



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: General Services
Department No.: 063
For Agenda Of: 5/1/2012
Placement: Departmental
Estimated Tme: 20 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: General Services Bob Nisbet, Director (560-1011)
Contact Info: Paddy Langlands, Assistant Director (568-3096)
**SUBJECT: Lompoc Animal Shelter Renovation, Project #8592
Construction Contract Award
Fourth Supervisorial District**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Consider the protest by Tomar Construction, Inc. against the low bid submitted by STC Development, Inc., for the Lompoc Animal Shelter Renovation;
- b) Find the protest by Tomar Construction, Inc., to be without merit;
- c) Consider the protest by K.J. Cain Co., Inc., against the low bid submitted by STC Development, Inc., for the Lompoc Animal Shelter Renovation;
- d) Find the protest by K.J. Cain Co., Inc., to be without merit; and
- e) Approve the request of STC Development, Inc. to substitute J.R. Barto in place of their listed HVAC subcontractor, Western Mechanical;
- f) Find that STC Development, Inc., is the lowest responsible bidder;
- g) Award a fixed price construction contract in the amount of \$209,300.00 to the lowest responsive bidder, STC Development, Inc., of Shingle Springs, California, subject to the

provisions of the attached contract and the plans and specifications applicable to the project and as required by California Law;

- h) Authorize the chair to execute the construction contract upon return of the Contractor's executed contract documents, and the review and approval of the County Counsel, Auditor-Controller and Risk Manager or their authorized representatives;
- i) Authorize the Director of General Services or designee to approve change orders up to the limit specified in Public Contract Code Section 20142, or \$20,930.00 for this contract; and
- j) Find that a Notice of Exemption under California Environmental Quality Act (CEQA) Guidelines Section 15301 was approved by the Board for this construction project on January 17, 2012, and that the award of a contract for the previously-approved project is therefore an administrative activity not constituting a "Project" within the meaning of CEQA, as set forth in 14 CCR 15378(b)(2).

Summary Text:

If the recommended actions are adopted, the construction contract for the Lompoc Animal Shelter Renovation will be awarded to the lowest responsive bidder and construction of the Lompoc Animal Shelter Renovation will proceed. Staff has determined the lowest responsive bidder to be STC Development, Inc., of Shingle Springs, California. Firms submitting the second and third lowest bids protested against the lowest bidder, but staff finds both protests to be without merit. The low bidder, STC Development, submitted a request to substitute one subcontractor due to a clerical error in their bid, and because this request meets proper procedure, staff recommends acceptance of this substitution. This renovation project will improve the shelter program, and employee and visitor use areas while rehabilitating the existing Animal Shelter. The total cost of the project, including design, construction and management, is \$327,814. The design and construction is funded by two separate Community Development Block Grants (County and City) through County Housing and Community Development, a private donation, and Public Health funds.

Background:

On March 15, 2012, five (5) bids were opened for the Lompoc Animal Shelter Renovation.

Per the Contract Documents, the bid award was determined by the base bids plus the bidding contractor's compensable delay factor; the project had seventeen (17) alternates. STC Development, Inc. submitted a base bid of \$196,000.00; combined with their compensable delay factor, they had the lowest bid. Staff has determined STC Development, Inc.'s bid to be responsive to the bid documents. Further, STC Development, Inc. has been deemed to be a responsible company capable of performing this contract. The base bid amount was \$19,000 under the engineer's estimate.

On March 16, 2012, a letter protesting the apparent low bid was received from the third lowest bidder, Tomar Construction, Inc. of Santa Paula, CA. The protest alleged that STC Development, Inc. did not list a casework subcontractor and they are not qualified to self-perform the casework. On March 22, 2012 a response to Tomar Construction, Inc.'s bid protest was received from STC Development, Inc. Upon review of STC Development, Inc.'s response, staff concludes that STC Development, Inc.'s bid was deduced as responsive based on the following: that due diligence performed on STC Development,

Inc. confirmed that they will use a qualified material supplier for casework; all casework will be supplied with Woodworking Institute of California (WIC) stamped and certified shop drawings; STC Development, Inc. has been licensed since 1995 and is qualified to perform said work; and STC Development, Inc. has not proposed to, nor will be allowed to, utilize any subcontractor for installation of this item of work. As such, it is recommended that Tomar Construction, Inc.'s protest be considered without merit.

On March 23, 2012, the County received a bid protest from the second low bidder, K.J. Cain Co., Inc. of Santa Maria, California, suggesting that STC Development is using a loss leader. On March 28, 2012 a response to K.J. Cain Co., Inc.'s bid protest was received from STC Development, Inc. Per General Services' review of STC Development, Inc.'s response, General Services concludes that STC Development, Inc.'s bid was deduced as responsive based on the following: that due diligence performed on STC Development, Inc. did not substantiate K.J. Cain Co., Inc.'s claim that a loss leader was being used. Staff finds this claim to be based on speculation rather than fact. Furthermore, in accordance with Public Contract Code, the County of Santa Barbara publicly advertised and bid out the project. As such, it is recommended that K.J. Cain Co., Inc.'s protest be considered without merit.

On March 19, 2012 the County received notification from STC Development, Inc. requesting a subcontractor substitution. The request explained that they had inadvertently listed Western Mechanical in their subcontractor's list, and requested a substitution to J. R. Barto instead. STC Development, Inc. further explained that they had not received a bid from Western Mechanical for the project, but they had for another project in which they were listed, and due to this they inadvertently listed them as the subcontractor for the Lompoc Animal Shelter Renovation. On March 27, 2012 the County sent a letter to Western Mechanical via Certified Mail notifying them of STC Development, Inc.'s substitution request. Staff contacted and spoke with Tim Esmay, owner of Western Mechanical on March 28, 2012; Mr. Esmay stated that he did not bid the project and that he had no objections to the substitution or to the letter the County sent him. Further, Western Mechanical did not respond to the letter, and per Public Contract Code, failure to file a written objection constitutes the listed subcontractor's consent to the substitution. Therefore due diligence performed on STC Development, Inc. by staff has substantiated STC Development, Inc.'s subcontractor substitution request.

Staff has determined that STC Development, Inc. is the lowest responsible bidder and recommends that STC Development, Inc. be awarded a construction contract in the amount of \$209,300; which includes the base bid and four (4) alternates.

The existing animal shelter is 1,900 square feet. The building is generally in good condition, but but has suffered greatly from lack of maintenance. This project will correct deficiencies related to facility condition, code compliance, general overall condition, as well as functionality. The work has been proposed by the Public Health Department. Specifically, the work includes renovation and reconfiguration to the existing building; including enclosing an exterior walkway as well as the covered carport, making them interior spaces.

The total cost of the project, including design, construction and management, is \$327,814.

CEQA:

A categorical exemption for this project was accepted by the Board on January 17, 2012, since the project only alters an existing building and includes negligible expansion of use beyond that previously existing. There have been no changes to the project since that date which would affect this determination. The award of a contract for the previously-approved project is therefore an administrative activity not constituting a “Project” within the meaning of CEQA, as set forth in 14 CCR 15378(b)(2).

Performance Measure:

The improvements to the Lompoc Animal Shelter through this project will improve its functionality while properly updating and maintaining the Lompoc Animal Shelter.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
CDBG Grant (County)			\$ 72,000.00
CDBG Grant (City)			\$ 24,000.00
Private Donation			\$ 10,000.00
Public Health funds			\$ 221,814.00
Other:			
Total	\$ -	\$ -	\$ 327,814.00

Narrative:

Funding for this project includes two separate Community Development Block Grants: One from the County in the amount of \$72,000 and one from the City of Lompoc in the amount of \$24,000. Funding also includes a private donation. The remaining funds are from Public Health funds in the amount of \$221,814. All project costs will be covered by this funding arrangement and funding for the two grants will be collected on a reimbursable basis.

Staffing Impacts:

Legal Positions:

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FTEs:

0

Special Instructions:

Please send a copy of the Minute Order to Todd Morrison, Facilities Services Division, General Services Department.

Attachments:

1. Protest by Tomar Construction, Inc.

2. Protest by K.J. Cain
3. STC Development Request
4. Original Contract to be executed per recommendation (h).