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OAKLAND

2017 MAR -2 PM 1:44

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Brooke A. Levin
Director, Public Works

SUBJECT: Sanitary Sewers Root Foaming FY16-19

DATE: January 25, 2017

City Administrator Approval

Date:

3/1/17

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution To Reject All Bids, Waive Further Advertising And Competitive Bidding, And Authorize The City Administrator, Or Designee, To Negotiate With Duke's Root Control, Inc., The Lowest Bidder, And Execute A Construction Contract For Sanitary Sewer Root Foaming Services Fiscal Year 2016-19 (Project No. 1000922) In The Amount Of One Million Eight Hundred Twelve Thousand Four Hundred Twenty Dollars And Fifty Cents (\$1,812,420.50).

EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator, or Designee, to negotiate with Duke's Root Control, Inc., the lowest bidder, and execute a construction contract in the amount of \$1,812,420.50. The Root Foaming Program is required to reduce the number of sanitary sewer overflows and backups caused by root intrusion into sewer lines. Root foaming application has resulted in the reduction of sanitary sewer backups and damage to private and public properties. The work for this project is located city-wide as shown in **Attachment A**.

The project goal is to reduce short term maintenance demands, reduce worker's compensation claims due to injuries resulting from tree root removal and help comply with regulation requirements. Root foaming application has resulted in the reduction of sewer backups, damage to private and public properties, and citizen claims.

BACKGROUND / LEGISLATIVE HISTORY

On January 19, 2017, the City Clerk received two bids for this project in the amounts of \$1,812,839.82 and \$2,014,701.00. Both bids were deemed non-responsive for failing to acknowledge Addendum1, in which all contractors were to submit bid items for revised quantities, and all bids were rejected. The Engineer's Estimate is \$2,042,705.00.

Under the 2014 Consent Decree with the Environmental Protection Agency, the City is required to root foam 50 miles of sewer lines by June 30th of each year. Rebidding the project would incur additional time and costs that will compress the completion time.

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ANALYSIS AND POLICY ALTERNATIVES

The objective of root foaming treatment is to control tree root growth in sewers and reduce the number of sanitary sewer overflows related to root intrusion. The herbicides that are used are required to be registered for use in sewers by the United States Environmental Protection Agency (EPA) and the California Department of Pesticide Regulation. The Contractor is required to have a state pesticide applicator's license and will only apply root foaming to sewer lines selected by the City. Root foaming is applied directly to the roots in the sanitary sewer line via a hose that extends throughout the entire length of each sewer section.

Construction for FY 2016-17 is scheduled to begin in April 2017 and should be completed by June 2017. The contract specifies \$500.00 in liquidated damages per calendar day if the contract is not completed by June 30th of each year. The project schedule for all three fiscal years is shown in **Attachment B**.

Root Foaming is a specialty work and there are only three contractors available statewide. The Local/Small Local Business Enterprise (L/SLBE) Program requires that there be at least three certified firms listed in the industry, trade or professional that constitutes a major category of work. If at least three L/SLBE firms are not certified, then the requirement is either waived, or the 50% requirement may be set from 49% to 0%. The L/SLBE and Trucking programs were waived for this contract as a result of an availability analysis performed by the Social Equity Division of the Department of Contracting and Purchasing, shown in **Attachment C**.

Section 2.04.050 I.5 of the Oakland Municipal Code ("O.M.C.") authorizes the City Council to waive the advertising and competitive bidding requirements of O.M.C. Section 2.04.050 upon a finding and determination that in the best interests of the City to reject all bids, waive further advertising and competitive bidding, and authorizing the City Administrator, or Designee, to negotiate with bidders. Rebidding of the project will incur additional time and cost that will compress the completion time; and rebidding may impact the City's compliance with the Regional East Bay Sewer Consent Decree of 2014 deadlines. That pursuant to O.M.C. Section 2.04.050 I.5 staff finds and determines that it is in the best interest of the City to waive the advertising and competitive bidding requirements of O.M.C. Section 2.04.050 to avoid delays and complete the project in a timely manner as required by the Regional East Bay Sewer Consent Decree of 2014.

FISCAL IMPACT

The total one-time cost to implement this Project No. 1000922 is \$1,812,420.50 for fiscal years 2016-2019, as shown in **Attachment B**: \$584,530.50 for FY 2016-17, \$600,370.00 for FY 2017-18, and \$627,520.00 for FY 2018-19. The amount for FY 2016-17 has already been budgeted accordingly in Award 21802, Organization 30244 - Sanitary Sewer Design. The amount for FY2017-19 is included in the Capital Improvement Program baseline budget and will be contingent upon the availability of funding and budget adoption in June 2017.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The Contractor Performance Evaluation for Duke's Root Control, Inc. from a previously completed project is satisfactory and is included as **Attachment D**.

PUBLIC OUTREACH / INTEREST

The Contractor will notify the residents in the area several days in advance of the application of the root foaming product. Prior to starting construction, residents who are affected by work in the easement will be notified individually of the construction schedule, planned activities, and contact information of the Contractor and Resident Engineer/Inspector in charge.

COORDINATION

The work to be done under this contract was coordinated with:

- Oakland Public Works (OPW) Bureau of Infrastructure and Operations
- Contracts and Compliance Division

In addition, this report and resolution have been reviewed by:

- Office of City Attorney
- Controller's Bureau

SUSTAINABLE OPPORTUNITIES

Economic: The Local/Small Local Business Enterprise and Trucking programs were waived for this contract as a result of an availability analysis performed by the Social Equity Division of the Department of Contracting and Purchasing. Root foaming is a specialty work and there are only three contractors available statewide (**Attachment C**).

Environmental: The root foaming of the sanitary sewers will minimize sewer leakage and overflows, thus preventing potential harm to property, groundwater resources and the bay. Best Management Practices for the protection of storm water runoff during construction will be required.

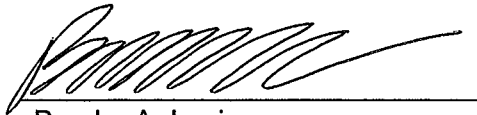
Social Equity: This project is part of the citywide program to eliminate wastewater overflows, thereby benefiting all Oakland residents.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution to reject all bids, waive further advertising and competitive bidding, and authorize the City Administrator, or Designee, to negotiate with Dukes Root Control, INC., the lowest bidder, and execute a construction contract with for the Sanitary Sewer Root Foaming Services FY 2016-19 (Project No. 1000922) in the amount of One Million Eight Hundred Twelve Thousand Four Hundred Twenty Dollars and Fifty Cents (\$1,812,420.50)

For questions regarding this report, please contact Jimmy Mach, Acting Engineering Design and Right-of-Way Manager, 510-238-3303.

Respectfully submitted,



Brooke A. Levin
Director, Public Works

Reviewed by:
Danny Lau, Assistant Director
Bureau of Engineering & Construction

Reviewed by:
Jimmy Mach, P.E., Acting Engineering Design
and R.O.W. Division Manager

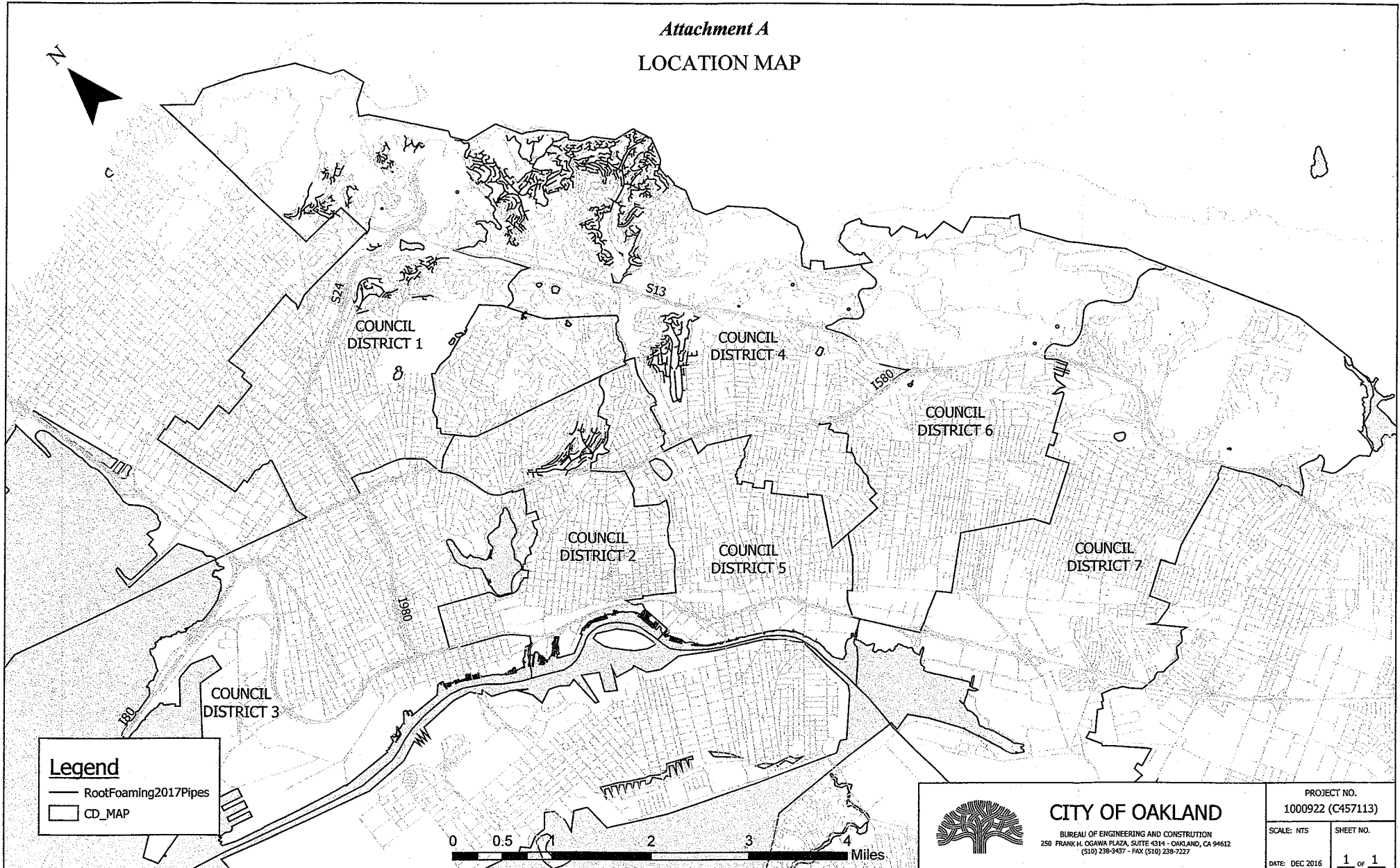
Prepared by:
Mi Kyung Lew, P.E., Civil Engineer
Engineering Design and R.O.W. Mgmt Division

Attachments (4):

- A: Project Location Map*
- B: Project Construction Schedule*
- C: Contracts & Compliance Unit Compliance Evaluation*
- D: Contractor Performance Evaluation*

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Attachment A
LOCATION MAP



Sanitary Sewer Root Foaming FY16-19
(Project No. 1000922)

Company	Location	FY 2016-17	FY 2017-18	FY 2018-19	Total Bid Amount
Duke's Root Control, Inc.	Syracuse, NY	\$584,530.50	\$600,370.00	\$627,520.00	\$1,812,420.50
Root Tamers, Inc.	Brookings, OR	\$677,652.80	\$660,900.00	\$660,900.00	\$1,999,452.80

ID	Task Name	Start	Finish	2017					2018					2019					
				Jan	Mar	May	Jul	Sep	Nov	Jan	Mar	May	Jul	Sep	Nov	Jan	Mar	May	Jul
1	Project No. 1000922	Mon 4/3/17	Fri 6/28/19																
2	Root Foaming FY16-17	Mon 4/3/17	Fri 6/30/17																
3	Root Foaming FY17-18	Mon 7/3/17	Fri 6/29/18																
4	Root Foaming FY18-19	Mon 7/2/18	Fri 6/28/19																



INTER OFFICE MEMORANDUM

TO: Mi Kyung Lew
Civil Engineer

FROM: Deborah Barnes, *Deborah Barnes*
Director, Contracts & Compliance

SUBJECT: Compliance Analysis
Sanitary Sewer Root Foaming FY 2016-2019
Project No. 1000922

DATE: January 30, 2017

The City Administrator's Office, Contracts and Compliance Unit reviewed two (2) bids in response to the above referenced project. At the request of the initiating agency an availability analysis was performed for the above referenced project. Based on the results of an availability analysis, the 50% L/SLBE participation requirement has been waived.

Contracts & Compliance also reviews for compliance with the Equal Benefits Ordinance. There is also a brief overview of compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program by the lowest compliant bidder on their most recently completed City of Oakland project.

Compliant with L/SLBE and/or EBO Policies		Proposed Participation					Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE/LPG	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Duke's Root Control, Inc.	\$1,812,420.50	0%	0%	0%	0%	0%	0%	0%	\$0	Y
Root Tamers, Inc.	\$1,999,452.80	0%	0%	0%	0%	0%	0%	0%	\$0	Y

Comments: Based on the results of an availability analysis, the 50% L/SLBE participation requirement has been waived. The firm is EBO compliant.



For Informational Purposes

Listed below is the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

Contractor Name: Duke's Root Control
Project Name: Sanitary Sewer Root Foaming FY 2016-2019
Project No:

50% Local Employment Program (LEP)

Was the 50% LEP Goal achieved?	NA	If no, shortfall hours?	
Were all shortfalls satisfied?	NA	If no, penalty amount	

15% Oakland Apprenticeship Program

Was the 15% Apprenticeship Goal achieved?	NA	If no, shortfall hours?	
Were shortfalls satisfied?	NA	If no, penalty amount?	

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E) # resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

		50% Local Employment Program (LEP)							15% Apprenticeship Program			
Total Project Hours	Core Workforce Hours Deducted	LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Oakland Apprenticeship Hours Achieved	Apprenticeship Goal and Hours		Apprentice Shortfall Hours
A	B	C		D		E	F	G	H	I		J
		Goal	Hours	Goal	Hours					Goal	Hours	
NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Comments: Both the LEP and Apprenticeship Utilization programs were waived for this project.

Should you have any questions, you may contact Sophany Hang, Contract Compliance Officer at (510) 238-3723.

CITY ADMINISTRATOR'S OFFICE

Contracts and Compliance Unit



PROJECT COMPLIANCE EVALUATION FOR :

Project No. 1000922

RE:

SANITARY SEWER ROOT FOAMING FY 2016-2019

CONTRACTOR: Duke's Root Control, Inc.

Engineer's Estimate:
\$2,042,705.00

Contractors' Bid Amount
\$1,812,420.50

Over/Under Engineer's Estimate
\$230,284.50

Discounted Bid Amount:

NA

Amt. of Bid Discount
NA

Discount Points:

NA

1. Did the 50% local/small local requirement apply: **NO**
2. Did the contractor meet the 50% requirement **NA**
 - a) % of LBE participation **0.00%**
 - b) % of SLBE participation **0.00%**
 - c) % of VSLBE participation **0.00%**
3. Did the contractor meet the Trucking requirement? **NA**
 - a) Total L/SLBE trucking participation **0.00%**
 - a) Total VSLBE trucking participation **0.00%**
4. Did the contractor receive bid discount points? **NA**

(If yes, list the points received) **0%**

5. Additional Comments.

At the request of the Initiating agency an availability analysis was performed for this project. Based on the results the Local and Small Local Business Enterprise (L/SLBE) Program requirements were waived.

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

1/30/2017

Reviewing Officer:

Vivian Anna

Date: 1/30/2017

Approved By: Shondae Darenberg

Date: 1/30/2017

LBE/SLBE Participation Bidder 1

Project Name:		SANITARY SEWER ROOT FOAMING FY 2016-2019													
Project No.:		1000922		Engineer's Estimate			2,042,705.00			Under/Over Engineers Estimate:			230,284.50		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG	Total LBE/SLBE	VSLBE Trucking	L/SLBE Trucking	Total Trucking	TOTAL Dollars				
												Ethn.	MBE	WBE	
PRIME	Duke's Root Control, Inc.	Syracuse	UB								1,812,420.50	NL			
Project Totals				0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	1,812,420.50 100.00%		0.00 0.00%	0.00 0.00%	
Requirements: The 50% requirements is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% requirements and aVSLBE/LPP firm can be counted double towards achieving the 50% requirement.				LBE 25%	SLBE 25%	VSLBE/LPG	TOTAL LBE/SLBE	VSLBE Trucking	L/SLBE TRUCKING	TOTAL DOLLARS	Ethnicity AA = African American A = Asian AI = Asian Indian AP = Asian Pacific C = Caucasian AP = Asian Pacific H = Hispanic NA = Native American O = Other NL = Not Listed				
Legend <div style="display: flex; justify-content: space-between;"> <div> LBE = Local Business Enterprise SLBE = Small Local Business Enterprise VSLBE-Very Small Local Business Enterprise LPG = Locally Produced Goods Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise </div> <div> UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise </div> </div>															

CITY ADMINISTRATOR'S OFFICE



Contracts and Compliance Unit

PROJECT COMPLIANCE EVALUATION FOR :

Project No. 1000922

RE:

SANITARY SEWER ROOT FOAMING FY 2016-2019

CONTRACTOR: Root Tamers, Inc.

Engineer's Estimate:

\$2,042,705.00

Contractors' Bid Amount

\$1,999,452.80

**Over/Under Engineer's
Estimate**

\$43,252.20

Discounted Bid Amount:

NA

Amt. of Bid Discount

NA

Discount Points:

NA

1. Did the 50% local/small local requirement apply:

NO

2. Did the contractor meet the 50% requirement

NO

a) % of LBE participation

0.00%

b) % of SLBE participation

0.00%

c) % of VSLBE participation

0.00%

3. Did the contractor meet the Trucking requirement?

NA

a) Total L/SLBE trucking participation

0.00%

a) Total VSLBE trucking participation

0.00%

4. Did the contractor receive bid discount points?

NA

(If yes, list the points received)

0%

5. Additional Comments.

At the request of the initiating agency an availability analysis was performed for this project. Based on the results the Local and Small Local Business Enterprise (L/SLBE) Program requirements were waived.

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

1/30/2017

Date

**Reviewing
Officer:**

Date: 1/30/2017

Approved By:

Date: 1/30/2017

LBE/SLBE Participation Bidder 2

Project Name:		SANITARY SEWER ROOT FOAMING FY 2016-2019													
Project No.:		Engineer's Estimate		2,042,105.00		Under/Over Engineers Estimate:		42,652.20							
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG	Total LBE/SLBE	VSLBE Trucking (2x Value)	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethn.	MBE	WBE	
PRIME	Root Tamers, Inc.	Brookings	UB								1,999,452.80	NL			
Project Totals				0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	0.00 0.00%	1,999,452.80 100.00%		0.00 0.00%	0 0.00%	
Requirements: The 50% requirements is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% requirements and a VSLBE/LPP firm can be counted double towards achieving the 50% requirement.				LBE 25%	SLBE 25%	*VSLBE/LPG	TOTAL LBE/SLBE	VSLBE TRUCKING	L/SLBE TRUCKING	TOTAL DOLLARS	Ethnicity AA = African American A = Asian AI = Asian Indian AP = Asian Pacific C = Caucasian AP = Asian Pacific H = Hispanic NA = Native American O = Other NL = Not Listed				
Legend LBE = Local Business Enterprise SLBE = Small Local Business Enterprise VSLBE = Very Small Local Business Enterprise LPG = Locally Produced Goods 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											

Attachment D

**Schedule L-2
City of Oakland
Public Works Agency
CONTRACTOR PERFORMANCE EVALUATION**

Project Number/Title: C457112 Sanitary Sewer Root Foaming FY 2015-16

Work Order Number (if applicable): _____

Contractor: Duke's Root Control, Inc.

Date of Notice to Proceed: April 11, 2016

Date of Notice of Completion: January 10, 2017

Date of Notice of Final Completion: January 10, 2017

Contract Amount: \$599,430.15

Evaluator Name and Title: Paul Tran, Resident Engineer

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than \$50,000. Narrative responses are required to support any evaluation criteria that are rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

ASSESSMENT GUIDELINES:

Outstanding (3 points)	Performance among the best level of achievement the City has experienced.
Satisfactory (2 points)	Performance met contractual requirements.
Marginal (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
Unsatisfactory (0 points)	Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
WORK PERFORMANCE						
1	Did the Contractor perform all of the work with acceptable Quality and Workmanship?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1a	If problems arose, did the Contractor provide solutions/coordinate with the designers and work proactively with the City to minimize impacts? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Was the work performed by the Contractor accurate and complete? If "Marginal or Unsatisfactory", explain on the attachment and provide documentation. Complete (2a) and (2b) below.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2a	Were corrections requested? If "Yes", specify the date(s) and reason(s) for the correction(s). Provide documentation.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
2b	If corrections were requested, did the Contractor make the corrections requested? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Was the Contractor responsive to City staff's comments and concerns regarding the work performed or the work product delivered? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Were there other significant issues related to "Work Performance"? If Yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
5	Did the Contractor cooperate with on-site or adjacent tenants, business owners and residents and work in such a manner as to minimize disruptions to the public. If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Did the personnel assigned by the Contractor have the expertise and skills required to satisfactorily perform under the contract? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Overall, how did the Contractor rate on work performance? The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

TIMELINESS

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
8	Did the Contractor complete the work within the time required by the contract (including time extensions or amendments)? If "Marginal or Unsatisfactory", explain on the attachment why the work was not completed according to schedule. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Was the Contractor required to provide a service in accordance with an established schedule (such as for security, maintenance, custodial, etc.)? If "No", or "N/A", go to Question #10. If "Yes", complete (9a) below.			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
9a	Were the services provided within the days and times scheduled? If "Marginal or Unsatisfactory", explain on the attachment and specify the dates the Contractor failed to comply with this requirement (such as tardiness, failure to report, etc.). Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Did the Contractor provide timely baseline schedules and revisions to its construction schedule when changes occurred? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Did the Contractor furnish submittals in a timely manner to allow review by the City so as to not delay the work? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Were there other significant issues related to timeliness? If yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
13	Overall, how did the Contractor rate on timeliness? The score for this category must be consistent with the responses to the questions given above regarding timeliness and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

FINANCIAL

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
14	Were the Contractor's billings accurate and reflective of the contract payment terms? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected invoices).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	<p>Were there any claims to increase the contract amount? If "Yes", list the claim amount. Were the Contractor's claims resolved in a manner reasonable to the City?</p> <p>Number of Claims: _____</p> <p>Claim amounts: \$ _____</p> <p>Settlement amount: \$ _____</p>				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
16	Were the Contractor's price quotes for changed or additional work reasonable? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected price quotes).				<input type="checkbox"/>	<input type="checkbox"/>
17	Were there any other significant issues related to financial issues? If Yes, explain on the attachment and provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
18	<p>Overall, how did the Contractor rate on financial issues?</p> <p>The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines.</p> <p>Check 0, 1, 2, or 3.</p>				0 <input type="checkbox"/>	1 <input type="checkbox"/>

Unsatisfactory
Marginal
Satisfactory
Outstanding
Not Applicable

COMMUNICATION

19	Was the Contractor responsive to the City's questions, requests for proposal, etc.? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	Did the Contractor communicate with City staff clearly and in a timely manner regarding:					
20a	Notification of any significant issues that arose? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20b	Staffing issues (changes, replacements, additions, etc.)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20c	Periodic progress reports as required by the contract (both verbal and written)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20d	Were there any billing disputes? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
21	Were there any other significant issues related to communication issues? Explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
22	Overall, how did the Contractor rate on communication issues? The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

SAFETY

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
23	Did the Contractor's staff consistently wear personal protective equipment as appropriate? If "No", explain on the attachment.				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
24	Did the Contractor follow City and OSHA safety standards? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	Was the Contractor warned or cited by OSHA for violations? If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
26	Was there an inordinate number or severity of injuries? Explain on the attachment. If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
27	Was the Contractor officially warned or cited for breach of U.S. Transportation Security Administration's standards or regulations? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
28	Overall, how did the Contractor rate on safety issues? The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

OVERALL RATING

Based on the weighting factors below, calculate the Contractor's overall score using the scores from the four categories above.

1. Enter Overall score from Question 7	<u>2.0</u>	X 0.25 =	<u>0.50</u>
2. Enter Overall score from Question 13	<u>2.0</u>	X 0.25 =	<u>0.50</u>
3. Enter Overall score from Question 18	<u>2.0</u>	X 0.20 =	<u>0.40</u>
4. Enter Overall score from Question 22	<u>2.0</u>	X 0.15 =	<u>0.30</u>
5. Enter Overall score from Question 28	<u>2.0</u>	X 0.15 =	<u>0.30</u>

TOTAL SCORE (Sum of 1 through 5): 2.0

OVERALL RATING: 2.0

Outstanding: Greater than 2.5
Satisfactory: Greater than 1.5 & less than or equal to 2.5
Marginal: Between 1.0 & 1.5
Unsatisfactory: Less than 1.0

PROCEDURE:

The Resident Engineer will prepare the Contractor Performance Evaluation and submit it to the Supervising Civil Engineer. The Supervising Civil Engineer will review the Contractor Performance Evaluation to ensure adequate documentation is included, the Resident Engineer has followed the process correctly, the Contractor Performance Evaluation has been prepared in a fair and unbiased manner, and the ratings assigned by the Resident Engineer are consistent with all other Resident Engineers using consistent performance expectations and similar rating scales.

The Resident Engineer will transmit a copy of the Contractor Performance Evaluation to the Contractor. Overall Ratings of Outstanding or Satisfactory are final and cannot be protested or appealed. If the Overall Rating is Marginal or Unsatisfactory, the Contractor will have 10 calendar days in which they may file a protest of the rating. The Public Works Agency Assistant Director, Design & Construction Services Department, will consider a Contractor's protest and render his/her determination of the validity of the Contractor's protest. If the Overall Rating is Marginal, the Assistant Director's determination will be final and not subject to further appeal. If the Overall Rating is Unsatisfactory and the protest is denied (in whole or in part) by the Assistant Director, the Contractor may appeal the Evaluation to the City Administrator, or his/her designee. The appeal must be filed within 14 calendar days of the Assistant Director's ruling on the protest. The City Administrator, or his/her designee, will hold a hearing with the Contractor within 21 calendar days of the filing of the appeal. The decision of the City Administrator regarding the appeal will be final.

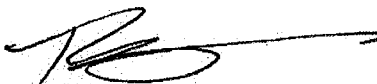
Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for any projects the Contractor bids on for a period of one year from the date of the Unsatisfactory Overall Rating. Two Unsatisfactory Overall Ratings within any five year period will result in the Contractor being categorized by the City Administrator as non-

responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.

Any Contractor that receives an Unsatisfactory Overall Rating is required to attend a meeting with the City Administrator, or his/her designee, prior to returning to bidding on City projects. The Contractor is required to demonstrate improvements made in areas deemed Unsatisfactory in prior City of Oakland contracts.

The Public Works Agency Contract Administration Section will retain the final evaluation and any response from the Contractor for a period of five years. The City shall treat the evaluation as confidential, to the extent permitted by law.

COMMUNICATING THE EVALUATION: *The Contractor's Performance Evaluation has been communicated to the Contractor. Signature does not signify consent or agreement.*

 1/26/17
Contractor / Date

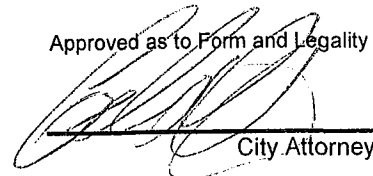
 1/12/17
Resident Engineer / Date

 1/12/17
Supervising Civil Engineer / Date

ATTACHMENT TO CONTRACTOR PERFORMANCE EVALUATION:

Use this sheet to provide any substantiating comments to support the ratings in the Performance Evaluation. Indicate before each narrative the number of the question for which the response is being provided. Attach additional sheets if necessary.

OAKLAND CITY COUNCIL


City Attorney

2017 MAR -2 PM 1:44

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION REJECTING ALL BIDS, WAIVING FURTHER COMPETITIVE BIDDING, AND AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE WITH DUKE'S ROOT CONTROL, INC., THE LOWEST BIDDER, AND EXECUTE A CONSTRUCTION CONTRACT FOR SANITARY SEWER ROOT FOAMING SERVICES FISCAL YEAR 2016 TO 2019 (PROJECT NO. 1000922) IN THE AMOUNT OF ONE MILLION EIGHT HUNDRED TWELVE THOUSAND FOUR HUNDRED TWENTY DOLLARS AND FIFTY CENTS (\$1,812,420.50)

WHEREAS, on January 19, 2017, two bids were received by the Office of the City Clerk of the City of Oakland for the Sanitary Sewer Root Foaming FY 2016-19 (Project No. 1000922), and both bidders (Duke's Root Control, Inc. and Root Tamers, Inc.) were deemed non-responsive for failing to acknowledge Addendum 1; and

WHEREAS, Section 2.04.050 I.5 of the Oakland Municipal Code ("O.M.C.") authorizes the City Council to waive the advertising and competitive bidding requirements of O.M.C. Section 2.04.050 upon a finding and determination that in the best interests of the City to reject all bids, waive further advertising and competitive bidding, and authorizing the City Administrator, or Designee, to negotiate with bidders; and

WHEREAS, rebidding of the project will incur additional time and cost that will compress the completion time; and rebidding may impact the City's compliance with the Regional East Bay Sewer Consent Decree of 2014 deadlines; 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 that this contract is of a professional, scientific or technical nature; 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 service now, therefore, be it

RESOLVED: That pursuant to O.M.C. Section 2.04.050 I.5 the City Council hereby finds and determines that it is in the best interest of the City to waive the advertising and competitive bidding requirements of O.M.C. Section 2.04.050 to avoid delays and complete the project in a timely manner as required by the Regional East Bay Sewer Consent Decree of 2014; and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate with Duke's Root Control, Inc., award and execute a construction contract for the Sanitary Sewer Root Foaming Services FY 2016-19 (Project No. 10009222) in the amount of One Million Eight Hundred Twelve Thousand Four Hundred Twenty Dollars and

Fifty Cents (\$1,812,420.50) in accord with plans and specifications for the Project; and be it

FURTHER RESOLVED: That the amount of the bond for faithful performance bond, \$1,812,420.50, and the bond to guarantee payment of all claims for labor and materials furnished and for the amount under the Unemployment Insurance Act, \$1,812,420.50, with respect to such work is hereby approved; and be it

FURTHER RESOLVED: That a total of \$1,812,420.50 is included in the Capital Improvement Program baseline budget, with \$584,530.50 already awarded in FY 2016-17 in Fund 3100 Sewer Service Fund, Organization 92244 Sanitary Sewer Design Organization, Award No. 21802, and \$600,370.00 and \$627,520.00 for FY 2017-18 and FY 2018-19, respectively, will be available contingent upon funding and budget adoption in June 2017; and this project will help reduce the amount of sanitary sewer maintenance requirement; and be it

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

FURTHER RESOLVED: That the City Administrator, or designee, is hereby authorized to negotiate with the second lowest bidder for the same awarded amount, if Duke's Root Control, Inc. fails to return the complete signed contract documents and supporting documents within the days specified in the Special Provision without going back to City Council; and be it

FURTHER RESOLVED: That the plans and specifications prepared for this project, including any subsequent changes during construction, that will be reviewed and adopted by the Director, or designee, are hereby approved; and be it

FURTHER RESOLVED: That all bids are hereby rejected; 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 - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California