




AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: G. Harold Duffey
Director, Oakland Public
Works

SUBJECT: Sanitary Sewer Sub-Basin 82-005
Rehabilitation (Project 1004845,
Phase 1)

DATE: February 24, 2022

City Administrator Approval 

Date: Mar 3, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt A 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 The Construction of 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 Business Enterprises Requirements; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

EXECUTIVE SUMMARY

The Sanitary Sewer Sub-Basin Rehabilitation Project is part of the City's ongoing program to reduce stormwater infiltration and inflow into the sanitary sewer system, eliminate sanitary sewer overflows, improve pipe and structure conditions and increase flow capacity.

The City issued a Notice of Inviting Bids for the Sanitary Sewer Sub-Basin 82-005 Rehabilitation (Project 1004845, Phase 1) on November 12, 2021, with two (2) bids received December 9, 2021. Andes Construction, Inc. was the lowest bidder, but its trucking subcontractor did not meet the City of Oakland trucking certification. The trucking required for this project accounted for 0.1% of the project and was deemed non-responsive by the Contract Compliance Office of the Department of Workforce And Employment Standards. 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.

Approval of the proposed resolution will reject all bids and waive further advertising and competitive bidding per the Oakland Municipal Code (OMC) Section 2.04.050.I.5, and authorize the City Administrator or designee to negotiate, award, and execute a construction contract Council 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 the construction of sanitary

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sewer sub-basin 82-005 rehabilitation (Project 1004845, Phase 1) in accordance with plans and specifications. The contractor will be required to comply with the City's programs, including local and small local enterprise requirements. This project supports the sanitary sewer program and the 2014 Sewer Consent Decree.

BACKGROUND / LEGISLATIVE HISTORY

The Environmental Protection Agency (EPA) mandates the elimination of sanitary sewer overflows during storm events. The Sanitary Sewer Sub-Basin 82-005 Rehabilitation (Project No. 1004845, Phase 1) is part of the City's annual sanitary sewer rehabilitation program intended to improve the pipe and structure conditions and reduce stormwater infiltration and inflow into the sanitary sewer, which subsequently reduces wet weather peak flows in the sanitary sewer system and eliminates sanitary sewer overflows. This project contributes to meeting the annual 13-mile sanitary sewer mains rehabilitation under the 2014 Sewer Consent Decree.

The proposed work consists of rehabilitating approximately 19,814 linear feet of existing 6-inch to 14-inch diameter sewer pipes by pipe-expanding, open trench, or cured-in-place pipe method, rehabilitating sewer structures, rehabilitating and reconnecting house sewer lateral connections, and other related work as indicated on the plans and specifications. The work for this project is located as shown in **Attachment A**.

ANALYSIS AND POLICY ALTERNATIVES

The City issued a Notice of Inviting Bids for the Sanitary Sewer Sub-Basin 82-005 Rehabilitation (Project 1004845, Phase 1) on November 12, 2021. On December 9, 2021, the City Clerk received two (2) bids for this project in the amount of \$4,272,509 and \$5,750,910 from Andes Construction, Inc. and Pacific Trenchless, Inc., respectively, as shown in **Attachment B**. In the past years, the City has consistently received two or three bids for sanitary sewer rehabilitation projects and it is challenging for the City to meet the rehabilitation goal with limited contractor capacity.

The bid proposals were further evaluated and verified for compliance with the City's requirements of Local Business Enterprise / Small Local Business Enterprise (L/SLBE) participation and trucking participation by the Contract Compliance Office of the Department of Workforce And Employment Standards (DWES), as shown in **Attachment C**. In summary, under the bid proposal from Andes Construction Inc., the L/SLBE participation is 91.32 percent, which exceeds the City's 50 percent S/LBE requirement; the trucking participation is 0 percent, which fails to meet the City's 50 percent trucking participation requirements. The trucking company listed was a certified local business but did not renew the certification. Although Andes Construction, Inc. is deemed non-responsive, the trucking company is working with DWES to renew its certification. Under the bid proposal from Pacific Trenchless, Inc., the L/SLBE participation is 90.63 percent, which exceeds the City's 50 percent S/LBE requirement; the trucking participation is 100 percent and exceeds the 50 percent requirement. The bid difference between Andes Construction Inc. and Pacific Trenchless is \$1,478,401. The Pacific Trenchless bid came in at \$1.1M (23%) over the engineer's estimate and exceeded the allotted budget.

As a result, staff recommends rejecting all bids, waiving further advertising and competitive bidding, authorizing the City Administrator to negotiate, award, and execute a construction contract that meets the City's L/SLBE requirements for an amount not to exceed \$4,272,509.00 in the open market. The timely award of the construction contract will allow sanitary sewer rehabilitation sub-basin 82-005 Phase 1 to begin in May 2022 and should be completed by November 2022. The contract specifies \$1,500 in liquidated damages per calendar day if the contract is not completed within 120 working days. The project schedule is shown in **Attachment B**.

In accordance with Oakland Municipal Code (OMC) Section 2.04.050, which requires advertising and competitive bidding for contracts that exceed \$50,000; section 2.04.050.1.5 provides an exception to the advertising and competitive bidding requirements upon a finding and determination by the City Council that it is in the best interests of the City to do so. In addition, 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.

Thus, per OMC 2.04.050.1.5, staff recommends that it is in the City's best interest to waive further advertising and competitive bidding to meet the project deadline of November 2022 for sanitary sewer sub-basin 82-0005 rehabilitation (Project 1004845, Phase 1). The City Administrator will negotiate a contract in the open market that is within the project budget and in compliance with City's L/SLBE participation requirements.

Construction is scheduled to begin in May 2022 and be completed by November 2022. The contract specifies \$1,500 in liquidated damages per calendar day should the contractor cause the work to be delayed. The project schedule is shown in **Attachment B**.

The Engineer's estimate for the work is \$4,645,025.00. The proposed policy action to approve this construction contract supports the sanitary sewer program, maintain compliance with the 2014 Sewer Consent Decree, and supports the City's goals of building **a vibrant and sustainable infrastructure**.

The proposed work is of a professional and technical nature and is temporary in nature. The City lacks the equipment and qualified personnel to perform the work, and entering into this contract will not result in the loss of employment or salary by any person having permanent status in competitive service. As noted below, the Unions (see public outreach) have been informed of the project, and no comments were received.

FISCAL IMPACT

Approval of the resolution authorizes 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) for the implementation of the Sanitary Sewer Sub-Basin 82-005 Rehabilitation (Project 1004845, Phase 1).

Funding for this construction contract is budgeted and available in Table 1 below.

Table 1: Funding Sources

Fund Source	Organization	Project	Amount
3100 – Sewer Service Fund	92244 – Engineer Design: Sanitary Sewer	1004845 – Sanitary Sewer Rehabilitation Sub-Basin 82-005 Phase 1	\$ 4,272,509.00
Total Funding			\$ 4,272,509.00

There is no impact on the General Purpose Fund, and no additional funding is requested.

PUBLIC OUTREACH / INTEREST

Staff provided notice to labor representatives, per the terms and conditions of the current Memorandums of Understanding with Local 21, Service Employee International (SEIU) 1021, and International Brotherhood of Electrical Workers (IBEW).

Public outreach is part of the Capital Contract Equity Initiative for Oakland Public Works (OPW). OPW-Capital Contracts Division (OPW-CCD) has an established disparity outreach list of local women-owned, African American, and other global majority associations such as the National Association of Women Business Owners and the National Black Contractors Association of California, to distribute the Request for Bid (RFB) to their membership. OPW plans to review and update this list every 12 months to ensure the most updated information is available. For this construction RFB solicitation, OPW Wastewater Engineering Management Division (OPW-WEMD) worked with OPW-CCD and DWES on performing public outreach through the legal ads, enhanced notifications, and a pre-bid meeting.

Notifications of solicitations were distributed by several means. The first mean, the City's iSupplier system, was utilized to notify Oakland-certified local and non-local professional service providers (e.g., landscape architects, architects, engineers, contractors, and planning firms); regional trade and business groups, including the Oakland Metropolitan Chamber of Commerce, Oakland Black Board of Trade & Commerce, Bay Area Business Roundtable, and the Construction Bidboard. Companies that register in iSupplier wait a few days before receiving access to review proposal requests in this system. If a company enters a North American Industry Classification System (NAICS) code, they are notified about projects with this code.

In addition to iSupplier and the established disparity outreach list, OPW-CCD also utilizes CIPList.com, a free, web-enabled site to announce and distribute solicitations. It is used to push out notifications to plan rooms and builders' exchanges such as ARC North America, Builders Exchange of Alameda County, Contra Costa Builders Exchange, Dodge Data & Analytics, East Bay Blueprint, East Bay Blueprint, iSqFT, Northern California Electrical Construction Industry, Peninsula Builders Exchange, San Francisco Builders Exchange, and Solano-Napa Builders Exchange. Through CIPList.com, any company or entity may register to be automatically notified of all City of Oakland solicitations without restrictions.

The legal notice for the RFB was advertised on November 12, 2021. Legal notices were printed in the EastBay Times and Oakland Post. In addition, information about the project was published in El Mundo, Daily Pacific Builder, World Journal, and the Korea Times publications to supplement and ensure the information reaches L/SLBE in Black, Indigenous, People of Color (BIPOC) communities with potential contractors/consultants.

OPW-CCD held a pre-bid meeting in partnership with the DWES and the Project Manager on November 18, 2021, virtually. The meeting served a few purposes: to discuss with potential contractors how contracts are established with the City, to make those in attendance aware of possible upcoming work, to allow for opportunities for contractors to network and partner on upcoming work, and to discuss the current project bid specifically.

Upcoming projects and current projects accepting submissions are on City's webpage. As part of the City's equity initiative, current and next steps contain outreach to engage professional and contractor associations specifically representing women-owned, African American-owned, and other global majority firms. OPW-CCD will collaborate with existing contractor/consultant working groups and professional organizations to reduce identified disparities in contracting. Finally, OPW-CCD will partner with the Business Assistance Center to identify grant funding to establish a Contract Assistance Center to help guide contractors with the City's contracting process.

General notices have been sent out to the community about this project. Prior to starting work, individual affected residents will be notified of the work schedule, planned activities, and contact information of the Contractor and Resident Engineer/Inspector in charge.

COORDINATION

The work to be done under the contract was coordinated with the OPW Bureau of Maintenance and Internal Service. This report and resolution have been reviewed by the Office of the City Attorney and the Budget Bureau. In addition, DWES provided the compliance analyses of submitted firms.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The Contractor Performance Evaluation for Andes and Pacific Trenchless, Inc. from a previously completed project is satisfactory and is included in **Attachment D**.

SUSTAINABLE OPPORTUNITIES

Economic: A functioning sanitary sewer system improves the community and makes Oakland more attractive for residents and businesses. Sewer overflows cause economic hardships and result in stipulated penalties by the EPA between \$100 and \$25,000 per event.

Environmental: The improvements to the sanitary sewer system will reduce the possibility of overflows, thereby benefiting the environment.

Race & Equity: Implementation of the project will help eliminate sanitary sewer overflows, thereby benefiting all Oakland residents with improved infrastructure, particularly in underserved areas.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

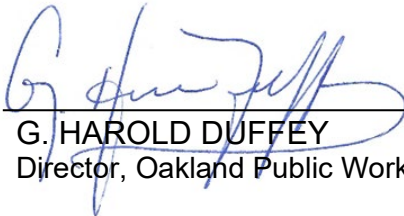
The project and the action being undertaken to implement it are exempt from the California Environmental Quality Act (CEQA) under the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect 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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A 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 Business Enterprises Requirements; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Wen Chen, Acting Wastewater Engineering Management Division Manager, at 510-238-3303.

Respectfully submitted,



G. HAROLD DUFFEY
Director, Oakland Public Works

Reviewed by:
Jimmy Mach, Acting Assistant Director
Bureau of Design & Construction

Reviewed by:
Wen Chen, P.E., Acting Division Manager
Wastewater Engineering Management Division

Prepared by:
David Ng, P.E., Supervising Civil Engineer
Wastewater Engineering Management Division

Attachments (4):

- A: Project Location Map
- B: List of Bidders and Project Construction Schedule
- C: Contracts & Compliance Unit Compliance Evaluation
- D: Contractor Performance Evaluation