



Staff Report

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REPORT 21-0420

**Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of July 13, 2021**

**AWARD OF CONSTRUCTION CONTRACT FOR
CIP 669 CITY PARK RESTROOMS AND RENOVATIONS**
(Interim Public Works Director Angela Crespi)

Recommended Action:

Staff recommends City Council:

1. Award the construction contract for CIP 669 City Park Restrooms and Renovations, including the three alternate bid items to Aid Builders, Inc., the lowest responsible bidder, in the amount of \$1,750,000;
2. Reject the bid protest from Cybertech Construction Company, Inc. regarding the missing addendum from Aid Builders, Inc. and waive the irregularity of Aid Builders, Inc.;
3. Authorize the Interim Director of Public Works to establish a 20 percent project contingency for a total amount of \$350,000;
4. Adopt the attached resolution entitled "A Resolution of The City Council of The City of Hermosa Beach Approving the Construction of CIP 669 City Park Restrooms and Renovations Pursuant to Government Code Section 830.6 and Establishing a Project Payment Account";
5. Authorize the Mayor to execute the construction contract and the City Clerk to attest, subject to approval by the City Attorney; and
6. Authorize the Interim Director of Public Works to file a Notice of Completion following completion of the project.

Executive Summary:

Capital Improvement Project CIP 669 City Park Restrooms and Renovations provides for the construction of four public restrooms and the remodel of one existing restroom for City parks located at: 861 Valley Drive (Clark Stadium); southeast corner of Prospect Avenue and 6th Street (Fort Lots-of-Fun); southeast corner of Prospect Avenue and 19th Street (Seaview Park); and 425 Valley Drive (South Park).

Staff received construction bids for CIP 669 City Park Restrooms and Renovations and recommends City Council award a construction contract to the lowest responsible bidder, Aid Builders, Inc.

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Background:

Capital Improvement Project CIP 669 Fort Lots-O-Fun and Seaview Parkette Restrooms was originally included in the FY2016-17 Capital Improvement Program. The original scope of work consisted of installation of two prefabricated single vault ADA compliant restroom buildings for a total of \$87,000. Since that time, the project expanded in scope to include construction of two new site-built ADA compliant restrooms at Fort Lots-O-Fun and Seaview Parkette, design and construction of a new ADA compliant restroom at Clark Field, the upgrade and renovation of one restroom at South Park, and the construction of one new ADA compliant restroom at South Park.

At the April 12, 2017 meeting, City Council awarded a contract to the architectural firm Adrian-Gaus Architects, Inc. for the design of four public restrooms and the remodel of one existing restroom for four City parks. Following the development of preliminary designs, City staff and the architect presented preliminary design plans to the Parks, Recreation and Community Resources Advisory Commission and the Public Works Commission. Staff and the design consultant also conducted an on-site design charrette on August 13, 2017 to review the designs with residents and receive feedback.

After receiving public input and making revisions, staff presented the revised design plans to an appointed Public Works Commission subcommittee via email, the Parks, Recreation and Community Resources Advisory Commission at its December 5, 2017 meeting, and the Planning Commission at its January 22, 2018 meeting. At the January meeting, the Planning Commission adopted a resolution to approve the Precise Development Plans for the new restroom facilities and determination that the projects were categorically exempt from the California Environmental Quality Act (CEQA).

At the February 13, 2018 meeting, staff presented City Council with an update on the design plans. At that time, staff was working within an adopted FY2017-2018 project budget of \$1,085,000, but informed City Council that construction cost estimates would be determined following the approval of design plans. As part of the meeting discussion, City Council directed staff to coordinate with site stakeholders on the construction schedule for the restrooms to minimize impacts to existing events and activities. At Clark Field, staff met with the City of Hermosa Beach Slo-Pitch Softball League, American Youth Soccer Organization (AYSO) Region 18, and Hermosa Beach Little League, and the Rotary Friday Farmers Market who expressed that winter is the preferred timeframe for the work. For all locations, these groups will be consulted again to ensure coordination with their various needs.

During the design of the project, the Deputy City Engineer identified that original plans and estimates assumed that the project sewer work would be completed by City staff. However, installation of new sewer lines where none currently exist is beyond City staff resource capacity. Deficiencies in the sewer line serving the restrooms at Clark Field and the Base 3 building, which houses the

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Community Services Division of the Police Department, were also identified and will be reconstructed as part of this project. The sewer related items will be covered by Sewer Funds.

Final design and plans were submitted by Adrian-Gaus Architects, Inc. in January 2021. Due to staffing issues and other workload related to COVID-19, the City did not approve final design and specifications for bidding until April 2021. On April 8, 2021 and April 15, 2021, the project was advertised in the Easy Reader, via the City's website, and with bid advertising agencies. An addendum was issued on April 22, 2021 to clarify the bid opening date.

Past Council Actions

Meeting Date	Description
April 12, 2017 (Regular Meeting)	Council awarded the design contract to the architect Adrian-Gaus Architects, Inc.
February 13, 2018 (Regular Meeting)	City Council received update on the design plans

Analysis:

Staff developed the bid package in a manner that would prioritize award of South Park and Clark Field, the two highest priority sites, while allowing the City the option to award additional sites depending on bid amounts. Therefore, the scope of work for the South Park and Clark Field sites were used to establish the base bid amount for low-bid selection. The bid package included three alternate bid items consisting of the remaining sites including: construction of the Seaview park restroom; construction of the Fort Lots-Of-Fun park restroom; and the remodel of the existing restroom at South Park.

On April 28, 2021, two bids were received and opened by the City Clerk. The apparent low base bid bidder was Aid Builders, Inc. with a construction cost estimate of \$878,000. The bid amounts for the alternate sites were: Seaview Park Restroom-\$324,000; Fort Lots-O-Fun-\$410,000; and South Park Restroom Remodel-\$138,000, for a total cost for base bid plus alternates of \$1,750,000. The Engineer's Estimate was \$1,400,000. The base bid results are summarized below:

Bidder	Base Bid Amount
Aid Builders, Inc.	\$878,000
Cybertech Construction Company, Inc.	\$964,000

While Aid Builders, Inc. was the apparent low bidder, they failed to include the one addendum issued for the project, which was a requirement stated in the bid documents. On May 3, 2021, staff received a bid protest from the second lowest bidder, Cybertech Construction Company, Inc. stating that the low bidder should be found non-responsive due to failure to include the signed addendum with their

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proposal.

On May 10, 2021, Aid Builders, Inc. submitted a response letter to the bid protest stating that the missing addendum was inconsequential and that they substantially complied with the requirements set forth in the Bid Documents, including the invitation to bid, and that Aid Builders, Inc. has not gained any advantage over Cybertech Construction Company, Inc. The bid submitted by Aid Builders, Inc. is, in all respects, responsive, but for the fact that it failed to acknowledge Addendum 1.

The last sentence of Paragraph 6 of Section III of the Instructions to Bidders in the Documents and Specifications provides in part that "City reserves the right to . . . waive any irregularities or informalities in any bids and in the bidding process." This provision conforms to well established practice that allows an awarding agency to waive irregularities that are inconsequential; that is, irregularities that "cannot have affected the amount of the bid or given a bidder an advantage or benefit not allowed other bidders" (47 Ops.Cal.Atty.Gen. 129, 130-31 (1966)). Such an advantage includes the ability to withdraw the bid and avoid the contract, or to alter the terms of the bid. (Menefee v. County of Fresno, 163 Cal.App.3d 1175 (1985)-irregularity waivable because bidder could not withdraw). Williams v. Bergin, 129 Cal. 461 (1900)-bid irregularity not waivable where bid and bid bond not signed and failed to include name of bidder and total price; Valley Crest Landscape, Inc. v. City of Davis, 41Cal.App. 4th 1432(1996)-irregularity not waivable because it would have allowed the low bidder to withdraw its bid.)

In this instance, the Aid Builders, Inc. bid conformed in all respects except failure to acknowledge Addendum 1, which merely changed the bid due date. That notwithstanding, Aid Builders, Inc. bid was submitted on time. The failure to include the signed acknowledgement did not alter any aspect of the bid, including the price.

Failure to include the Acknowledgement does not create an advantage, as the bid was submitted on time in accordance with the change in the Addendum. Failure to include the Acknowledgement did not give Aid Builders, Inc. the right to seek relief and withdraw the bid. In summary, the irregularities may be waived and the contract awarded to Aid Builders, Inc.

Staff reviewed the bids received and found the apparent low bidder, Aid Builders, Inc., to be a responsible and responsive bidder. Aid Builders, Inc. contractor's license is active and in good standing with the Contractor's State License Board, and the reference checks confirmed competency through projects similar in magnitude and character over the last five years.

The Engineer's Estimate, prepared by the Architect in March of 2021, was \$1,400,000 for the construction of four public restrooms and the remodel of one existing restroom. This estimate was considered accurate at the time based on the best available data. Construction costs have been particularly difficult to predict due to the impacts of the COVID-19 pandemic on the availability of materials and labor. As a result, the final bid amount to construct the entire scope of the project is

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25 percent higher than the Engineer's Estimate at \$1,750,000.

Staff recommends a construction contingency of 20 percent, or \$350,000, for this project. Contingency funds would be used to cover any unforeseen work that may arise during construction. Use of the contingency funds would be approved by the Deputy City Engineer and the Interim Public Works Director. Any unused funds would be returned to the funding source at the completion of the project.

The project is anticipated to take approximately 180 working days to complete. To ensure the safe, expedient, and quality project completion, staff proposes to utilize the services of an on-call contract firm to provide construction management and inspection services for the project. The City does not have the staffing to perform these duties. Due to the project's complexities, it will be vital to have a constant construction management presence to coordinate work, minimize disruption to the community, and facilitate real-time communications. The estimated cost to secure these services is about \$350,000 based on their hourly rate for fulltime inspection. An option to reduce the construction management and inspection cost is to have the consultant provide part-time inspection.

Notifications of commencement of construction would be sent to directly impacted residents prior to the beginning of construction, alerting them of construction dates, expected type of work, and phone numbers of key personnel involved with the construction of the project through distribution of door hangers. Updates of the project will be posted on the City's website on a regular basis.

General Plan Consistency:

This report and associated recommendations have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

Parks and Open Space Element

Goal 1. First class, well maintained, and safe recreational facilities, parks and open spaces. Simply providing parks and open space is not enough to encourage their use.

Policies:

1.1 Facility upgrades. Improve and update park and open space facilities on a regular basis.

1.3 CPTED principles. Utilize "Crime Prevention Through Environmental Design" (CPTED) principles in the design and renovation of new and existing parks and open space facilities, including the greenbelt.

1.4 Low-maintenance design. Promote environmentally sustainable and low maintenance design principles in the renovation, addition, or maintenance of parks and recreation facilities.

Fiscal Impact:

Total expenditures on this project to date are \$112,726 for design services and incidentals. The

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funding identified for this project for FY2020-21 in the Adopted Budget was \$1,545,620, with an estimated construction cost of \$1,653,583. At the time the 2021-22 Preliminary Budget estimates were prepared, \$1,539,488 in funding was available to be carried forward. An additional \$521,437 was transferred in from CIP 143 PCH Mobility (project is on hold) and CIP 692 14th Street Beach Restroom Construction (project is in the design stages), for a total of \$2,060,925 to be carried forward from the 2021-22 Revised Budget. Staff requested additional appropriations of \$390,000 for FY2021-22 to fund the repairs of the sewer line in Clark field and supplement the funds for the construction and inspection services for the project.

The current project funding details are presented below. Upon approval of the FY2021-22 Preliminary Budget, there are sufficient allocated to complete the full scope of work for the project.

FUND	Account Number	Remaining FY 20/21 Funding	Fund Request FY21/22	Total
Park/Rec Facility Tax Fund	125-8669-4201	\$113,621		\$113,621
Capital Improvement Fund	301-8669-4201	\$1,827,304	\$390,000	\$2,217,304
Sewer Fund	160-8669-4201	\$120,000		\$120,000
			TOTAL	\$2,450,925

The link to the FY 21/22 project budget is:

<https://stories.opengov.com/hermosabchca/published/IRpNq3Nrd>

Attachments:

1. Bid Results
2. Bid Protest and Response Letters
3. Draft Resolution
4. Draft Agreement

Respectfully Submitted by: Lucho Rodriguez, Deputy City Engineer

Concur: Doug Krauss, Environmental Manager

Concur: Angela Crespi, Interim Public Works Director

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved Suja Lowenthal, City Manager