



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 19-0206, Version: 1

REPORT TO COUNCIL

SUBJECT

Award of Bid No. PW19-11 to Anderson Pacific Engineering Construction, Inc. for Storm Pump Station No. 1 Rehabilitation Re-Bid, Waiver of Minor Bid Irregularity, Finding of California Environmental Quality Act (CEQA) Categorical Exemption, and Approval of Budget Modification No. 21 in the amount of \$1,016,000, and Approve the Third Amendment to Consultant Services Agreement with Infrastructure Engineering Corporation (F14-049)

REPORT IN BRIEF

Approval is requested to award a construction contract in the amount of \$1,947,400 to Anderson Pacific Engineering Construction, Inc. of Santa Clara for Storm Pump Station No. 1 Rehabilitation Re-Bid (Public Works Project No. UY-14/02-15), with a 10% construction contingency in the amount of \$194,740, and for Budget Modification No. 21 in the amount of \$1,016,000 to fully fund the project including the amendment to the consultant services agreement.

Approval is also requested to amend an existing agreement with Infrastructure Engineering Corporation to provide additional construction and post-construction biological monitoring and reporting, increasing the not-to-exceed contract amount by \$119,636 for a new not to exceed amount of \$383,225, increasing the contingency amount by \$20,364 to a new amount of \$46,723 and to extend the contract for an additional six-year period.

EXISTING POLICY

Section 1309 of the City Charter requires public works construction contracts to be awarded to the lowest responsive and responsible bidder.

Pursuant to Section 2.09.040 of the Sunnyvale Municipal Code, City Council approval is required for public works contracts exceeding \$100,000 in any one transaction.

Pursuant to Section 2.08.040 of the Sunnyvale Municipal Code, City Council approval is required for the procurement of goods and/or services exceeding \$100,000 in any one transaction.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by a motion adopted by affirmative votes of at least four members so as to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

ENVIRONMENTAL REVIEW

The California Environment Quality Act (CEQA) determination for the project is a categorical exemption pursuant to CEQA Guidelines Section 15301(b), for existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility service.

The amendment to the consultant agreement is not considered a “project” within the meaning of CEQA pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

BACKGROUND AND DISCUSSION

Sunnyvale operates two storm pump stations to pump accumulated storm water into the San Francisco Bay. These are required to keep areas of the City that are close to sea level free from flooding. Storm Pump Station No. 1 is located between the Water Pollution Control Plant and the SMaRT Station at the north end of the City. The center and north side of Sunnyvale drains to Storm Pump Station No. 1.

Storm Pump Station No. 1 was constructed in 1961 and has been rehabilitated in segments multiple times. The station includes a below-grade inlet structure and above grade concrete masonry pump building that houses two propane-fueled engine driven pumps and one electrical pump. The pumps discharge to the San Francisco Bay through three welded steel pipelines.

All improvements to the pump station were designed in accordance with the recommendations of the comprehensive feasibility study, which was completed in early 2017. The project generally consists of replacement of the discharge piping, manual inlet bar screen, installation of flow meters, and other facility safety and security upgrades.

An Invitation for Bids was issued on March 9, 2018, with one responsive bid received on April 4, 2018. On June 6, 2018, Council rejected the sole bid of \$2,471,200 (RTC No. 18-0467) which was approximately 106% above the engineer’s estimate and exceeded the available budget for the project. The project scope was not reduced for the rebid project; however, staff made a concerted effort to solicit multiple contractors to bid on this project. The project was re-advertised for competitive bidding on the City’s DemandStar public procurement network and distributed to Bay Area Builders Exchange on January 4, 2019, with 15 general contractors requesting bid documents. Sealed bids were opened on January 30, 2019, with two responsive and responsible bids received (Attachment 1).

The bid received from Anderson Pacific Engineering Construction, Inc., the apparent low bidder, contained a math error where the sum of the extended costs of all base bid items did not equal the Total Base Bid Amount indicated on its bid form. In accordance with our Invitation for Bid, the City accounted for this discrepancy by determining “if there is more than one bid item in a bid schedule, and the total of the schedule does not equal the sum of the bid items, the individual amounts of the bid items shall govern.” Therefore, the City adjusted the Total Base Bid Amount from \$1,997,400 to the accurate total of \$1,947,400. Correcting this error does not change the apparent low bidder. Staff is recommending that Council waive the math error as a minor bid irregularity and award the contract to Anderson Pacific Engineering Construction, Inc.

Requirements placed upon the regulatory permits obtained for this project require biological monitoring and reporting during construction and for five years' post-construction. Infrastructure Engineering Corporation (IEC) has the capability of providing these continued services and has provided satisfactory service during the design portion of the project. Staff recommends amending the consultant services agreement to increase the not-to-exceed contract amount by \$119,636 to a new amount of \$383,225, increasing the contingency amount by \$20,364 to a new amount of \$46,723, and extending the contract term for an additional six-year period (one year of construction and five years of post-construction monitoring and reporting).

FISCAL IMPACT

Total funding in the amount of \$2,282,140 is necessary to fund the construction contract award, with a 10% construction and design contingency. A portion of the funding is available in project 822752 (Storm Pump Station Number 1 Rehabilitation).

Staff is expecting the State to return \$4,176,011 in excess educational revenue augmentation funds (ERAF) that can be applied to the FY 2018/19 budget. Staff recommends to use a portion of the ERAF Excess funding to cover the portion of the project costs not yet budgeted.

Budget modification No. 21 has been prepared to recognize Excess ERAF revenue in the amount of \$4,176,011 and to appropriate \$1,156,000 to project 822752.

Budget Modification No. 21 FY 2018/19

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Revenues</u>			
Property Tax Shift (Excess ERAF)	\$0	\$4,176,011	\$4,176,011
<u>Transfers</u>			
Transfer out to Wastewater Fund to fund Project 822752 - Storm Pump Station Number 1 Rehabilitation	\$0	\$1,156,000	\$1,156,000
Wastewater Fund			
<u>Transfers</u>			
Transfer in from General Fund	\$0	\$1,156,000	\$1,156,000
<u>Expenditures</u>			
Project 822752 - Storm Pump Station Number 1 Rehabilitation	\$1,375,735	\$1,156,000	\$2,531,735

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

- 1) Take the following actions:
 - Make a finding of California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Sections 15301(b) and 15378 (b)(5)
 - Make a determination to waive the minor bid irregularity for Anderson Pacific Engineering Construction, Inc.
 - Award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$1,947,400 to Anderson Pacific Engineering Construction, Inc.
 - Authorize the City Manager to execute the contract when all necessary conditions have been met
 - Approve Budget Modification No. 21 in the amount of \$1,016,000
 - Approve a 10% construction contingency in the amount of \$194,740.
 - Authorize the City Manager to execute the Third Amendment to Consultant Services Agreement, in substantially the same form as Attachment 3 to the report, to extend the term through June 30, 2027 and to increase the not-to-exceed contract amount by \$119,636 for a new not to exceed amount of \$383,225
 - Approve an increase to the design contingency in the amount of \$20,364.
 - Authorize the City Manager to extend the term of the Consultant Services Agreement with Infrastructure Engineering Corporation, if operationally necessary, until post construction biological monitoring and reporting is completed.
- 2) Do not Award the Contract or Approve the Third Amendment

RECOMMENDATION

Alternative 1: Take the following actions:

- Make a finding of California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Sections 15301(b) and 15378 (b)(5)
- Make a determination to waive the minor bid irregularity for Anderson Pacific Engineering Construction, Inc.
- Award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$1,947,400 to Anderson Pacific Engineering Construction, Inc.
- Authorize the City Manager to execute the contract when all necessary conditions have been met
- Approve Budget Modification No. 21 in the amount of \$1,016,000
- Approve a 10% construction contingency in the amount of \$194,740.
- Authorize the City Manager to execute the Third Amendment, in substantially the same form as Attachment 3 to the report, to extend the term through June 30, 2027 and to increase the not-to-exceed contract amount by \$119,636 for a new not to exceed amount of \$383,225
- Approve an increase to the design contingency in the amount of \$20,364.
- Authorize the City Manager to extend the term of the Consultant Services Agreement with Infrastructure Engineering Corporation, if operationally necessary, until post construction biological monitoring and reporting is completed.

Prepared by: Gregory S. Card, Purchasing Officer
Reviewed by: Timothy J. Kirby, Director of Finance
Reviewed by: Chip Taylor, Director of Public Works
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Bid Summary
2. Draft General Construction Contract
3. Draft Third Amendment to Consultant Services Agreement