

OFFICE OF THE CITY CLERK
2005 NOV 28 PM 5:07

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: December 13, 2005

RE: RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REJECT ALL BIDS, TO WAIVE FURTHER COMPETITIVE BIDDING AND TO NEGOTIATE AND AWARD A CONSTRUCTION CONTRACT TO BAY CONSTRUCTION COMPANY IN AN AMOUNT NOT TO EXCEED THREE HUNDRED AND THIRTY SEVEN THOUSAND DOLLARS (\$337,000.00) FOR THE LIVE OAK POOL DECK REPLACEMENT PROJECT (G251110)

SUMMARY

A resolution has been prepared authorizing the City Administrator, or her designee, to reject all bids for the Live Oak Pool Deck Replacement Project (Project No. G251110). The resolution also requests approval to negotiate and award a construction contract to Bay Construction Company for an amount not to exceed \$337,000.00. The negotiated contract will require the contractor to meet the City's Local/Small Local Business Enterprise program (L/SLBE), the local trucking requirement, and local employment requirements.

This project fulfills the Mayoral and City Council goal and objective to "Build Community and Foster Livable Neighborhoods" by providing for clean, well-maintained and accessible recreational facilities. The project is located in Council District 4.

FISCAL IMPACT

The construction budget for the project is \$370,700.00, which includes a (10%) contingency. The project is funded by a grant from Proposition 40, the 2000 Parks Bond Act, California Parks and Recreation Fund (#2134) as authorized per Resolution 76723 C.M.S. dated September 25, 2001 (to apply, accept, and appropriate the funds). The programming and design of the project started in April 2004 after the grant was approved. Funds have been specifically allocated under California Parks and Recreation Fund (#2134), Live Oak Pool Deck Project (#G251110), Capital Projects (CP) Project Management Organization (#92270), Building Additions and Improvements Account (#57212) and are available for the project.

In accordance with City Policy, three percent (3%) of the construction contract amount will be set aside within Proposition 40 Per Capita Grant Funds (Fund 2134, Project Number G251110),

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for Contract Compliance fees. In addition, 1.5 percent (1.5%) of the construction contract amount will be set aside for the Public Art assessment cost.

BACKGROUND

The Live Oak Pool Deck Replacement project is located at 1055 MacArthur Blvd and the pool is utilized year round. The pool, primarily used by the Oakland Unified School District for swim programs during the day hours, is rented to private swim groups during the evening hours, and also used for various other recreational programs.

The deck has deteriorated over the years due to age and water related damage. It is necessary to replace the pool deck as soon as possible in order to address safety hazards and to bring the pool into compliance with the Alameda County Environment Health Department requirements. In the spring of 2005, the Alameda County Environment Health Department Pool Inspector informed the City of Oakland's Aquatics Coordinator that they would close the pool because the cracks in the pool deck represent a safety hazard and the deck needs to be replaced. In June 2005, the County Inspector reviewed and approved the project scope of work and has allowed the pool to remain open pending the replacement of the pool deck, if done in a timely manner.

The overall scope of the project consists of demolition of the existing pool deck and construction of new pool decking, deck drainage systems, tile work and other related work.

KEY ISSUES AND IMPACTS

On August 29, 2005, the Office of the City Clerk received only one bid from Bay Construction Company (Oakland) in the amount of \$337,000.00 for the project. The Bay Construction Company bid of \$337,000.00 is within the project budget and they exceeded the City's 20% L/SLBE local business requirement by achieving 82% L/SLBE participation. However, Bay Construction Company did not achieve the 20% local trucking requirement. Staff is requesting authorization to reject the only bid received for the project and to negotiate with Bay Construction Company. Bay Construction Company has indicated that they are willing to negotiate a contract for an amount not to exceed \$337,000.00 and to meet all of the City's business and employment program requirements, including maintaining the previous 82% L/SLBE commitment and meeting the local trucking requirement.

Staff requests authorization to reject all bids, and to negotiate and award a construction contract to Bay Construction Company for an amount not to exceed \$337,000.00. This request is being made in an effort to accelerate the project schedule and comply with the Alameda County Environment Health Department requirements.

PROJECT DESCRIPTION

The City's Municipal Code, Title 2, Chapter 2.04.050 I (5) allows an exception to the competitive bidding process when it has been determined that it is not in the best interest of the City to formally bid the work. Staff recommends negotiating a contract for the project for the following reasons:

1. The contractor has indicated a willingness to maintain the original bid amount of \$337,000.00 and to meet all of the City's local business, local trucking and employment programs.
2. Construction work must start as soon as possible in order to meet the Alameda County Environment Health Department requirements.
3. The formal bid process takes three to four additional months, and re-bidding the project will not likely produce any different bid results.

The negotiated contract will require Bay Construction Company to achieve 82% LBE/SLBE participation and 20% local trucking participation. The L/SLBE business participation from the original bid process has been verified by the Contract Compliance & Employment Services Division of the City Administrator's Office and is shown on Attachment A. Upon completion of negotiations, Contract Compliance will verify that the L/SLBE participation of 82% is maintained and that the 20% local trucking requirement is achieved.

The duration of the work is scheduled for four months (90 working days), with the completion of construction before the swim season in the early summer of 2006. The contract specifies \$1,000.00 in liquidated damages per calendar day if the contract completion date is exceeded.

The pool will be closed during construction and will be coordinated with the Aquatics and Boating Supervisor to minimize the effects on programming activities for the spring and early summer swim seasons.

SUSTAINABLE OPPORTUNITIES

Economic: The project will generate jobs for Oakland residents, and business tax, sales tax and other revenues for the City by those who work on this project.

Environmental: The contractor will take into consideration green building technologies and to the extent feasible, utilize recycled materials in the products specified and explore other environmental opportunities such as waste reduction and energy conservation.

Social: The project will provide upgraded facilities for the immediate neighborhood and provide recreational activities for the community.

DISABILITY AND SENIOR CITIZEN ACCESS

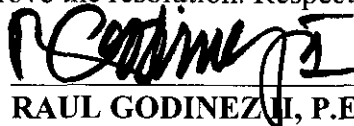
The Live Oak Pool project will be in compliance with the physical access requirements of the Americans with Disabilities Act (“ADA”), and will provide equal opportunity and access to the facility.

RECOMMENDATION AND RATIONALE

Staff recommends that Council approve the resolution authorizing the City Administrator to reject all bids, and to negotiate and award a construction contract to Bay Construction Company for the Live Oak Pool Deck Replacement project for an amount not to exceed \$337,000.00. Bay Construction Company will be required to maintain 82% L/SLBE participation, to meet the 20% local trucking requirement, and to meet the local employment programs requirements.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution. Respectfully submitted,



RAUL GODINEZ, P.E.

Director, Public Works Agency

Reviewed by:

Michael Neary, P.E.

Assistant Director, Public Works Agency

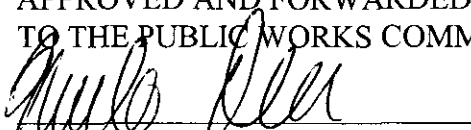
Design & Construction Services Department

Prepared by:

Sandra Washington, Project Manager

Project Delivery Division

APPROVED AND FORWARDED
TO THE PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR



OFFICE OF THE CITY ADMINISTRATOR
Contract Compliance & Employment Services Division

Memo

To: Gwen McCormick
From: Vivian Inman, Contract Compliance Officer
Through: Deborah Barnes, CC&ES Manager *DBarnes*
Date: September 12, 2005
Re: Live Oak Pool

Contract Compliance & Employment Services reviewed one (1) bid received in response to the above referenced project. Below is the outcome of our compliance evaluation for the twenty percent (20%) minimum participation requirement and a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

Company Name	Proposal Amount	Total L/SLBE	LBE	SLBE	Trucking	Total Credited	Preferences		Banked Credits Eligibility	EBO Compliant ? Y/N
							Bid Discounts	Adjusted Bid Amount		
Bay Construction Co.	\$337,000.00	82.20%	0.00%	82.20%	0%	50.00%	5	\$320,150	0	Y

As noted above, Bay Construction's bid amount was \$337,000. Of that amount 82.2% will be awarded to small local businesses. Bay Construction did not meet the 20% trucking requirement. They did however list a non-local trucking firm.

Bay Construction is in compliance with the Equal Benefits Ordinance.

Should you have any questions you may contact Vivian Inman at 238-6261.

cc: Contract Compliance File

LBE/SLBE Participation Bay Construction

Project Name: Live Oak Pool

Project No.: G251110		Engineers Est: 300,000.00				Under/Over Engineers Estimate: -37,000.00						
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	S/LBE Trucking	Total Trucking	TOTAL Dollars	For Tracking Only		
										Ethn.	MBE	WBE
PRIME	Bay Construction	Oakland	CB		\$277,000.00	\$277,000.00			\$277,000.00	A	\$277,000.00	
Concrete	Ransome Co.	San Leandro	UB						\$15,000.00	NL		
Trucking	S&A Trucking	San Jose	UB						\$15,000.00	NL		
Tile	Adam's Pool Solutions	Pleasanton	UB						\$7,000.00	NL		
Demolition	Lambino Cove Drill	San Jose	UB						\$20,000.00	NL		
Caulking	Golden Gate	Newark	UB						\$3,000.00	NL		
Project Totals				\$0.00	\$277,000.00	\$277,000.00	\$0.00	\$0.00	\$337,000.00		\$277,000.00	\$0.00
				0.00%	82.20%	82.20%	0.00%	0.00%	100.00%		82.20%	
Requirements: The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				LBE 10%	SLBE 10%	TRUCKING 20%	LBE/SLBE 20%	Ethnicity AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed				
Legend	LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise			UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise								

Donna M. Miller
Oakland City Attorney's Office

OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

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RESOLUTION No: _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REJECT ALL BIDS, TO WAIVE FURTHER COMPETITIVE BIDDING AND TO NEGOTIATE AND AWARD A CONSTRUCTION CONTRACT TO BAY CONSTRUCTION COMPANY IN AN AMOUNT NOT- TO- EXCEED THREE HUNDRED AND THIRTY SEVEN THOUSAND DOLLARS (\$337,000.00) FOR THE LIVE OAK POOL DECK REPLACEMENT PROJECT (PROJECT NO. G251110)

WHEREAS, on August 29, 2005, one bid was received by the Office of the City Clerk for the Live Oak Pool Deck Replacement Project (Project No. G251110); and

WHEREAS, the sole bidder received did not achieve the 20% local trucking requirement; and

WHEREAS, staff requests authorization to negotiate and award a construction contract to the sole bidder, Bay Construction Company, in an amount not-to-exceed \$337,000.00 for the Live Oak Pool project because further competitive bidding would be impractical and unavailing and would not be in the best interests of the City because the Alameda County Health Department may close the pool to public access if repairs are not expedited; and

WHEREAS, the negotiated contract will require Bay Construction Company to maintain the 82% local business requirements and to maintain all other compliance with City programs; and

WHEREAS, there are sufficient funds of \$370,700.00 available in the project budget for the construction work and contingency; and

WHEREAS, funding for the contract and the contingency are available under Fund 2134, Project No. G251110, Organization 92270, Account 57212. Proposition 40 Per Capita Grant Funds (Fund 2134, Project Number G251110); and

WHEREAS, the City lacks the equipment and personnel to perform the necessary work and services, and the City Council finds and determines that the performance of work and services is in the public interest because of economy; and

WHEREAS, the City Council finds that the services 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 rejects all bids submitted on August 29, 2005 for the Live Oak Pool Deck Replacement project; and, be it

FURTHER RESOLVED: The City Council hereby finds and determines that further competitive bidding is impractical or unavailing and is not in the best interests of the City because the Alameda County Health Department may close the pool to public access if repairs are not expedited and hereby waives competitive bidding under Oakland Municipal Code, Title 2, Chapter 2.04.050 I () and (5); and, be it

FURTHER RESOLVED: That the City Council rejects the sole bid for the project and authorizes the City Administrator, or her designee, to negotiate and award a construction contract based on plans and specifications for the Live Oak Pool Deck Replacement project (Project No. G251110) in an amount not-to-exceed three hundred thirty seven thousand dollars (\$337,000.00) to Bay Construction Company, and to execute any amendments or modifications of said contract within the limitations of the project scope; and, be it

FURTHER RESOLVED: That the contractor shall provide faithful performance and payment bonds for one hundred percent (100%) of the contract amount prior to execution of the contract; and, be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the Office of the City Attorney and placed on file with the Office of the City Clerk; and, be it

FURTHER RESOLVED: That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND
PRESIDENT DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST:

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