



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: G. Harold Duffey
Director, Oakland Public Works

SUBJECT: On-Call General Construction Services

DATE: April 4, 2023

City Administrator Approval 

Date: Apr 27, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution:

(1) Authorizing The City Administrator To Execute Construction Contracts For On-Call Construction Services That Follow All City Advertising and Competitive Bidding Requirements And Are Awarded In Direct Service Of Delivering On-Call General Construction Services 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 Four Million Dollars (\$4,000,000.00) 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 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 General Construction Services that follow 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. 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 L/SLBE businesses to be added to the on-call contract each year.

Establishing On-Call Construction services will allow the City to access construction contract resources and implement grant or bond-funded Capital Improvement Program projects more rapidly and efficiently.

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

Oakland Public Works Department (OPW) manages a variety of projects in support of the City's Capital Improvement Program. With the passage of Measure KK – Affordable Housing & Infrastructure Bond in 2016, Measure U – Affordable Housing and Infrastructure Bond in 2022, grant and bond-funded sources, and unscheduled projects, the City's objective is to deliver various capital improvement projects in a timely and cost-effective manner.

The City's current on-call construction contracts approved in May 2020 under Resolution 88126 C.M.S. were for a three-year term and are solicited through a competitive process in accordance with Oakland Municipal Code (OMC) Section 2.04.051 to 8 contractors. The current on-call construction services agreements were either exhausted or will expire in August 2023. The City issued 87 percent, or \$4.53 million, to L/SLBE program-certified contractors and 13 percent, or \$702,000, to non-L/SLBE contractors during this three-year period.

The usual low bid competitive construction process required under OMC Section 2.04 may take up to 42 weeks for solicitation, bidding and City Council approval and contract award. The long lead time to contract award increases the risk to the contractor from volatile construction costs, material availability, inflation and price escalation. See **Table 1** below for the annual construction cost escalation from the State of California Construction Cost Index (CCCI). Establishing a pool of on-call contractors qualified to perform various general construction work is essential to delivering these projects in a timely and cost-effective manner. Once the On-Call Contract is established, the solicitation process is reduced to 16 weeks from qualification process to issuance of task order.

Table 1 – CCCI Escalation Data

Year	Escalation
2016	4.4%
2017	3.5%
2018	1.3%
2019	3.6%
2020	2.8%
2021	13.4%
2022	9.3%
2023	*6.5%
	* Projected escalation for 2023

Listed below are examples of typical project types within OPW, Bureau of Design and Construction that may be performed under an on-call general construction services contract. This list is not meant to be all inclusive.

A. Project and Grant Management Division

- Park improvement projects
- Ball field improvements projects
- Tot lot and playground improvement projects
- City facility systems alterations/upgrades (heating, ventilation and air conditioning, interior remodeling, etc.)
- Building remodel/renovation projects
- Historical building repair/rehabilitation projects
- Soil remediation projects

B. Watershed and Stormwater Division

- Storm drainage infrastructure repair, installation, and restoration projects
- Landscaping and irrigation projects around waterways and creeks
- Creeks and streambed-related construction and restoration projects
- Green stormwater infrastructure improvement projects
- Small and large full trash capture devices repair, installation, and restoration projects
- Cross-connection removal and realign projects

The 2020 On-Call General Construction Services set pre-qualified L/SLBE contractors with a to not exceed limit of \$1,000,000.00 or \$4,000,000.00 depending on their tier which resulted in several contractors reaching the maximum monetary threshold of their contract with no option to renew those capacities every year. Additionally, there was no option for new small or local business enterprises to join the pool of on-call contractors thereby preventing these small firms from obtaining work with the City. The new 2023 On-Call General Construction Services was designed to allow either \$1,000,000.00 or \$4,000,000.00 contracts to be issued annually to contractors in this pool. To enhance equity and provide additional opportunities, new contractors will have the chance to join the pool of on-call Contractors every year of the three-year duration of this 2023 On-Call General Construction Services to perform work for the City.

Numerous projects that are currently in the planning or design phase would benefit from utilizing the on-call pool when the project is ready for bidding (See **Attachment A**).

ANALYSIS AND POLICY ALTERNATIVES

On March 24, 2023, the City issued a Request For Qualifications (RFQ) seeking construction contracts with qualified contractors for On-Call General Construction Services. The City

expects to receive Statements of Qualifications (SOQs) from firms by May 4, 2023.

To support the City's Capital Improvement Program by delivering projects in a prompt and cost-effective manner, staff recommends that the City Council adopt this resolution authorizing the City Administrator to execute construction contracts with qualified contractors, each for a period of three (3) years, for On-Call General Construction Services that follow all City advertising and competitive bidding requirements.

On-call construction contracts allow for expedited support for the delivery of construction projects. Utilizing on-call construction firms will expedite and streamline the selection of contractors for projects in the procurement phase, reducing the time to complete this process from 42 weeks to 16 weeks. By establishing an accelerated procurement process, the City will increase contractor interest and competition that can generate cost and time savings to the City. Project work will be assigned by Task Orders through a competitive bidding process to the prequalified pool of contractors, and selection is based on the lowest responsive and responsible bid. The on-call contracts will also enable the City to respond to urgent and unanticipated construction demands and emergencies that cannot be accomplished through the formal bidding process.

Based on review of actual contracts issued during the three-year term of the 2020 On-Call Construction Services, this on-call contract was designed to create two tiers, as it was shown that tiers will enhance contracting opportunities for Oakland's certified local and small local businesses of all sizes within the respective tiers below:

1. Tier 1 Firms, each for an amount not-to-exceed four million dollars (\$4,000,000.00) 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.

Additionally, under this proposed contract, the new prequalification process will be opened every year to provide more opportunities to apply for the on-call contract, thereby increasing the number of new contractors to join the pool each year over the three-year term of the on-call construction services contract. All contractors will be required to comply with the City's L/SLBE Program requirements for every task order issued.

The qualification evaluation process will be facilitated by the Public Works Capital Contract Division (OPW-CCD) as the facilitator. The facilitator shall ensure a fair, equitable and unbiased evaluation process is conducted during the qualification evaluation process, as required by the Oakland City Charter. OPW-CCD will recruit a team of three panelists consisting of subject matter experts from OPW's Bureau of Design and Construction, the Department of Race and Equity (DRE), and the Bureau of Maintenance and Internal Services. In accordance with the procurement process described in the March 24, 2023 RFQ, the panelists will use a scoring matrix and apply pre-established evaluation criteria to evaluate and rank each firm's SOQ based on the firm's license, experience, safety, and L/SBE status. Each firm will receive a total score comprised of its SOQ score and L/SBE status. Interviews may also be conducted as part of the procurement process. 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. A recommendation will be provided by OPW-CCD to the Director of OPW and to the City Administrator of the list of contractors selected through the evaluation criteria. The Department of Workplace and Employment Services (DWES) will oversee the evaluation process to ensure compliance to business and workforce utilization. After staff complete evaluation of SOQs received by the April 27, 2023 deadline, OPW-CCD will submit an informational memorandum to the City Council with the qualification evaluation results and compliance analysis in each Tier, and will continue to provide this information to the City Council on an annual basis.

As the City identifies project needs, it will issue a competitive request-for-bid from the appropriate tier of on-call contractors. Upon determination of the lowest responsible and responsive bidder, and if the bid is within the engineer's estimate, the successful bidder will be issued a Task Order for the work that includes the agreed upon price, scope of work, schedule, plans, and specifications. All proposals and task orders must meet the City's 50 percent L/SLBE requirement.

Tier 2 On-Call Contracts include small local business contractors that can bond up to \$1,000,000 of work. Tier 2 contractors can also be subcontractors in Tier 1. However, a contractor cannot be a prime contractor in both Tier 1 and Tier 2. For task orders \$500,000 or below, the first right of refusal is given to the L/SLBE contractors in Tier 2 contracts. If there are no bids received from these contractors, bids may be solicited from Tier 1 contractors. The bidding opportunities prioritizing L/SBE contractors meet and exceed compliance requirements of OMC Sections 2.04.045 pre-qualification and bid processes for general construction services and the Preferred Small Local Business (PSLB) program.

No minimum amount of work is implied or guaranteed, and no funding appropriation is made through approval of this resolution. Individual task order amounts will vary but cumulatively will not exceed the approved contract amounts (\$4,000,000 annually for Tier 1 firms and \$1,000,000 annually for Tier 2 firms). Residual contract amounts for Tier 1 and Tier 2 contractors not exercised 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 General Construction Services on an annual basis to provide additional firms the opportunity to join the on-call pool.

The proposed resolution supports the City Council priority of **vibrant and sustainable infrastructure** by establishing on-call construction contracts that will enable the City to more efficiently and quickly deliver capital improvement projects.

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

FISCAL IMPACT

Approval of this resolution authorizes the City Administrator to execute construction contracts for on-call, or as-needed, construction services. The contract agreement for Tier 1 contractors is for an amount not to exceed four million dollars (\$4,000,000) each annually for a three-year term. The contract agreement for Tier 2 contractors will be for an amount not to exceed one million dollars (\$1,000,000) each annually for a three-year term. Contract amounts for Tier 1 and Tier 2 not exercised cannot be rolled over into the next year. The approval of the contract agreements will not result in the additional appropriation of funding, and no additional funding is requested. On-call general construction services may be utilized for capital improvement projects funded by various revenue sources. Available funding will be identified for the individual project prior to the performance of general construction projects.

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 International Federation of Professional and Technical Engineers (IFPTE) Local 21, Service Employees International Union (SEIU) Local 1021, and International Brotherhood of Electrical Workers (IBEW).

OPW staff presented the recommended approach at the "Doing Business with Oakland Public Works (OPW) and Oakland Department of Transportation (OAKDOT)" meeting on March 23, 2023 at 6:00PM (see **Attachment B**).

DWES sent e-mail notification to 2,950 local and non-local firms through iSupplier on March 9, 2023 to solicit interest for On-Call General Construction Services with the City of Oakland (see **Attachments C and D**).

For this RFQ solicitation, OPW staff worked with OPW-CCD and DWES on public outreach through enhanced notifications, legal ads, and a pre-proposal meeting.

As part of the enhanced notification and the Capital Contract Equity Initiative in OPW, 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. Specifically, OPW-CCD shares notifications with 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.

The City's iSupplier system also distributed notifications of solicitations 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 registered in iSupplier can search for projects with 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 located at <https://ciplist.com/plan/?Oakland>. As part an on-going equity initiative, OPW-CCD will partner with the Business Assistance Center to identify grant funding to establish a Contract Assistance Center to help guide 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. Staff in DWES conducted the compliance analysis of submitted firms.

SUSTAINABLE OPPORTUNITIES

Economic: The contractors will 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 by firms working on each project.

Environmental: The project specifications and scope will incorporate sustainable and environmentally sound practices to meet the City's sustainability and resiliency objectives. Contractors will follow the City's waste reduction and recycling policies for construction debris.

Race & Equity: The proposed on-call construction services contracts will support improving existing and extending the useful life of City facilities or create new City facilities and parks for public use, especially in underserved areas of the City. Projects are prioritized based on equity impacts in accordance with City's Capital Improvement Program prioritization process, implemented in the Fiscal Year (FY) 2021-23 Capital Improvement Program. As applicable, contractors will be required to comply with the physical access requirements of applicable accessibility codes and the Americans with Disabilities Act.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

The proposed 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:

(1) Authorizing The City Administrator To Execute Construction Contracts For On-Call Construction Services That Follow All City Advertising and Competitive Bidding Requirements And Are Awarded In Direct Service of Delivering The On-Call General Construction Services For A Duration Of Three Years To The Following Tiers, Without Return To City Council:

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(2) Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Calvin Hao, Acting Project & Grant Management Division Manager, at 510-238-7395.

Respectfully submitted,



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Attachments (4):

A: OPW Project List

B: Outreach Flyer

C: Outreach Web Mailer I

D: Outreach Web Mailer II