



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: July 13, 2010
Placement: Departmental Agenda
Estimated Tme: 20 min.
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: General Services Bob Nisbet, Director (560-1011)

Contact Info: Paddy Langlands, Assistant Director (568-3096)

**SUBJECT: Santa Barbara Public Defender Remodel Project #8661– Award of Construction Contract
1st Supervisorial District**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A. Reject the bid submitted by Pavilion Construction as non-responsive, based on the following findings to be made by your Board:
1. Pavilion Construction failed to list a millwork subcontractor with not less than 10 years local experience in historical commercial work of the complexity of this project, as required by the bid documents.
 2. Pavilion Construction failed to furnish references for their listed millwork subcontractor showing not less than 10 such projects, as required by the bid documents.
 3. Pavilion Construction's listed millwork subcontractor cannot fulfill the bid document specification requirement that applicable architectural woodwork items be fabricated and installed by one fabricator, as they do not fabricate custom doors.
 4. Pavilion Construction's bid therefore contains a material deviation from the bid requirements which renders the bid non-responsive; and
 5. This material deviation gave Pavilion Construction an unfair competitive advantage over bidders who complied with the same bid requirement; and

Auditor-Controller Concurrence

As to form: Yes

6. To the extent that the deviations from bid requirements may be considered immaterial, the Board elects to exercise its discretion by declining to waive any irregularities in Pavilion Construction's bid.
- B. Award and execute a Fixed Price Construction Contract in the amount of \$3,099,500.00 to the lowest responsible bidder, Melchiori Construction Company Inc., subject to the provisions of the documents and certifications as set forth in the plans and specifications applicable to the project and as required by California Law;
 - C. Authorize the Director of General Services or his designee to approve change orders up to the limit specified in Public Contract Code Section 20142, or \$150,000.00 for this contract; and
 - D. 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.

Summary Text:

On April 6, 2010, the Board approved the plans and specifications for the Public Defender Remodel at the Santa Barbara Historic courthouse, and authorized general Services to advertise for construction bids accordingly. The project will remodel approximately 14,000SF of space within the west wing of the historic courthouse. Following the bid opening, a bid protest was filed and one of the issues raised was found to have merit, thus rendering the low bid non-responsive. Staff therefore recommends the low bid be rejected accordingly, and that the award be made to the next lowest bidder. Upon implementation of the recommended actions, the construction contract for the Santa Barbara Historic Courthouse Public Defender Remodel will be awarded to the lowest responsible bidder submitting a responsive bid, and construction on the Public Defender Remodel will proceed.

Background:

On May 27, 2010, six bids were opened for the Public Defender Remodel Project. All bid amounts were lower than the engineer's estimate for the project. The General Services Department received one bid protest from Melchiori Construction Company, Inc. claiming that the apparent low bidder, Pavilion Construction's bid was non-responsive and not in conformity with the project's contract documents.

Melchiori Construction Company's protest alleges, among other things, that Pavilion Construction failed to comply with several requirements of specification section 06400, "Architectural Woodwork." Specifically, Pavilion failed to list a qualified Architectural Woodwork subcontractor with the required 10 years' local experience in historical commercial work of the complexity of the Public Defender remodel, with references showing not less than 10 such projects.

The Santa Barbara Historic Courthouse is a designated State and National Historic Landmark. The millwork scope for the Historic Courthouse Public defender remodel is a critical architectural element of the project. The design team, including the Architects, County Architect, consulting Architectural Historian, and Capital Projects staff, went to great efforts to assemble a project that reuses existing historic items, stores those not being reused for future courthouse endeavors, and constructs new while respecting and maintaining the detailing of the original facility. The renovation will therefore be more

complex than a typical office remodel, as special attention must be paid to carefully remove, transport, and store items to be salvaged, rework elements intended for reinstallation, all while maintaining vigilance should historic elements be uncovered during demolition requiring consultation with the County Architect.

The majority of the new millwork details direct the fabricator/ installer to “match existing,” requiring considerable professional judgment in determining how best to achieve the unique style of the Historic Courthouse. For these reasons, not to mention the ability to verify a particular subcontractor’s qualifications and knowledge of Santa Barbara’s architectural style as evidenced by local experience on historic projects and local reputation, the project specifications established specific criteria to be met by the millwork subcontractor.

The applicable specification sections required the fabricator and installer of the work of the architectural woodwork section to have not less than 10 years’ local experience in historical commercial work of the complexity of this project, and to furnish references showing not less than 10 such projects. The specifications included two acceptable fabricators who were deemed qualified. The special conditions of the specifications further reiterated that the specification requirements would be stringently adhered to, and that substitutions would not be permitted where historic relevance requires a specific architectural approach.

During the bidding phase, the design team received no requests for consideration of any other fabricator/installers, nor any questions related to the criteria established in the specifications. Of the six bids received, three included one of the two acceptable fabricators as subcontractors, one listed a millwork subcontractor whose qualifications have not been reviewed for compliance, one did not list a millwork subcontractor, and Pavilion Construction, the low bidder, listed Northwestern Design, Inc. as their millwork subcontractor. In response to the bid protest, Pavilion submitted a qualifications package and list of reference projects for Northwestern Design; none of which included local project experience.

After thorough review of the bid and follow-up documentation submitted by Pavilion Construction, it is apparent that they failed to list a millwork subcontractor with not less than 10 years local experience in historical commercial work of the complexity of this project, and failed to furnish references for their listed millwork subcontractor showing not less than 10 such projects, as required by the bid documents. Pavilion Construction’s bid, therefore, contains a material deviation from the bid requirements which renders the bid non-responsive. Furthermore, this material deviation gave Pavilion Construction an unfair competitive advantage over bidders who complied with the same bid requirement. In their response to the bid protest, Pavilion Construction stated that one of the two listed acceptable millwork fabricator installers, Architectural Millwork of Santa Barbara, did provide Pavilion Construction with a proposal that was “considerably higher in cost” than their listed subcontractor, Northwestern Design, Inc.

Melchiori’s protest included allegations that portions of the work required to fall under the millwork subcontractor’s responsibility were excluded from Northwestern Design’s bid as evidenced by exclusions made to Melchiori on the bid they received from Northwestern Design for this same project. In response, Pavilion stated that the items in question were not excluded from the bid they received from Northwestern Design. Further investigation, however, indicates that Northwestern Design does not fabricate custom doors, which comprise a significant portion of the millwork scope of the renovation. Per the project specifications, the new doors fall within the architectural woodwork specifications which include the following requirement:

“all work of this section shall be fabricated by one fabricator skilled in the manufacture and installation of doors, window, frames, and casework for historical construction.”

Again, the historic nature of the project necessitated a specific architectural approach which is reflected in the bid documents. The specifications require the new millwork including interior windows, doors, casework, trim, etc. be fabricated by a single fabricator to ensure cohesiveness in the finish, level of quality, wood species selection, detailing, and integration with the existing materials intended for reuse. Since they do not fabricate custom doors, Northwestern Design is unable to comply with the single fabricator requirement, thus rendering Pavilion Construction’s bid non-responsive.

Performance Measure:

The remodel of the West Wing of the County Courthouse for the Public Defender will bring inadequate working conditions to an efficient, safe working environment for Public Defender’s clients and staff with a secure front lobby. The project will enhance building efficiency by implementing life safety, infrastructure and code improvements to the west wing of the historic courthouse.

With approval of the recommended actions, General Services anticipates beginning construction in August 2010 with substantial completion by early 2012.

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>
COP	\$ 2,940,000.00		\$ 5,600,000.00
Total	\$ 2,940,000.00	\$ -	\$ 5,600,000.00

Narrative:

The total cost of the project is estimated at \$5,600,000. The project is funded via Certificates of Participation (COP’s) recently issued to fund the Public Defender Remodel, Betteravia Expansion, and the Emergency Operations Center. Funds are available in Fund 0030 Department 063, Account 8700, Program 1930, Project 8661.

Staffing Impacts:

Legal Positions:
0

FTEs:
0

Special Instructions:

Please forward a copy of the Minute Order to Celeste Manolas, General Services Department - Support Services Div., Courthouse East Wing.

Attachments:

1. Melchiori Construction 5.28.10 bid protest letter
2. Pavilion Construction 6.2.10 response to bid protest
3. Northwestern Design qualifications package
4. Northwestern Design reference projects
5. Melchiori letter dated 6.25.10
6. Pavilion Construction letter dated 6.30.10
7. Draft Construction Contract
8. Contract Summary Sheet

Authored by: Celeste Manolas, General Services