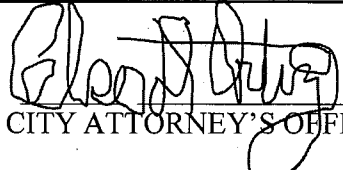


FILED
OFFICE OF THE CITY CLERK
OAKLAND

22 MAR 24 PM 4:01

APPROVED AS TO FORM AND LEGALITY
Revised By Council Per Its Meeting of
3/15/22


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89070' C.M.S.

INTRODUCED BY COUNCILMEMBER [IF APPLICABLE]

RESOLUTION WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONSTRUCTION CONTRACT FOR AN AMOUNT NOT TO EXCEED FOUR MILLION TWO HUNDRED SEVENTY-TWO THOUSAND FIVE HUNDRED AND NINE DOLLARS (\$4,272,509.00) IN THE OPEN MARKET FOR SANITARY SEWER SUB-BASIN 82-005 REHABILITATION (PROJECT NO. 1004845, PHASE 1) IN ACCORDANCE WITH PLANS AND SPECIFICATIONS AND WITH ALL OF THE CITY'S CONTRACTING PROGRAMS SUCH AS LOCAL AND SMALL LOCAL ENTERPRISE REQUIREMENTS WITHOUT ANY WAIVER OF THESE REQUIREMENTS; AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

WHEREAS, on December 9, 2021, two bids were received by the office of City Clerk of the City of Oakland for the Sanitary Sewer Sub-Basin 82-005 Rehabilitation (Project No. 1004845, Phase 1); and

WHEREAS, Andes Construction, Inc. a certified Small Local Business Enterprise bidding as a prime, is deemed non-responsive in failing to meet the City's Local/Small Local Business Enterprise (L/SLBE) trucking requirement. Pacific Trenchless, Inc., was deemed the lowest responsive and responsible bidder; however, their bid was \$1.1 million over the Engineer's Estimate and exceeded the allotted budget; and

WHEREAS, the Oakland Municipal Code (OMC) section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interests of the City to do so, and OMC section 2.04.050.J states that if no valid bids are received after advertising as required, the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market; and

WHEREAS, this project contributes to meeting the annual 13-mile sanitary mains rehabilitation under the 2014 Sewer Consent Decree; and

WHEREAS, advertising and competitive re-bidding will incur additional time and cost that will delay the construction project and possibility affect meeting the 2014 Sewer Consent Decree deadlines; and

WHEREAS, this project will help reduce the amount of sanitary sewer maintenance and wet weather peak flows; and

WHEREAS, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the construction contract approved hereunder is temporary in nature; 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; and

WHEREAS, This project and action is exempt from the California Environmental Quality Act (CEQA) pursuant to the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance; now, therefore, be it

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

FURTHER RESOLVED: That there is sufficient funding for this contract available in the Sewer Service Fund (3100), Capital Projects - Sanitary Sewer Design Organization (92244); Sanitary Sewer Rehabilitation Sub-Basin 82-005 Phase 1 Project (1004845); and

FURTHER RESOLVED: That the City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding per OMC Section 2.04.050.I.5 for the reasons set forth in this Resolution and the staff report that accompanies it, and per OMC section 2.04.050.J, the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market since no valid bids were received after advertising as required; and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate, award and execute a construction contract that meets the City's L/SLBE requirements to Council for an amount not to exceed of Four Million Two Hundred Seventy-Two Thousand Five Hundred and Nine Dollars (\$4,272,509.00) in the open market for the construction of Sanitary Sewer Sub-Basin 82-005 Rehabilitation (Project No. 1004845, Phase 1) in accordance with project plans and specifications; and be it

FURTHER RESOLVED: That the Council hereby finds that this project and action is exempt from the California Environmental Quality Act (CEQA) pursuant to the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance; and be it

FURTHER RESOLVED: That the City Administrator or his designee shall file a Notice of Determination/Notice of Exemption with the Clerk of the County of Alameda for the project that is named in this resolution; and be it

FURTHER RESOLVED: That the contractor will be required to be in compliance with all of the City's contracting programs such as local and small local enterprise requirements without any waiver of any of these requirements; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to execute any amendments or modifications of the contract within the limitations of the project specifications; 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 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,

MAR 15 2022

PASSED BY THE FOLLOWING VOTE:

AYES - ~~WALSH~~ KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS - 6

NOES - 1 *Fife*

ABSENT - 0

ABSTENTION - 0

Excused - 1 *Gallo*

ATTEST: _____



ASHA REED

City Clerk and Clerk of the Council of the
City of Oakland, California