

A G E N D A



Recommendation for Council Action (CLMD)

Austin City Council

Item ID:

57277

Agenda Number

2.

Meeting Date:

May 12, 2016

Department:

Capital Contracting Office

Subject

Authorize the use of the Competitive Sealed Proposal method for solicitation of maintenance, inspection, warranty, and construction work consisting of dewatering, providing access, and removal of sedimentation in support of the Waller Creek Tunnel Project.

Amount and Source of Funding

A Recommendation for Council Action with the not to exceed contract amount for the resultant contract will be presented to Council once the Competitive Sealed Proposal selection process has been completed.

Fiscal Note

A fiscal note is not required.

Purchasing Language:

This recommendation is for Council to authorize the use of the Competitive Sealed proposal procurement method; therefore no solicitation has yet been initiated.

Prior Council Action:

For More Information:

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Boards and Commission Action:

Related Items:

MBE / WBE:

MBE/WBE goals will be established for this solicitation before issuance.

Additional Backup Information

As the tunnel nears its one-year service anniversary, the Watershed Protection Department will require that the tunnel be dewatered so warranty inspections can be performed, repair work be accomplished, and sedimentation can be removed. Due to the unique nature of the requirement, Staff believes the best way to procure these services is through the use of the Competitive Sealed Proposal method. Under state statute, approval from the Governing Body is required before an alternative delivery method can be employed.

State statute governs construction procurement for municipalities. The standard method of contracting used for construction services is competitive bidding where the contract is awarded to the lowest responsible bidder. Texas Government Code Chapter 2269 allows for methodologies alternate to low bidding method which may provide the best value to the municipality. These alternate methodologies include: Competitive Sealed Proposals, Construction Manager-at-Risk, Design-Build, and Job Order Contracting. Texas Local Government Code Section 252.022(d) allows the City to adopt and use an alternative method such as Competitive Sealed Proposal under Chapter 2269 of the Texas Government Code if such a method provides a better value for the City.

It is recommended that this work be delivered under the Competitive Sealed Proposal method of contracting set forth in state statutes. Competitive Sealed Proposal is the alternative delivery method most closely related to traditional competitive bidding. The principal difference is that the City makes its selection of the respondents based on evaluation criteria consisting of, but is not limited to, safety record and practices, comparable relevant project experience, sustainability practices, local business presence, financial stability, and price. Unlike traditional competitive bidding, which focuses primarily on price and bidder responsibility, price is a strong factor in the Competitive Sealed Proposal method, but it is not the only factor in the overall evaluation score. A City-staffed evaluation panel will review, evaluate, and rank proposals based on stated evaluation criteria.

It is necessary that construction activities take place after the Fall rainy season is over to allow for dewatering. Any delay in the issuance of this Competitive Sealed Proposal solicitation will affect the ability to perform the required dewatering and sedimentation removal in order to permit the construction contractor to perform the required warranty work to the tunnel. The Competitive Sealed Proposal solicitation and evaluation process is approximately 4 months. A final selection of the Proposer who offers the best value to the City must be made prior to an anticipated Notice to Proceed with the Work no later than February 1, 2017.

Background

The Waller Creek Flood Control Project, when completed, will improve public safety and contribute to economic development of the entire City through transformation of the Waller Creek District into more vibrant area. The removal of ~28 acres from the flood zone will mitigate flooding throughout the District and allow development of both recreational amenities and commercial facilities. The increase in value in the properties being removed from the flood zone is being captured through a Tax Increment Financing district, which is the primary funding mechanism for the project.

Currently, much of the District lies within a 100-year flood plain and is subject to severe flooding erosion, and litter. The project will reduce the risk of severe flooding and stream bank erosion along lower Waller Creek by capturing and diverting flood waters from the upper creek basin (above 12th Street) into a large tunnel located 70 feet underground. The main tunnel begins in Waterloo Park where an inlet facility and pond will accept flood waters and screen out trash and debris. Creek side inlets between 4th and 5th Streets and between 8th and 9th Streets will capture additional flood waters below 12th street. The tunnel will discharge to an outlet facility/lagoon (completed) on the shores on the Lady Bird Lake. The reduction in floodplain area of over 25 acres resulting from the Waller Creek Tunnel project will increase the amount of developable land area in the lower Waller Creek watershed.

To finance the Waller Creek Tunnel project, the City Council created the Waller Creek Tax Increment Financing

Reinvestment Zone No. 17 (Tax Increment Financing) in June 2007 as allowed by state law. In a Tax Increment Financing, one or more political subdivisions contribute up to 100% of the property tax on the increase in value of real property in the district (tax increment) for Tax Increment Financing purposes. Under the terms of this Tax Increment Financing and the Agreement to Participate in this Tax Increment Financing between the City of Austin and Travis County, the City of Austin will contribute 100% of its tax increment, and Travis County will contribute 50% of its tax increment. The first year of tax collections occurred in FY 2009 and in FY 2016, the estimated revenue generated by the City of Austin's tax increment is projected at \$2.4 million, and the contribution from Travis County at 50% of its tax increment is projected at \$1.1 million.

The Waller Creek Flood Control Project consists of four contracts, which reflect the interrelated components identified above. Each of these projects must be completed to ensure that the total project can be successfully completed and the Tax Increment Financing benefit fully realized. The complexity of the project and ensuring a path to completion requires that Council take action on seven separate measures simultaneously. The current status of each of the project's components and the relationships to the actions before Council are provided below:

Waterloo Park Inlet

The scope of work consists of construction of the major inlet and connections to the tunnel, improvements to Waterloo Park, and coordination with the Waller Creek Conservancy and the Central Health District on adjacent projects. Completion of this project was adversely impacted by conflicts with the Capital View Corridor, and the City has been collaborating with the design joint venture on remedies. The anticipated completion of the inlet and City-related work is September 2016. Contract changes will be required to address delays due to the CVC issues (including deconstruction of noncompliant work), scope modifications to accommodate the lower profile building, and revisions to site work and grading plans. These modifications are provided for by Agenda Item # 3 listed under Capital Contracting Office - Authorize additional contingency funding for the construction contract with Oscar Renda Contracting for the Waller Creek Inlet Facility at Waterloo Park project in the amount of \$5,000,000, for a total contract amount not to exceed \$39,781,250.

Main Tunnel and 4th Street Side Inlet Facility Project

The contract scope includes construction of the main tunnel, the 4th Street creek side inlet structure, and related creek improvements. The tunnel has been in service since May 2015, although repair work was still required but not completed. Work on the 4th Street Inlet is still in progress, with anticipated completion in the October – December 2016 timeframe. Contract changes will be required to address modifications required for the 4th Street Inlet construction, Creekside retaining walls, and unforeseen conditions due to utilities locations, and these changes are addressed by Agenda Item #4 under the Capital Contracting Office - Authorize additional contingency funding for the construction contract with SJ Louis Construction for the Waller Creek Tunnel Main Tunnel and 4th Street Creek Side Inlet project in the amount of \$500,000, for a total contract amount not to exceed \$50,400,500).

8th Street Creek Side Inlet Facility Project

The contract includes construction of a creek side inlet at 8th Street and the related connections to existing storm water facilities. Work on the 8th Street Inlet is in progress, with a projected completion of spring 2017. This Agenda Item is #5 under the Capital Contracting Office.

Waller Beach Site Improvements Outlet Facility/Lagoon Project

This project consists of the outlet facility and lagoon, connections to the tunnel structure, trail improvements, and related work. Construction of these assets is substantially completed. The contract is being closed out, and no

Council action is required at this time.

Construction Easement

Item # 9 under the Office of Real Estate Services - Authorize negotiation and execution of all documents and instruments necessary or desirable to acquire a temporary construction easement, totaling approximately 14,458 square feet, for the Waller Creek Tunnel Project, located at 701-703 East 9th Street, City of Austin, Travis County, Texas, from Ashland Equities Company LP, in an amount not to exceed \$119,221 (District 9) is also necessary to complete this project. During the course of construction ownership of the property has changed hands, and the extension of construction easement had to be renegotiated.

Project Funding

The additional funding required to execute the changes presented above is addressed in two Agenda Items from the Watershed Protection Department. Item # 13 - Approve an ordinance amending the Fiscal Year 2015-2016 Watershed Protection Department Capital Budget (Ordinance No. 20150908-002) to increase appropriations by \$7,500,000 for the Waller Creek Tunnel Project – places the funds in the appropriate accounts so that the contract changes can be executed and capital project can be completed. Item # 14 - Approve a resolution declaring the City of Austin's official intent to reimburse itself from Certificates of Obligation to be issued for expenditures in the total amount of \$7,500,000 – provides the funding source for the work.

It should be noted that Council did approve an additional \$6 million in funding in June 2015. At the time, staff's best estimate was that the funding would be sufficient to address construction changes due to redesign, unforeseen conditions, and related delays. Staff also believed that discussions and negotiations with the joint venture design team would be resolved concurrently with the settlement of construction disputes, so that any requests presented to Council would show a balance of additional costs versus the recovery. Unfortunately, the settling of these matters has not been synchronous, so that outlay of additional funds prior to recovery is required and the fiscal impact is mitigated.

Maintenance, Inspection, and Warranty Work

As the entry of the tunnel into service nears its on-year anniversary, the Watershed Protection Department will require that the tunnel be dewatered so warranty inspections can be performed, repair work be accomplished, and sedimentation can be removed. Due to the unique nature of the requirement, Staff believes the best way to procure these services is through the use of the Competitive Sealed Proposal method. Under state statute, approval from the Governing Body is required before an alternative delivery method can be employed. Agenda Item # 2 under Capital Contracting Office - Authorize the use of the Competitive Sealed Proposal method for solicitation of maintenance, inspection, warranty, and construction work consisting of dewatering, providing access, and removal of sedimentation in support of the Waller Creek Tunnel Project - seeks this approval.