



Santa Clara Valley Water District

File No.: 17-0885

Agenda Date: 7/10/2018

Item No.: *6.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Report of Bids Received and Award of Construction Contract to PMK Contractors, LLC in the sum of \$1,650,750 for Construction of the Matadero Creek Sediment Removal and Erosion Repair Project from West Bayshore Road to Louis Road (Palo Alto); and San Tomas Aquino Creek Erosion Repair Project, from Virginia Avenue to Smith Creek confluence (San Jose and Campbell), and from Williams Road to USGS Gage (San Jose), Project No. 62084001, Task No. 5188, Contract No. C0642, (Palo Alto, Campbell, and San Jose) (District 2, 4, and 7).

RECOMMENDATION:

- A. Ratify Addenda No.1, No. 2, No. 3 and No. 4 to the Contract Documents for the Matadero Creek Sediment Removal & Erosion Repair and San Tomas Aquino Creek Erosion Repair Project (Project);
- B. Approve the District paying additional Project costs up to \$288,447 for rebuilding the damaged bank under West Bayshore Road at Matadero Creek exceeding funds provided by an Agreement between City of Palo Alto and District;
- C. Waive a minor irregularity in PMK Contractors, LLC's bid;
- D. Award the Construction Contract to PMK Contractors, LLC in the sum of \$1,650,750 subject to approval of the Notice of Proposed Work under the Stream Maintenance Program 2; and
- E. Approve a contingency sum of \$165,075 and authorize the Chief Executive Officer (CEO) or designee to approve individual change orders up to the designated amount; or
- F. Reject all bids.

SUMMARY:

During FY2017, the Watersheds Operations and Maintenance Division (Watersheds O&M) requested Watersheds Design and Construction Division (Watersheds Capital) to design and construct Matadero Creek Sediment Removal and Erosion Repair Project, from West Bayshore Road to Louis Road within the City of Palo Alto; and San Tomas Aquino Creek Erosion Repair Project, from Virginia Avenue to Smith Creek confluence within the City of San Jose and City of Campbell, and from Williams Road to USGS Gage within the City of San Jose (Project Location Map, Attachment 1).

The Project scope of work (SOW) includes:

- A) Rebuilding the damaged concrete lining on the left bank (looking upstream) under West Bayshore

Road at Matadero Creek;

B) Removing sediment from West Bayshore Road to Louis Road at Matadero Creek;

C) Rehabilitating the damaged concrete channel bed at San Tomas Aquino Creek from Virginia Avenue to Smith Creek confluence; and

D) Rehabilitating the damaged concrete channel bed at San Tomas Aquino Creek from Williams Road to USGS Gage.

This Project will be implemented using the District's existing Stream Maintenance Program 2 (SMP-2) Permits. Each year the District submits a list of proposed projects to SMP-2 regulators for their approval of work to be implemented during the summer season (June 15 - October 15). Staff submitted a Notice of Proposed Work (NPW) in February 2018 to the regulators for early approval of this Project to be performed under the SMP-2 Permits and per verbal assurance, staff anticipates receipt of regulatory approval the week of July 9.

This Project will be implemented under the District's existing Stream Maintenance Program 2 (SMP-2) Permits.

Addendum Ratification

Four Addenda (Attachments 2, 3, 4 and 5) were issued during the bid period to clarify the Project Contract Documents and answer bidders' questions. To formally incorporate the addenda into the Project Contract Documents, staff recommends that the Board ratify these addendums.

Waiver of Minor Irregularities in PMK Contractors, LLC's bid

Per the Notice to Bidders, paragraph 14, the District reserves its right to reject any and all bid proposals and to waive minor defects or irregularities in any submitted Bid Form (s). On Bid Form 1, Proposal and Bid Items, the contractor's bid had a typo where he acknowledged receiving the addenda. Although he incorrectly numbered one of the addenda, based on the dates entered for receipt, it is clear all four were received and receipt acknowledged. This error does not affect the bidders price or ability to perform the work and is not material.

The District's waiver of the minor irregularity does not result in the bid process being unfair or give the firm an unfair advantage over other bidders. The public's best interest is served by waiving the minor irregularity.

Contract Award

Three bid proposals were received and opened on July 3, 2018. The bid proposals are summarized in Table 1 - Bid Results.

Staff has reviewed the bid proposals and recommends that the construction contract for the Project

be awarded to PMK Contractors, LLC for the following reasons:

1. All bid entries and requirements in the proposal submitted by PMK Contractors, LLC are in order;
2. PMK Contractors, LLC's license is current, active and in good standing;
3. PMK Contractors, LLC is in compliance with the requirements of the California Labor Code section 1771.1. PMK Contractors, LLC and its subcontractors are registered with the California Department of Industrial Relations and qualified to perform public works pursuant to section 1725.5 of the Labor Code; and
4. PMK Contractors, LLC has complied with the District's Small Business Enterprise (SBE) Outreach Program by submitting a Good Faith Effort that complies with the requirements of the contract.

Table 1 - Bid Results

Company, Location	Bid Amount	Award Amount
PMK Contractors, LLC	\$1,650,750.00	\$1,650,750.00
Granite Rock Company	\$2,136,210.00	
RGW Construction, Inc.	\$3,878,000.00	
Engineer's Estimate: \$1,386,850.00		

Contingency Funds

If the Board awards the contract, staff recommends approval of \$165,075.00 (10% of the contract price) in contingency funds for the Project to allow staff to quickly address unforeseen or changed site conditions and other unanticipated occurrences, without causing unnecessary delays or consequential costs to the Project.

The contingency amount was estimated due to known and unknown risks, such as:

1. Unanticipated variances in quantities and cost of various lump sum items estimated in the Bid Proposal;
2. Differing site conditions;
3. Concealed conditions and/or field conditions that may be different from the baseline or as-built information used in preparation of Project Contract Documents;
4. Coordination issues and risks associated with weather conditions and unplanned water releases in to the creek; and
5. Potential delays in utility relocations and shut down by utility companies.

Approval of individual change orders will be made up to the designated amounts as

follows:

Engineering Unit Manager: \$50,000.00

Deputy Operating Officer: Up to the total amount of the contingency

Public Outreach

During construction, steps will be taken to minimize impacts associated with the Project, such as noise and construction traffic. Before beginning the construction, a Project flyer will be mailed to the neighborhood community, informing them of potential issues, as appropriate. Project Contract Documents include requirements and measures to minimize impacts during the construction.

Outreach to Bidders

The Notice to Bidders was sent to certified Small Business Contractors that have the appropriate license. Chambers of Commerce, and plan rooms (Builder Exchanges) and District's own web site were used to solicit interest in the Project work from prospective Contractors. Contractors were contacted through the Building Construction & Trades Council, and contractors were contacted using the District's own Master Contractor Database.

Agreement with City of Palo Alto

The District and City of Palo Alto (City) entered an agreement (Agreement) dated June 28th, 2018, that provides for the District to make repairs to the damaged concrete channel lining described in the scope of work Item A above, on behalf of the City following City actions that resulted in damages to the concrete lining. Palo Alto agreed to fund District's reasonable costs for administration, design, and construction as in an amount not-to-exceed \$124,842.00. Unfortunately, the contract price for this work exceeds this amount by \$288,447.00, which is the additional amount the District would have to pay if Palo Alto does not agree to increase its funding for the repair (see Recommendation B above).

The Agreement provides for the parties to negotiate the final cost share amount if the actual amount exceeds \$124,842.00. Staff initiated negotiations with the City of Palo Alto on July 5th, 2018 regarding this cost differential and will inform the Board of the status of this matter at its meeting on July 10, 2018. If there is no outcome by that time, staff will submit a CEO Bulletin entry later to update the Board. The Agreement will be amended should Palo Alto agree to increase its funding toward the Project costs resulting from the contract award.

Next Steps

If the Board awards the contract, staff will proceed with administering the Project construction.

If the Board rejects all bids, the Project will be re-advertised next year.

There will be additional staff time and cost for administrating the advertising and award of the contract for next year and potential increase in construction cost due to escalation cost of construction materials and due to next year's market conditions.

FINANCIAL IMPACT:

The cost of construction for the Project is \$1,815,825.00 including the recommended contingency funds which is consistent with the FY 2019-23 Capital Improvement Program. There are sufficient funds available in the FY2018-19 Project budget to cover this cost. The funding source for the Project is the Watersheds Stream Stewardship Fund 12. A portion of the Project cost will be reimbursed by the City of Palo Alto per the Agreement between District and City of Palo Alto.

CEQA:

The District is the lead agency under the California Environmental Quality Act for this Project.

The Project is covered under the Stream Maintenance Program (SMP-2) Permit, 2014-2023. The Environmental Impact Report for the Stream Maintenance Program was certified by the Board on January 24, 2012.

The construction of this Project has been included in the early submittal of the Notice of Proposed Work (NPW) to the permitting regulatory agencies in February 2018 for this summer's SMP-2 work. Construction Contract Award is subject to approval of the Notice of Proposed Work under the Stream Maintenance Program 2.

ATTACHMENTS:

Attachment 1: Project Location Map
Attachment 2: Addendum No. 1
Attachment 3: Addendum No. 2
Attachment 4: Addendum No. 3
Attachment 5: Addendum No. 4
Attachment 6: Project Delivery Chart

UNCLASSIFIED MANAGER:

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