


Celso Ortiz (Dec 27, 2020 14:22 PST)

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO:

- 1) AWARD A CONSTRUCTION CONTRACT IN AN AMOUNT NOT TO EXCEED ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00) TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR THE CONSTRUCTION OF THE FIRE STATION NO. 16 DORMITORY RENOVATION PROJECT, IN ACCORDANCE WITH THE PROJECT PLANS AND SPECIFICATIONS AND CONTRACTOR'S BID; OR**
- 2) IF NO VALID BIDS ARE RECEIVED, OR THE BIDS ARE DEEMED NON-RESPONSIVE OR NON-RESPONSIBLE AND/OR EXCEED THE ENGINEER'S ESTIMATE BY MORE THAN TEN PERCENT (10%), THE CITY ADMINISTRATOR, OR DESIGNEE, MAY REJECT ALL BIDS AND AWARD THE CONTRACT, FOR AN AMOUNT NOT TO EXCEED ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00) IN THE OPEN MARKET, WITHOUT RETURN TO COUNCIL**

WHEREAS, Fire Station No. 16 Dormitory Renovation Project is one of the 3 facilities projects funded by the first series of Measure KK – Affordable Housing and Infrastructure Bond in Fall 2017; and

WHEREAS, The City issued a Notice of Inviting Bids for the Fire Station No. 16 Dormitory Renovation Project on November 13, 2020 with bids due to the City Clerk on December 17, 2020; and

WHEREAS, The timing is crucial for sake of public safety and continuity of service, it is necessary to Expedite The Construction Contract Award process prior to bids being opened to meet the targeted maximum eight weeks transition between Fire Station No. 12 anticipated construction completion on February 1, 2021 and the start of Fire Station No. 16 on March 29, 2021; and

WHEREAS, Staff is recommending that City Administrator, Or Designee, award a construction contract to the lowest responsive and responsible bidder that meets: 1) City's bid process as determined by Public Works Department's Capital Contract Division, 2) City's Compliance Programs, as determined by the City Administrator's Workplace and Employment Standards Department, and 3) the bid does not exceed the engineer's estimate by more than ten percent (10%) and funding is available; and

WHEREAS, if the bids received are deemed non-responsive to City's Bid Requirements and Compliance Programs and/or non-responsive because the lowest bid amount exceeds the engineer's estimate by more than ten percent (10%); and

WHEREAS, the project has been publicly advertised and competitively bid, and further advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, increase project costs and may not result in bids responsive to the project construction budget; and

WHEREAS, value engineering and negotiating with a contractor will be required to determine reasonable scope modifications to complete projects within the available budget; and

WHEREAS, OMC Section 2.01.050.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 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, project funds are appropriated and allocated from Measure KK – Affordable Housing and Infrastructure Bond Fund (5330; Award 23253); Capital Projects Organization (92270); Building Account (57211); Fire Station CW Renovation Project (1003439); and Program (IN06); 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

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 Administrator, or designee, is authorized to award and execute a construction contract in an amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000.00) to the lowest, responsive and responsible bidder, for the construction of the Fire Station No. 16 Dormitory Renovation Project, in accordance with the project plans and specifications and contractor's bid; and be it

FURTHER RESOLVED: That the contractor shall meet: 1) City's bid process as determined by Public Works Department's Capital Contract Division, 2) City's Compliance Programs, as determined by the City Administrator's Workplace and Employment Standards Department, and 3) the bid does not exceed the engineer's estimate by more than ten percent (10%) and funding is available ; and be it

FURTHER RESOLVED: That if bids are deemed non-responsive to City's Bid Requirements and Compliance Programs and/or non-responsive because the lowest bid amount exceeds the engineer's estimate by more than ten percent (10%), that all bids shall be hereby be rejected; and be it

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 because the project has been publicly and competitively bid, and further advertising and competitive re-bidding will delay the construction project start, increase construction costs due to escalation and project costs due to the re-bid, and may not result in bids responsive to the project construction budget and OMC section 2.04.050.J authorizes the City Administrator to proceed to hire or have the services performed or purchase the supplies in the open market when no valid bids are received after advertising as required; and be it

FURTHER RESOLVED: That staff will negotiate the scope of work in order to secure a contract to complete projects within the available budget; and be it

FURTHER RESOLVED: That the City Administrator, or Designee, is authorized to negotiate and execute a construction contract without return to Council for the construction of the Fire Station No. 16 Dormitory Renovation Project for an amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000.00) in accordance with the final negotiated project plans and specifications; and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications, including any subsequent changes during construction, that will be reviewed and adopted by the Assistant Director of the Oakland Public Works Department for this project; and be it

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

FURTHER RESOLVED: That the successful contractor shall comply with all City contracting and compliance program requirements that apply to this contract, and be verified by the Workplace and Employment Standards Department; and be it

FURTHER RESOLVED: That the successful contractor shall provide faithful performance bond and a bond to guarantee payment of all claims for labor and materials furnished for the amount of 100% of the contract price and due under the Unemployment Insurance Act prior to the execution of the contract; 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 - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO, AND PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
ASHA REED
Acting City Clerk and Clerk of the Council
of the City of Oakland, California