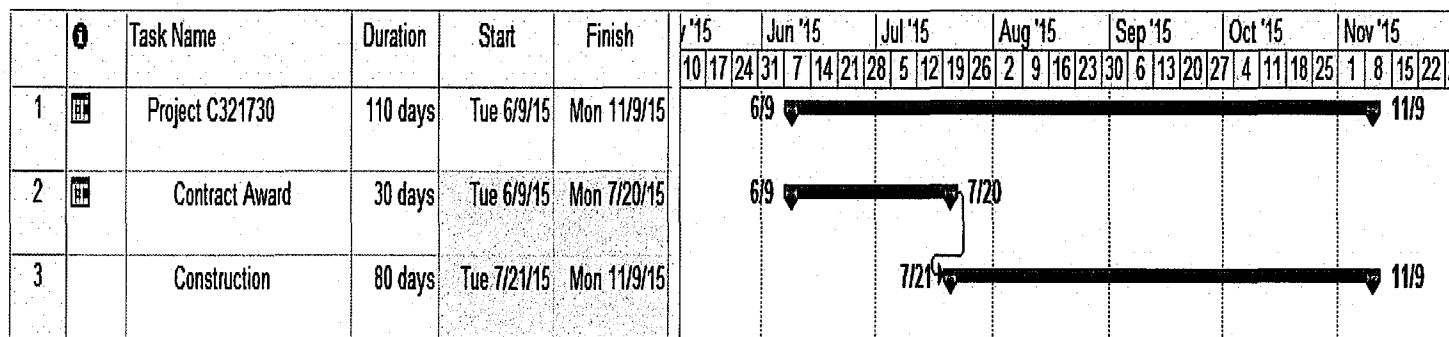
ATTACHMENT B

Installation of steel barrier rail at the San Leandro St. / 105th Ave. Underpass (Project No. C321730)

List of Bidders

Bidder	Amount
Mosto Construction	\$126,220.00
Beliveau Engineering Contractors, Inc.	\$268,908.00
Valentine Corporation	\$318,480.00

Project Schedule





ATTACHMENT C

INTER OFFICE MEMORANDUM

TO: Jeff Krohn

FROM: Deborah Barnes, *Deborah Barnes*
Director, Contracts & Compliance

SUBJECT: Compliance Analysis

DATE: March 30, 2015

Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass
Project No. C321730

City Administrator's Office, Contracts and Compliance Unit reviewed three (3) bids in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 50% Local and Small Local Business Enterprise (L/SLBE) participation requirement, a preliminary review for compliance with the Equal Benefits Ordinance (EBO), and a brief overview of the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program on the bidder's most recently completed City of Oakland project.

Responsive to L/SLBE and/or EBO Policies		Proposed Participation					Earned Credits and Discounts			EBO Compliant?
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE/LPG	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Mosto Construction	\$126,220.00	50.64%	0.71%	49.93%	0.00%	NA	50.64%	2%	\$123,695.60	Y
Beliveau Engineering Contractors, Inc.	\$268,908.00	100%	0.00%	100.00%	0.00%	NA	100.00%	5%	\$255,462.60	Y

Comments: As noted above, both firms met and/or exceeded the minimum 50% L/SLBE participation requirement. Both firms are EBO compliant.

Non-Responsive to L/SLBE and/or EBO Policies		Proposed Participation					Earned Credits and Discounts			EBO Compliant?
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE/LPG	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Valentine Corporation	\$318,480.00	49.92%	49.92%	0.00%	0.00%	NA	NA	NA	NA	Y

Comments: As noted above, Valentine Corporation failed to meet the 50% L/SLBE participation requirement. They have a 25% shortfall in the SLBE requirement. Therefore, they are non-compliant with the L/SLBE requirement.



For Informational Purposes

Listed below is the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

Contractor Name: Mosto Construction

Project Name: Rehabilitation of Sanitary Sewers in the Easement by Elinora Ave and Reinhardt.

Project No: C329130

50% Local Employment Program (LEP)

Was the 50% LEP Goal achieved?	Yes	If no, shortfall hours?	0
Were all shortfalls satisfied?	Yes	If no, penalty amount	0

15% Oakland Apprenticeship Program

Was the 15% Apprenticeship Goal achieved?	No	If no, shortfall hours?	35.175
Were shortfalls satisfied?	No	If no, penalty amount?	\$885.71

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E) # resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

Total Project Hours	Core Workforce Hours Deducted	50% Local Employment Program (LEP)						15% Apprenticeship Program				
		LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Oakland Apprenticeship Hours Achieved	Apprenticeship Goal and Hours		Apprentice Shortfall Hours
		Goal	Hours	Goal	Hours					Goal	Hours	
<i>A</i>	<i>B</i>	<i>C</i>		<i>D</i>		<i>E</i>	<i>F</i>	<i>G</i>	<i>H</i>	<i>I</i>		<i>J</i>
1393	0	50%	696.5	100%	696.5	0	0	100%	185	15%	208.95	35.175

Comments: Mosto construction exceeded the Local Employment Program's 50% resident hiring goal with 100% resident employment and did not met the 15% Oakland Apprenticeship Program goals .

Should you have any questions, you may contact Sophany Hang at (510) 238-3723.



Contracts and Compliance Project Evaluation Report

Project No: C321730

Project Name: Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass

Contractor: Mosto Construction

<u>Engineer's Estimate:</u>	<u>Contractor's Bid Amount:</u>	<u>Under/Over Engineer's Estimate:</u>
\$229,000.00	\$126,220.00	\$102,780.00
<u>Discounted Bid Amount:</u>	<u>Amount of Bid Discount:</u>	<u>Discount Points:</u>
\$123,695.60	\$2,524.40	2.00%

1. Did the 50% Local/Small Local requirement apply? Yes

2. Did the contractor meet the 50% requirement? Yes

a) % of LBE participation 0.71%

b) % of SLBE participation 49.93%

c) % of VSLBE/LPG participation (double counted value)

3. Did the contractor meet the Trucking requirement? NA

a) % of SLBE/LBE trucking participation

b) % of VSLBE trucking participation

4. Did the Contractor receive any bid discount? Yes

(if yes, list the percentage received) 2.00%

5. Additional Comments

6. Date evaluation completed and returned to initiating department. 3/30/2015

Reviewing Officer: Sophany Hang

Reviewing Officer Date: 3/30/2015

Approved By: Shelley Darenberg

Approved By Date: 3/30/15

Monday, March 30, 2015

LBE/SLBE/VSLBE/LPG PARTICIPATION

Bidder 1

Project Name: Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass

Project No: C321730

Engineers Estimate: \$229,000.00

Under/Over Engineers Estimate: \$102,780.00

No. Discipline	Contractor	Location	Cert. Status	LBE	SLBE	VSLBE/LPG	L/SLBE Trucking	UB Trucking	UB Dollars	For Tracking Only		
										Ethn	MBE	WBE
1 Prime	Mosto Construction	Oakland	CB		62,370.00					H	62,370.00	
2 Barrier Rails	MBI-Midstate Barrier Inc.	Stockton	UB						59,700.00	C		
3 Electric	United Rentals	Oakland	UB						1,600.00	C		
4 Traffic Control	TPR Traffic Solutions	San Leandro	UB						1,000.00	C		
5 Concrete	Central Concrete	San Jose	CB	900.00						C		
6 Misc. Materials	Economy Lumber	Oakland	CB		650.00					C		
Project Totals:				900.00	63,020.00				62,300.00		62,370.00	
				0.71%	49.93%				49.36%		49.41%	

REQUIREMENTS: The 50% Requirements, is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirements and a VSLBE/LPG/VSLBE Trucking firm can be counted double towards achieving the 50% requirements.

Total LBE \ SLBE \$ and %: \$63,920.00 50.64%
 Total LBE \ SLBE Trucking \$ and %:
 Total VSLBE/LPG \$ and %:

Total Bid Amount: \$126,220.00
 Total Participation of
 VSLBE / SLBE / LBE / LPG: 50.64%

LBE = Local Business Enterprise
 SLBE = Small Local Business Enterprise
 VSLBE = Very Small Local Business Enterprise
 LPG = Locally Produced Goods
 NPSLBE = NonProfit Small Local Business Enterprise
 NPLBE = NonProfit Local Business Enterprise
 UB = Uncertified Business
 CB = Certified Business
 MBE = Minority Business Enterprise
 WBE = Women Business Enterprise

* Notes:

ETHNICITY:
 AA = African American NA = Native American
 AI = Asian Indian O = Other
 AP = Asian Pacific NL = Not Listed
 C = Caucasian MO = Multiple Ownership
 H = Hispanic



Contracts and Compliance Project Evaluation Report

Project No: C321730

Project Name: Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass

Contractor: Beliveau Engineering Contractors, Inc.

<u>Engineer's Estimate:</u>	<u>Contractor's Bid Amount:</u>	<u>Under/Over Engineer's Estimate:</u>
\$229,000.00	\$268,908.00	(\$39,908.00)
<u>Discounted Bid Amount:</u>	<u>Amount of Bid Discount:</u>	<u>Discount Points:</u>
\$255,462.60	\$13,445.40	5.00%

-
1. Did the 50% Local/Small Local requirement apply? Yes
2. Did the contractor meet the 50% requirement? Yes
- a) % of LBE participation 0.00%
- b) % of SLBE participation 100.00%
- c) % of VSLBE/LPG participation (double counted value)
3. Did the contractor meet the Trucking requirement? NA
- a) % of SLBE/LBE trucking participation
- b) % of VSLBE trucking participation
-
4. Did the Contractor receive any bid discount? Yes
- (if yes, list the percentage received) 5.00%
5. Additional Comments
6. Date evaluation completed and returned to initiating department. 3/30/2015

Reviewing Officer: Sophany Hang

Reviewing Officer Date: 3/30/2015

Approved By: Shelley Darenburg

Approved By Date: 3/30/15

Monday, March 30, 2015

LBE/SLBE/VSLBE/LPG PARTICIPATION

Bidder 2

Project Name: Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass

Project No: C321730

Engineers Estimate: \$229,000.00

Under/Over Engineers Estimate: (\$39,908.00)

No. Discipline	Contractor	Location	Cert. Status	LBE	SLBE	VSLBE/LPG	L/SLBE Trucking	UB Trucking	UB Dollars	For Tracking Only		
										Ethn	MBE	WBE
1 Prime	Beliveau Engineering Contractors, Inc.	Oakland	CB		268,908.00							C
Project Totals:					268,908.00							
					100.00%							

REQUIREMENTS: The 50% Requirements, is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirements and a VSLBE/LPG/VSLBE Trucking firm can be counted double towards achieving the 50% requirements.

Total LBE \ SLBE \$ and %:

\$268,908.00 100.00%

Total Bid Amount: \$268,908.00

Total LBE \ SLBE Trucking \$ and %:

Total VSLBE/LPG \$ and %:

Total Participation of VSLBE / SLBE / LBE / LPG: 100.00%

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 SLBE = Small Local Business Enterprise
 VSLBE = Very Small Local Business Enterprise
 LPG = Locally Produced Goods
 NPSLBE = NonProfit Small Local Business Enterprise
 NPLBE = NonProfit Local Business Enterprise

UB = Uncertified Business
 CB = Certified Business
 MBE = Minority Business Enterprise
 WBE = Women Business Enterprise

* Notes:

ETHNICITY:
 AA = African American
 AI = Asian Indian
 AP = Asian Pacific
 C = Caucasian
 H = Hispanic

NA = Native American
 O = Other
 NL = Not Listed
 MO = Multiple Ownership



Contracts and Compliance Project Evaluation Report

Project No: C321730

Project Name: Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass

Contractor: Valentine Corporation

<u>Engineer's Estimate:</u>	<u>Contractor's Bid Amount:</u>	<u>Under/Over Engineer's Estimate:</u>
\$229,000.00	\$318,480.00	(\$89,480.00)
<u>Discounted Bid Amount:</u>	<u>Amount of Bid Discount:</u>	<u>Discount Points:</u>
\$318,480.00	\$0.00	0.00%

1. Did the 50% Local/Small Local requirement apply? Yes

2. Did the contractor meet the 50% requirement? No

a) % of LBE participation 49.92%

b) % of SLBE participation 0.00%

c) % of VSLBE/LPG participation (double counted value)

3. Did the contractor meet the Trucking requirement? NA

a) % of SLBE/LBE trucking participation

b) % of VSLBE trucking participation

4. Did the Contractor receive any bid discount? No

(if yes, list the percentage received) 0.00%

5. Additional Comments Firm failed to meet the minimum 50% L/SLBE participation requirement. Therefore, they are non-compliant with 50% L/SLBE requirement.

6. Date evaluation completed and returned to initiating department. 3/30/2015

Reviewing Officer: Sophany Hang

Reviewing Officer Date: 3/30/2015

Approved By: Shelley Darenburg

Approved By Date: 3/30/15

Monday, March 30, 2015

LBE/SLBE/VSLBE/LPG PARTICIPATION

Bidder 3

Project Name: Installation of Steel Barrier Rail at the San Leandro/105th Ave. Underpass

Project No: C321730

Engineers Estimate: \$229,000.00

Under/Over Engineers Estimate: (\$89,480.00)

No. Discipline	Contractor	Location	Cert. Status	LBE	SLBE	VSLBE/LPG	L/SLBE Trucking	UB Trucking	UB Dollars	For Tracking Only		
										Ethn	MBE	WBE
1 Prime	Valentine Corporation	San Rafael	UB									C
2 Fabricate &	Emerald Steel, Inc.	Oaklnad	CB	159,000.00					159,480.00			C
Project Totals:				159,000.00					159,480.00			
				49.92%					50.08%			

REQUIREMENTS: The 50% Requirements, is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirements and a VSLBE/LPG/VSLBE Trucking firm can be counted double towards achieving the 50% requirements.

Total LBE \ SLBE \$ and %: \$159,000.00 **49.92%**
 Total LBE \ SLBE Trucking \$ and %:
 Total VSLBE/LPG \$ and %:

Total Bid Amount: **\$318,480.00**
 Total Participation of VSLBE/SLBE/LBE/LPG: **49.92%**

LBE = Local Business Enterprise
 SLBE = Small Local Business Enterprise
 VSLBE = Very Small Local Business Enterprise
 LPG = Locally Produced Goods
 NPSLBE = NonProfit Small Local Business Enterprise
 NPLBE = NonProfit Local Business Enterprise
 UB = Uncertified Business
 CB = Certified Business
 MBE = Minority Business Enterprise
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* Notes:

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 MO = Multiple Ownership

ATTACHMENT D

Schedule L-2
City of Oakland
Public Works Agency
CONTRACTOR PERFORMANCE EVALUATION

Project Number/Title: C329122
Work Order Number (if applicable): _____
Contractor: Mosto Construction
Date of Notice to Proceed: 7/23/2012
Date of Notice of Completion: 10/02/2012
Date of Notice of Final Completion: 10/02/2012
Contract Amount: \$177,449
Evaluator Name and Title: Mastewal Cherinet, Resident Engineer

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than \$50,000. Narrative responses are required to support any evaluation criteria that are rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

ASSESSMENT GUIDELINES:

Outstanding (3 points)	Performance among the best level of achievement the City has experienced.
Satisfactory (2 points)	Performance met contractual requirements.
Marginal (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
Unsatisfactory (0 points)	Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

C66 Contractor Evaluation Form Contractor: Mosto Construction Project No. C329122

C67 Contractor Evaluation Form Contractor: Mosto Construction Project No. C329122

OVERALL RATING

Based on the weighting factors below, calculate the Contractor's overall score using the scores from the four categories above.

1. Enter Overall score from Question 7	<u>2.3</u>	X 0.25 =	<u>0.63</u>
2. Enter Overall score from Question 13	<u>2</u>	X 0.25 =	<u>0.50</u>
3. Enter Overall score from Question 18	<u>2</u>	X 0.20 =	<u>0.40</u>
4. Enter Overall score from Question 22	<u>2</u>	X 0.15 =	<u>0.30</u>
5. Enter Overall score from Question 28	<u>2.5</u>	X 0.15 =	<u>0.40</u>

TOTAL SCORE (Sum of 1 through 5): 2.3

OVERALL RATING: Satisfactory

Outstanding: Greater than 2.5
Satisfactory: Greater than 1.5 & less than or equal to 2.5
Marginal: Between 1.0 & 1.5
Unsatisfactory: Less than 1.0

PROCEDURE:

The Resident Engineer will prepare the Contractor Performance Evaluation and submit it to the Supervising Civil Engineer. The Supervising Civil Engineer will review the Contractor Performance Evaluation to ensure adequate documentation is included, the Resident Engineer has followed the process correctly, the Contractor Performance Evaluation has been prepared in a fair and unbiased manner, and the ratings assigned by the Resident Engineer are consistent with all other Resident Engineers using consistent performance expectations and similar rating scales.

The Resident Engineer will transmit a copy of the Contractor Performance Evaluation to the Contractor. Overall Ratings of Outstanding or Satisfactory are final and cannot be protested or appealed. If the Overall Rating is Marginal or Unsatisfactory, the Contractor will have 10 calendar days in which they may file a protest of the rating. The Public Works Agency Assistant Director, Design & Construction Services Department, will consider a Contractor's protest and render his/her determination of the validity of the Contractor's protest. If the Overall Rating is Marginal, the Assistant Director's determination will be final and not subject to further appeal. If the Overall Rating is Unsatisfactory and the protest is denied (in whole or in part) by the Assistant Director, the Contractor may appeal the Evaluation to the City Administrator, or his/her designee. The appeal must be filed within 14 calendar days of the Assistant Director's ruling on the protest. The City Administrator, or his/her designee, will hold a hearing with the Contractor within 21 calendar days of the filing of the appeal. The decision of the City Administrator regarding the appeal will be final.

Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for any projects the Contractor bids on for a period of one year from the date of the Unsatisfactory Overall Rating. Two Unsatisfactory Overall Ratings within any five year period will result in the Contractor being categorized by the City Administrator as non-

responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.

Any Contractor that receives an Unsatisfactory Overall Rating is required to attend a meeting with the City Administrator, or his/her designee, prior to returning to bidding on City projects. The Contractor is required to demonstrate improvements made in areas deemed Unsatisfactory in prior City of Oakland contracts.

The Public Works Agency Contract Administration Section will retain the final evaluation and any response from the Contractor for a period of five years. The City shall treat the evaluation as confidential, to the extent permitted by law.

COMMUNICATING THE EVALUATION: *The Contractor's Performance Evaluation has been communicated to the Contractor. Signature does not signify consent or agreement.*

Santana Jahn 2/21/13
Contractor / Date

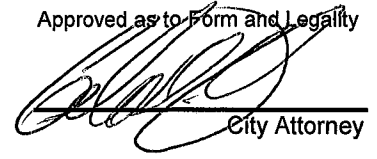
Mastewal Chernet 11/10/12
Resident Engineer / Date

[Signature] 12/21/12
Supervising Civil Engineer / Date

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 MAY 28 AM 9:59

OAKLAND CITY COUNCIL



City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

ADOPT A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT TO MOSTO CONSTRUCTION, THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER, IN ACCORDANCE WITH PLANS AND SPECIFICATIONS FOR THE INSTALLATION OF STEEL BARRIER RAIL AROUND THE SAN LEANDRO ST./105TH AVE. UNDERPASS (PROJECT NO. C321730), AND WITH CONTRACTOR'S BID IN THE AMOUNT OF ONE HUNDRED TWENTY-SIX THOUSAND TWO HUNDRED TWENTY DOLLARS (\$126,220.00)

WHEREAS, the barrier rails protecting motorists and pedestrians were stolen and removed and require replacement for public safety; and

WHEREAS, the barrier rails were stolen while the site was barricaded and under the control of the Bay Area Rapid Transit District (BART), during the construction of seismic upgrades to its adjacent aerial track; and

WHEREAS, BART under a prior agreement with the City, has agreed to reimburse the City for the portion of the barrier rail that was stolen with its construction zone which corresponds to forty-eight percent (48%) of the total replacement costs; and

WHEREAS, this project was advertised on February 12, 2015 and three bids were received by the Office of the City Clerk on March 12, 2015; and

WHEREAS, Mosto Construction, bidding as a prime, is deemed the lowest responsive and responsible bidder for the project; and

WHEREAS, Mosto Construction complies with all LBE/SLBE and trucking requirements; and

WHEREAS, there are sufficient funds in the project budget for the work in the following project account:

- Measure B (Fund 2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project C321730; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance and that this contract is of a professional, scientific or technical nature; and

WHEREAS, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

RESOLVED: That the City Administrator is authorized to award a construction contract for the Installation of Steel Barrier Rail Around the San Leandro St./105th Ave. Underpass (Project No. C321730) to Mosto Construction, the lowest responsive and responsible bidder, in accord with the project plans and specifications and with contractor's bid dated March 12, 2015, in the amount of One Hundred Twenty-Six Thousand, Two Hundred Twenty Dollars (\$126,220.00); and be it

FURTHER RESOLVED: That the contractor shall provide a faithful performance bond and payment bond to guarantee payment of all claims for labor and materials furnished and for the amount due under the Unemployment Insurance Act for one hundred percent (100%) of the contract amount prior to execution of the contract; and be it

FURTHER RESOLVED: That the City Administrator, or designee, is hereby authorized to enter into a contract with Mosto Construction, on behalf of the City of Oakland and to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

FURTHER RESOLVED: That the City Administrator, or designee, is hereby authorized to negotiate with the second lowest bidder and/or next lowest bidder for the same awarded amount, if Mosto Construction fails to return the complete signed contract documents and supporting documents within the days specified in the Special Provisions without going back to City Council; and be it

FURTHER RESOLVED: That the plans and specifications prepared for this project, including any subsequent changes during construction that will be reviewed and adopted by the Director or designee, are hereby approved; and be it

FURTHER RESOLVED: That all other bids are hereby rejected; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____.

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California