



CITY COUNCIL AGENDA REPORT

MEETING DATE: SEPTEMBER 20, 2016

ITEM NUMBER: **CC-11**

**SUBJECT: PORTABLE OFFICE COMPLEX AND SITE CONSTRUCTION - CITY PROJECT
NO. 16-15**

DATE: SEPTEMBER 8, 2016

FROM: PUBLIC SERVICES DEPARTMENT / ENGINEERING DIVISION

PRESENTATION BY: JAMES G. ROSS, INTERIM PUBLIC SERVICES DIRECTOR

FOR FURTHER INFORMATION CONTACT: BALTAZAR MEJIA, CITY ENGINEER, (714) 754-5291

RECOMMENDATION:

1. Accept bid withdrawal from Patriot Contracting & Engineering;
2. Reject all bids;
3. Adopt Resolution declaring that the Portable Office Complex and Site Construction Project No. 16-15 can be performed more economically by employees of the City and authorizing this project to be done by force account;
4. Authorize staff to negotiate contracts with qualified contractors and equipment vendors within the existing budgeted amount; and
5. Authorize the Chief Executive Officer and the City Clerk to execute the Public Works Agreements for this project.

BACKGROUND:

The City intends to reconstruct Fire Station No. 1 due to its age and state of disrepair. The station, originally built in 1961, is experiencing foundation settlement resulting in structural damage. The station needs to be re-constructed to meet current building codes and standards, and to provide efficient multi-gender accommodations. The Public Services Department, in coordination with the Fire Department, is working with WLC Architects to prepare the construction documents for a new, state-of-the art Fire Station.

The proposed project will provide temporary living and working quarters for fire crews currently staffed at Fire Station No. 1 during the construction phase. Other project tasks include, utility establishment, construction of a fire engine shelter, lockable storage containers, construction of new concrete driveway, and installation of privacy/safety fencing along the perimeter of the site. This temporary facility will permit the Fire Department to maintain an effective presence geographically and provide general services to the residents of Costa Mesa in an efficient manner.

ANALYSIS:

The scope of the Portable Office Complex and Site Construction project includes the delivery, assembly, and lease of a 64ft by 48ft modular housing trailer; construction of a Fire Engine Shelter, delivery of an 8ft by 20ft lockable storage container and two 8ft by 40ft lockable storage containers, construction of a concrete access driveway, installation of utilities, and construction of a privacy/safety fence along the perimeter of the site. The anticipated use of the temporary site is for a duration of approximately 18 months.

The City Clerk received and opened three (3) bids for this project on August 22, 2016. The apparent low bidder, Patriot Contracting & Engineering, submitted a base bid proposal in the amount of \$422,660. However, on August 23, 2016, the apparent low bidder submitted a request to withdraw its bid due to an error in calculating the bid. California Public Contract Code Section 5101 et seq. provides for criteria under which a contractor may request to have its bid withdrawn. Timely notice of a written mistake by the contractor on the bidding documents – as opposed to an error in judgement or carelessness in inspecting the site or in reading the plans and specifications – falls within these criteria. The next bidder, PCN3, Inc., submitted a bid proposal in the amount of \$599,450.00 which is 39% higher than the Engineer's estimate and in excess of the funding allocation (\$500,000.00) for this work. The Engineer's estimate for this work was \$430,300. The Bid Abstract is included as Attachment 2.

Staff, based on evaluation of the proposals, believes that the work can be performed more economically by force account.

Work described as "force account" is work done where a public entity acts as its own contractor and hires out the work of the various artisans involved on a rate per hour or other basis of measurement. When an entity awards work on a force account basis, it generally means the contractor is paid his or her actual costs plus a profit. It is an accounting principle that distinguishes the costs of a public agency employing a labor force to perform work as opposed to contracting with an outside business to perform the same service, work performed under the direct supervision of the entity and the use of day labor or contracted labor, or the employees of the agency, or any combination thereof, or work performed by a public entity's own personnel. As a public works project, prevailing wages are required to be paid to all workers employed on the project regardless of how the contract is let.

The Uniform Construction Cost Accounting Act ("UCCAA") provides that the City may, at its sole discretion, reject all bids submitted for a project. See Public Contracts Code § 22038(a); Costa Mesa Municipal Code § 2-178; City of Costa Mesa Purchasing Policy § 15-102. Under these provisions, if after the first invitation of bids all bids are rejected, and after reevaluating its cost estimates of the project, the City has the option of either of the following:

- (1) Abandoning the project or re-advertising for bids; or
- (2) By passage of a resolution by a four-fifths vote declaring that the project can be performed more economically by the employees of the City, may have the project done by force account.

Based on the Engineer's estimate of work, staff believes that if all bids are rejected and, upon grant of authority, contracts can be negotiated among qualified contractors and equipment vendors to obtain a more economical price to perform the project. The specific items from the scope of work and all the terms and conditions of the project would essentially remain the same. If authorized, the contracts will be negotiated with qualified contractors and vendors, and executed by the Chief Executive Officer and the City Clerk.

ALTERNATIVES CONSIDERED:

The alternative to this Council action would be to reject all of the bids and rebid the project. Staff believes that re-advertising and rebidding the project will delay the construction of the new fire station significantly. Canceling the project is not recommended because temporary facilities are needed to house fire personnel and equipment during reconstruction of Fire Station No. 1.

FISCAL REVIEW:

In Fiscal Year 2015-2016, City Council allocated \$500,000 of Capital Facility Funds towards the relocation of fire personnel and equipment.

LEGAL REVIEW:

The City Attorney's office reviewed and approved the attached Resolution as to form. (Attachment 1).

CONCLUSION:

The City is in the process of reconstructing Fire Station No. 1 and needs temporary facilities for fire personnel and equipment during construction. The apparent low bidder for the Portable Office Complex and Site Construction Project, City Project No. 16-15, has requested that its bid be withdrawn, and the remaining bids exceed the City's allocation for this work. Staff recommends that the City Council accept the bid withdrawal from Patriot Contracting & Engineering; reject all bids submitted; adopt a Resolution declaring that the project can be performed more economically by force account; direct staff to negotiate contracts with qualified contractors within the budgeted amount; and authorize the Chief Executive Officer and the City Clerk to execute the necessary Public Works Agreements.

JAMES G. ROSS
Interim Public Services
Director

BALTAZAR MEJIA
City Engineer

ATTACHMENTS: 1. [Resolution](#)
 2. [Bid Abstract](#)

DISTRIBUTION: Chief Executive Officer
 Fire Chief
 Battalion Chief
 City Attorney
 City Clerk
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 File