



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: Jason Mitchell
Director, Public Works

SUBJECT: Oakland Animal Services HVAC and
EMS Systems Replacement Project

DATE: April 27, 2020

City Administrator Approval

Date: 5-12-2020

RECOMMENDATION

Staff Recommends That City Council Adopt A Resolution Rejecting All Bids, Waiving Further Advertising And Competitive Bidding, Authorizing The City Administrator, Or Designee, To Negotiate, Award, And Execute A Construction Contract Without Return To Council For An Amount Not To Exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) In The Open Market For The Construction Of The Oakland Animal Services Heating Ventilation And Cooling And Energy Management Systems Replacement Project (Number 1003449), In Accordance With Project Plans And Specifications And Contractor's Bid.

EXECUTIVE SUMMARY

The City issued a Notice of Inviting Bids on October 25, 2019, for the Oakland Animal Services (OAS) Heating, Ventilation, and Cooling (HVAC) System and Energy Management System (EMS) Replacement project on October 25, 2019. The project is one of the Measure KK – Affordable Housing and Infrastructure Bond projects approved in Fiscal Year 2017-19 Capital Improvement Program. See **Attachment A** for Project Location Map. Two bids were received on November 14, 2019. Both bids were non-responsive due to exceeding the available construction budget for the project and non-compliance with the L/SLBE participation requirements. See **Attachment B** - Contract Compliance Memo, dated December 27, 2019.

Prior to issuing for bid a second time, an Availability Analysis conducted by Contract Compliance was completed on January 30, 2020. See **Attachment C** – Contract Compliance Availability Analysis Memo. Based on the findings of the Availability Analysis, the City's Local and Small Local Business requirements were waived.

The project was rebid on February 7, 2020, with three bids received on February 27, 2020. All three bids were well over the engineer's estimate and available construction budget and were therefore deemed non-responsive. See **Attachment D** – Contract Compliance Memo, dated March 31, 2020.

Approval of this 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 on the open market in an amount not to exceed \$1,400,000.00.

City Council
May 19, 2020

The project includes the removal and disposal of the existing HVAC and EMS systems and installation of the new systems, including associated roof patching, electrical wiring and system enclosure installation.

BACKGROUND / LEGISLATIVE HISTORY

In November 2016, the Measure KK General Obligation Bond was approved by the voters of Oakland to fund \$600 million of vital infrastructure improvements and Anti-Displacement and Affordable Housing Projects. On May 30, 2017, staff recommended to City Council the Fiscal Year 2017-19 Capital Improvement Program (CIP), including projects proposed to be funded with Measure KK bond funds. On June 19th, the City Council approved the list of projects for bond funding with Resolution No. 86773 C.M.S. On August 1, 2017, the Measure KK, Series 2017A-1 General Obligation Bond (the "Bond") was funded in the amount of \$62.735 million, of which \$1,650,000.00 was allocated to the Oakland Animal Services HVAC and EMS Replacement Project. These funds were appropriated in the FY 2017-19 budget.

The project was developed in partnership between Oakland Animal Services (OAS) and Oakland Public Works. The scope of the initial project proposal request was to replace the OAS building's HVAC system. In consultation with the client department, it became clear that the EMS, necessary to control the HVAC equipment, was outdated, inefficient, and insufficient to meet the needs of the building and a new HVAC system. It was decided to incorporate the scope to include a new EMS.

The project construction plans have been reviewed by Building Services and have issued the required mechanical and electrical permits.

ANALYSIS AND POLICY ALTERNATIVES

The Oakland Animal Services HVAC and EMS Replacement Project (No. 1003449) was first advertised for bid on October 25, 2019. Notifications were distributed by several means:

- the City of Oakland iSupplier system which includes City certified firms, registered General Contractors, plan rooms and builder's exchange, totaling over 300 notices
- printed legal notice in the Oakland Tribune, Daily Pacific Builder, El Mundo, Oakland Post, The Korea Times and the World Journal publications
- posting on CIPlist.com, which distributes to registered plan rooms and builders' exchanges

On November 19, 2019, the City Clerk received two bids for this project from general contractors for the Oakland Animal Services HVAC and EMS Replacement project as shown on **Attachment B**: Bid Summary and as shown below:

Project Bids Received:

| Company | Bid Amount |
|------------------|----------------|
| Bay Construction | \$1,751,000.00 |
| Saboo, Inc. | \$1,388,420.00 |

Engineer's Estimate **\$970,000.00**

The City Administrator's Office, Contracts and Compliance Division deemed both bidders, as non-compliant with the City's local business enterprise program as shown on **Attachment B: Compliance Analysis**, dated December 24, 2019. Bay Construction exceeded the minimum Local/Small Local Business Enterprises (L/SLBE) participation requirement but failed to meet the 50% trucking requirement. Saboo, Inc. failed to meet the City's minimum S/LBE requirements and the 50% trucking requirement. Both of the submitted bids greatly exceeded the City's available construction budget and are therefore non-responsive. The lowest compliant bid exceeded the engineer's estimate by 43%, or \$418,420.00. The engineer's estimate was developed by the design consultant's cost estimator. The City had insufficient funds to complete the project for the lowest bid amount.

An Availability Analysis was completed on January 30, 2020. The results indicated that there were four (4) certified firms. All firms were contacted by both telephone and email. Two of the firms indicated that they would bid, one as a prime and one as a sub. Another firm said it does not perform the service, and the other did not respond to the email nor return the telephone message.

Based on the "Rule of Three," there must be at least three certified businesses listed in the trade or profession that constitutes a major category of work. If at least three L/SLBEs are not certified, then the requirement is either waived, or the 50% requirement may be set from 49% to 0%. Based on the above, the L/SLBE minimum participation requirement of 50% was waived. See Attachment C – Contract Compliance Availability Analysis, dated January 30, 2020.

The project was rebid on February 7, 2020. The license requirement was changed from General Contractors A or B license to an HVAC installer license, C-20 requirement. The rebid notifications were distributed through the same avenues as the first bid. Additionally, staff sent out notices to a list of 62 HVAC installers possessing the required C-20 license.

On February 27, 2020, three bids were received. The lowest bid was 80.90% over the engineer's estimate. See **Attachment C – Contract Compliance Memo**, dated March 31, 2020.

Project Bids Received:

| Company | Bid Amount |
|--------------------------------|----------------|
| Heathorn & Associates | \$1,754,735.00 |
| Bay Construction | \$1,781,000.00 |
| American Chiller Service, Inc. | \$1,924,375.00 |

Engineer's Estimate **\$970,000.00**

Pursuant to Oakland Municipal Code (OMC) Section 2.04.050, which requires advertising and competitive bidding for contracts that exceed \$50,000; section 2.04.050.I.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. Rebidding the project would delay the construction start by at least six months and would likely not result in more competitive bids.

Thus, in accordance with OMC 2.04.050.I.5, staff recommends that it is in the City's best interest to waive further advertising and competitive bidding. The City will negotiate to secure a contract in the open market that is within the project budget, and that meets the City's contract compliance and program requirements. Staff will initiate negotiations with the lowest bidder that met the City's local requirements from the second round of bidding, which focused on contractors with the HVAC installer license, C-20, as 80% of the scope of work is specific to this specialty. It may be necessary to revise the scope of the project to secure a contract within the available budget. If negotiations with the lowest bidder are not successful, staff will begin negotiations with the next lowest bidder.

FISCAL IMPACT

Approval of this resolution authorizes the City Administrator to negotiate, award, and execute a construction contract in an amount not to exceed One Million Four Hundred Thousand dollars (\$1,400,000.00). Funding for this contract was budgeted in the FY 2017-21 Adopted Budget and is available in the Measure KK: Infrastructure and Affordable Housing Fund (5330), A Shelter – Rep HVAC & Energy Project (1003449), Engineer Design: Project Management Organization (92270), and Project Delivery Program (IN06).

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

PUBLIC OUTREACH / INTEREST

The project was publicly bid twice. OPW-PDD engaged OPW Contract Services and the Office of the City Administrator - Contract & Compliance Division for assistance with the bid process. The bid was advertised on October 25, 2019, and February 7, 2020. Notifications were distributed by several means:

- The City of Oakland *iSupplier* system, which includes registered contractors, plan rooms, and builder's exchanges including the Oakland Metropolitan Chamber of Commerce, Oakland Black Board of Trade & Commerce, Bay Area Business Roundtable, and Construction Bidboard.
- Posting on CIPlist.com, which distributes to registered plan rooms and builders' exchanges widely accessed and redistributed by other listserve business organizations that provide notice of Bid opportunities to local firms.

- Printed legal notices in the East Bay Times, Oakland Tribune, SF Chronicle, Oakland Post, El Mundo, East Bay Express, World Journal and the Korea Times.
- Additionally, over 60 mailers were sent to Bay Area HVAC installers possessing the required C-20 license for the second public bid.

COORDINATION

The work to be contracted has been coordinated with OAS, Contract and Compliance Division, and appropriate divisions within OPW.

This report and the resolution have been reviewed for form and legality by the Office of the City Attorney, the Budget Bureau, and the Contract Compliance Division of the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: The capital project replaces an inefficient, aging, and inappropriately sized HVAC system along with the aging EMS system to improve cooling and heating at the Oakland Animal Services (OAS) building. The project will contribute to the local economy through the construction contract. The contractor will comply with the required City contract compliance and program requirements.

Environmental: The new HVAC and EMS systems will improve the energy efficiency at the Oakland Animal Services building and ensure the proper environment for the well beings of staff, visitors, and animals. The contractor is required to comply with the City's Waste Recycling and Re-use Plan (WRRP).

Social Equity: The HVAC and EMS improvements will benefit not only the staff and volunteers who serve at the OAS building, but they will also improve the conditions for the animals housed there. The project is part of the continued facilities capital program to update aging facilities and improve City assets to provide equitable access for community members and their pets.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a resolution rejecting all bids, waiving further advertising and competitive bidding, authorizing the City Administrator, or designee, to negotiate, award, and execute a construction contract without return to Council for an amount not to exceed one million four hundred thousand dollars (\$1,400,000.00) in the open market for the construction of the Oakland Animal Services HVAC and EMS Replacement Project (number 1003449), in accordance with project plans and specifications.

For questions regarding this report, please contact Ali Schwarz, Capital Improvement Project (CIP) Coordinator at (510) 238-7310.

Respectfully submitted,



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Director, Oakland Public Works

Reviewed by:

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Attachments (4):

- A: *Project Location Map*
- B: *Contract Compliance Analysis Memo, dated 12-27-2019*
- C: *Availability Analysis by Contracts & Compliance Division dated 01-30-2020*
- D: *Compliance Analysis by Contracts & Compliance Division dated 03-32-2020*