



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: G. Harold Duffey
Director, Oakland Public Works

SUBJECT: On-Call Sanitary Sewer Construction Services

DATE: April 4, 2023

City Administrator Approval

Date: Apr 27, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing:

- 1. The City Administrator To Execute Construction Contracts For On-Call Sanitary Sewer Construction Services That Follow All City Advertising and Competitive Bidding Requirements And Are Awarded In Direct Service of Delivering The On-Call Sanitary Sewer Construction Service For A Duration Of Three Years To The Following Tiers, Without Return To City Council:**
 - A) Tier 1 Firms Each For An Amount Not-To-Exceed Seven Million Dollars (\$7,000,000.00) Annually to Qualified Contractors; And**
 - B) Tier 2 Firms Each For An Amount Not-To-Exceed One Million Dollars (\$1,000,000.00) Annually to Qualified Contractors; And**
- 2. Adopting Appropriate California Environmental Quality Act (CEQA) Findings.**

EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator to execute construction contracts with qualified contractors, each for a period of three (3) years, for On-Call Sanitary Sewer Construction Services that comply with all City of Oakland (City) advertising and competitive bidding requirements. All contractors will be required to comply with the City's Local/Small Local Business Enterprise (L/SLBE) Program requirements. Building on extensive outreach, the on-call contract has been designed to (a) create tiers that allow a smaller contract amount that can be better available to L/SLBE businesses and (b) allow for the list of qualified businesses to be updated annually, allowing for newly qualified S/LBE businesses to be added to the on-call contract each year.

These construction contracts provide the City with the ability to obtain as-needed construction services for projects under the City's Sanitary Sewer Rehabilitation Program

and enable the City to deliver sanitary sewer capital improvement projects promptly, efficiently, cost-effectively, and meet the requirements stipulated in the 2014 Consent Decree.

Staff will provide an information memorandum to the City Council providing the qualification evaluation results, the qualified contractors selected and the respective contract dollar amounts awarded and will continue to provide this information to the City Council on an annual basis.

BACKGROUND / LEGISLATIVE HISTORY

The Environmental Protection Agency (EPA) mandates reduction of sanitary sewer overflows during storm events. In accordance with the 2014 Consent Decree, Oakland is required to replace an average annual rate of 13 miles of sanitary sewer mains and rehabilitate connected maintenance hole structures. In addition, the City is required to upgrade sewer capacities where needed, evaluate system condition on a 10-year cycle, conduct cleaning on a 5-year cycle, and perform spot repairs on an as-needed basis.

To comply with the 2014 Consent Decree, the City has implemented a long-term sanitary sewer capital improvement program (CIP) to improve its aging infrastructure. Due to the limited selection of contractors available to perform the mandated work, Oakland Public Works (OPW) has been working with the Department of Workplace and Employment Standards (DWES) to conduct an extensive outreach to all thirteen (13) certified local and small local businesses and contractor community networks.

Adding on-call construction contracts is essential to delivering these projects promptly, efficiently, and cost-effectively by establishing a pool of contractors that are qualified to perform sanitary sewer construction work. The on-call contracts will include two tiers of contractors that are large and small, but contractors in both tiers must comply with local business requirements. The pool can be expanded to include more contractors on an ongoing basis.

The work to be done consists of, but is not limited to, rehabilitation and replacement of the sanitary sewer mains, lower laterals, structures, and other related work in various locations throughout the city.

ANALYSIS AND POLICY ALTERNATIVES

On March 24, 2023, the City issued a Request For Qualifications (RFQ) seeking to establish construction contracts with qualified contractors for On-Call Sanitary Sewer Construction Services. In order to apply, firms must submit a Statement of Qualifications (SOQ) to the City by April 27, 2023.

To meet the 2014 EPA Consent Decree requirements, staff recommends that the City Council adopt the proposed resolution authorizing the City Administrator to execute construction contracts with qualified contractors, each for a period of three (3) years, for On-Call Sanitary

Sewer Construction Services that comply with all City advertising and competitive bidding requirements.

On-call construction contracts allow for expedited support to the delivery construction of sanitary sewer capital improvements and emergency repairs citywide. Utilizing on-call construction firms will reduce time in selecting contractors for projects, thereby providing cost-savings to the City. The contract is also designed to maximize the use of L/SLBE contracts. The on-call contract provides bidding opportunities to both small local business enterprises and larger contractors to enter into 3-year contracts in the respective tiers below:

1. Tier 1 Firms each for an amount not-to-exceed seven million dollars (\$7,000,000.00) annually to qualified contractors;
2. Tier 2 Firms each for an amount not-to-exceed one million dollars (\$1,000,000.00) annually to qualified contractors

An evaluation panel will evaluate and rank the SOQs in accordance with the procurement process set forth in the RFQ. Each panel member will score the SOQs using a consistent scoring matrix to assess each firm's license, experience, safety, and local and L/SLBE status. Each firm will receive a total score comprised of its SOQ score and L/SLBE status. Staff may also interview firms as part of the procurement phase. The scored categories include the following:

1. Licenses; disputes; criminal matters and suits.
2. Compliance with safety, workers compensation, prevailing wage, and apprenticeship laws.
3. Business and organization experience; project/contract experience and reference Review.
4. Additional preference points per L/SLBE Program.

Upon completion of the evaluation process, the SOQs will be numerically ranked, and OPW will determine the actual number of contracts to be awarded.

Typically, as a task order is identified, the City will issue a request-for-bid inviting firms in the appropriate Tier to bid on the task order. The task order includes but is not limited to a scope of work, schedule, plans, engineer's estimate, and specifications. Work will be assigned through Task Orders at the discretion of the Wastewater Engineering Management Division (WEMD) in OPW and based on the lowest responsive and responsible bid. The successful bidder will be issued a Task Order for the work.

The two-tier setting allows a smaller contract amount that can be better available to L/SLBE businesses. While Tier 1 contractors can work on large projects up to seven (7) million dollars, Tier 2 will include small local business contractors that can bond up to one (1) million dollars of work and the bidding opportunities will exceed the compliance requirements of Oakland Municipal Code Section 2.04.045 Pre-qualification and bid processes for general construction services and the Preferred Small Local Business (PSLB) program. Tier 2 contractors can also be subcontractors in Tier 1. For task orders \$500,000 or below, the first right of refusal is given

to the L/SLBE contractors. If there are no bids from L/SLBE contractors, WEMD can solicit from non-L/SLBE contractors in Tier 2. If there are no bids received from non-L/SLBE contractors, the project can solicit bids from Tier 1 contractors.

No minimum amount of work is implied or guaranteed, and no appropriation is made as a result of this action. Individual task orders will vary but cumulatively will not exceed the approved contract amounts. Unspent contract amounts for Tier 1 and Tier 2 cannot be rolled over into the next year to allow open market bidding opportunities. Contractors will be required to meet the City's Compliance programs and will be reviewed for compliance in each task order.

OPW will continue issuing an RFP for Sanitary Sewer Construction Services on an annual basis to provide additional firms the opportunity to join the on-call pool.

The proposed policy action to approve this construction contract supports the sanitary sewer program, maintains compliance with the 2014 Consent Decree, and supports the City's goals of building **vibrant and sustainable infrastructure**.

The proposed work is professional and technical and 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 labor unions have been informed of the project, and no comments were received.

FISCAL IMPACT

Approval of this resolution authorizes the City Administrator or designee to execute construction contracts with qualified contractors for on-call, and as-needed, sanitary sewer construction services. The contract agreement for Tier 1 contractors will be for an amount not to exceed seven million dollars (\$7,000,000) annually for three-year terms, and the contract agreement for Tier 2 contractors will be for an amount not to exceed one million dollars (\$1,000,000) annually for three-year terms. The approval of the contract agreements will not result in the additional appropriation of funding, and no additional funding is requested. The sanitary sewer on-call construction services are for Public Works sanitary sewer capital improvement projects funded by Sewer Service Funds (Fund 3100). Available funding will be identified for each individual task order prior to performance of the construction services. 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 the International Federation of Professional and Technical Engineers (IFPTE) Local 21, Service Employees International Union (SEIU) Local 1021, and International Brotherhood of Electrical Workers (IBEW).

In September and October 2022, OPW-Wastewater Engineering Management Division (OPW-WEMD) worked with OPW-Capital Contracts Division (OPW-CCD) and DWES to conduct a contractor survey for the sanitary sewer construction services in the city. All thirteen (13) certified L/SLBEs were contacted with 17 survey questions covering a wide range of topics including licensing, bidding participation, bonding, local requirements, and support/education. The City received six (6) responses and followed up with each responder individually. OPW-WEMD summarized the survey findings and continues to collaborate with City's Administrator's Office and DWES to conduct and improve outreach.

Furthermore, staff presented the RFQ for On-Call Sanitary Sewer Construction Services at an in-person contractor community event at City Hall on March 23, 2023. OPW, DWES, and the Oakland Department of Transportation (OakDOT) participated in the event, "Doing Business with Oakland Public Works (OPW) and Oakland Department of Transportation (OAKDOT)". Approximately 80 people attended, of which about one-third (1/3) was comprised of prime contractors, another third of specialty contractors, and the final third of professional firms. OPW staff presented the RFQs advertised, for On-Call General Construction Services and On-Call Sanitary Sewer Construction Services, and also shared upcoming construction bidding opportunities in the next three months totaling approximately \$60 million. Poster boards describing the upcoming bidding opportunities were displayed, and project managers were available to answer questions about the projects. Project flyers were also distributed.

The presentation focused on OPW's objectives to increase the number of contractors that bid on construction contracts, and the number of contracting and bid opportunities available to L/SLBE contractors. Staff presented the two RFQs and described how OPW can achieve those goals through the on-call construction services.

In addition, the City's business development contractor resource center, Merriwether and Williams, presented at the March 23rd "Doing Business with Oakland" event a description of its services for small contractors, which range from one-on-one support with back office administrative management, construction contract focused loans, and training for small minority construction contractors.

The event successfully provided information about the City's L/SLBE Program for capacity building and technical assistance resources. Following the presentations, there was an opportunity for the attendees to network and speak with City staff.

For this RFQ solicitation, OPW-WEMD coordinated with OPW-CCD and DWES to perform public outreach through enhanced notifications, legal ads, and a pre-proposal meeting.

As part of the enhanced notification and OPW's Capital Contract Equity Initiative, public outreach engagement included professional organizations representing women-owned and African American-owned firms, groups identified in the 2019 Mason Tillman Disparity Study as firms not receiving a proportional amount of contracting dollars from the City of Oakland. OPW-CCD shares notifications with an established disparity outreach list of local women-owned and African American-owned businesses, and other global majority associations such as the National Association of Women Business Owners and the National Black Contractors Association of California.

The City's iSupplier system also issued notifications to 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 registered in iSupplier can search for City projects using a specific North American Industry Classification System (NAICS) code (note, newly registered firms must wait a few days before receiving access to review proposal requests in this system).

In addition to iSupplier and the established disparity outreach list, OPW-CCD also utilizes the free website CIPLIST.com to announce and distribute solicitations 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.

Current and upcoming projects accepting submissions are on our webpage at <https://ciplist.com/plan/?Oakland>. As part of an ongoing equity initiative, OPW-CCD will partner with the Business Assistance Center to identify grant funding to establish a Contract Assistance Center to assist contractors through the City's contracting process.

Prior to the start of construction of each project, the immediate neighboring residents and establishments affected by the work will be notified of the construction activities and receive project contact information. Temporary construction fencing, protective mitigation measures, and compliance with the Americans with Disabilities Act (ADA) shall be implemented to minimize disruptions to the public.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau. The development of the terms of the on-call contracts have been discussed with DWES and the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: The contractors will all be verified for L/SLBE participation by the Social Equity Division of DWES. The projects will generate business tax, sales tax, and other revenues for the City. A functioning sanitary sewer system improves the community and makes Oakland more attractive for residents and businesses. Sanitary 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 benefit the environment by reducing the possibility of sanitary sewer overflows.

Race & Equity: Implementation of the project will help eliminate sanitary sewer overflows with improved infrastructure in priority communities, particularly in underserved areas.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

The On-Call Contract is 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 Authorizing:

1. The City Administrator To Execute Construction Contracts For On-Call Sanitary Sewer Construction Services That Follow All City Advertising and Competitive Bidding Requirements And Are Awarded In Direct Service of Delivering The On-Call Sanitary Sewer Construction Service For A Duration Of Three Years To The Following Tiers, Without Return To City Council:
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 - b. Tier 2 Firms Each For An Amount Not-To-Exceed One Million Dollars (\$1,000,000.00) Annually to Qualified Contractors; And
2. Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Jimmy Mach, Wastewater Engineering Management Division Manager, at 510-238-3303.

Respectfully submitted,



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