

**OAKLAND CITY COUNCIL**  
**RESOLUTION NO. 77891 C.M.S.**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2003 MAY 29 PM 5:30

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

**RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO NEGOTIATE AND AWARD A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT AT-RISK ("CM/GC") SERVICES FOR THE POLICE ADMINISTRATION BUILDING SEISMIC RETROFIT PHASE 1 PROJECT ("PROJECT") IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED THOUSAND DOLLARS (\$500,000), WITHOUT RETURN TO COUNCIL**

**WHEREAS**, the existing Police Administration Building ("PAB"), located at 455 Seventh Street is located in one of Oakland's most seismically active areas; and

**WHEREAS**, the PAB does not meet current seismic codes and was rated "POOR" in its seismic performance evaluation, which equates to significant structural and nonstructural damage and appreciable life hazards in a major seismic disturbance; and

**WHEREAS**, the PAB Retrofit Phase 1 Project involves complex coordination issues such as the abatement of hazardous materials, major seismic construction, and interior modifications in a fully occupied facility; and

**WHEREAS**, the PAB is an essential services facility that serves the public on a round-the-clock basis, and that houses police functions crucial to the daily operations of the City and the well being of its citizens; and

**WHEREAS**, the PAB Retrofit Phase 1 Project will correct the most significant structural weakness of the building – the "weak stories" between the basement and the 3<sup>rd</sup> floor; and

**WHEREAS**, a project delivery method known as Construction Manager At-Risk is being used, and this method is also known as "CM/GC" (Construction Manager/General Contractor); and

**WHEREAS**, CM/GC is a project delivery system where the owner contracts separately with a design consultant and a construction manager/general contractor; and

**WHEREAS**, the City has contracted KP& Consulting Engineers, an architectural and engineering firm, and the design of the seismic retrofit Phase 1 is nearing completion; and

**WHEREAS**, for the CM/GC method to be effective, the CM/GC should be brought on-board during the design phase; and

**WHEREAS**, the next step in the project is to procure the services of a CM/GC firm to provide pre-construction, general contractor, project close-out, and other related services; and

**WHEREAS**, two firms responded to the Request for Qualifications and Swinerton Builders, a certified Local Business Enterprise (LBE), was the highest ranked firm; and

**WHEREAS**, the City will first negotiate for services with Swinerton Builders, and if unsuccessful, will negotiate with the next highest ranked firm; and

**WHEREAS**, the GM/GC's agreement will establish a fixed fee for pre-construction, general contractor, and project close-out services; and

**WHEREAS**, in the traditional design/bid/build method, the general contractor and project close-out fees are typically included in the contractor's bid during the competitive bid process; and

**WHEREAS**, in order to (1) ensure responsive bids from qualified subcontractors, and (2) to avoid any conflict of interest in the CM/GC's (General Contractor's) delivery of the project, it is recommended that the fees for general contractor services (excluding subcontractor bid or negotiated costs), and project close-out services be negotiated and established at the same time the GM/GC's agreement (for pre-construction services) is executed; and

**WHEREAS**, the Governor's Office of Emergency Services, the agency administering for the Hazard Mitigation Grant, fully supports the CM/GC project delivery method; and

**WHEREAS**, it may be possible to expedite the project schedule in order to minimize the potential disruption of police services in the event of a major seismic disturbance and the CM/GC delivery methods provides the opportunity to "fast-track" a project; and

**WHEREAS**, under the CM/GC arrangement, the City Manager will require the CM/GC to advertise and solicit competitive bids for the construction work for the seismic retrofit project, and will pre-qualify pools of subcontractors by trade that will participate in this competitive bid process; and

**WHEREAS**, upon completion of the subcontractor bidding/negotiation process, the fixed price for subcontractor costs, as well as the fixed price for the entire project, will be established; and

**WHEREAS**, once the fixed price for the entire project has been established, the CM/GC's commitment to deliver the project in accordance with the full construction price will be brought to Council for project budget approval and approval of an amendment to the CM/GC's agreement to increase said agreement to include the full costs of the project; and

**WHEREAS**, the GM/GC's agreement will be funded by a Hazard Mitigation Grant (Org. 92270, Project No. C58691, Fund 2146), and other project funding includes Measure I (Org. 92290, Project No. C58690, Fund 5008); and

**WHEREAS**, the City Council finds that this contract is for services of a professional nature; and

**WHEREAS**, the City Council finds that services under contract will be temporary; 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 services; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes the City Manager, or his designee, to negotiate and award a professional services agreement to a Construction Management At-Risk contractor for services including pre-construction, general contractor and project close out services for the PAB Seismic Retrofit Phase 1 Project in an amount not to exceed Five Hundred Thousand Dollars (\$500,000), without return to Council; and, be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Manager, or his designee, to require the GM/CM to perform all services needed to accomplish advertisement and solicitation of competitive bids for the construction of the project; and

**FURTHER RESOLVED:** That, upon the CM/GC's selection of the construction subcontractors, the City Manager shall return to the City Council for approval of the total project budget and **approval of an amendment to the CM/GC's agreement to increase, extend, add terms, bonds and insurance necessary to construction and to include the full costs of the project to said agreement; and, be it**

**FURTHER RESOLVED:** That the City Manager, or his designee, is hereby authorized to approve any subsequent amendments to or extensions of the GM/GC's agreement with the exception of those related to an increase in the total dollar amount of the agreement, provided that such amendments or extensions shall be filed with the City Clerk's Office; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

307379

**JUN 17 2003**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2003


**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, ~~REID~~, WAN and PRESIDENT DE LA FUENTE - 7

NOES- 0

ABSENT- Reid - 1

ABSTENTION- 0

ATTEST   
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California