



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Jim Shannon

SUBJECT: SEE BELOW

DATE: June 17, 2020

Approved

Date

6/19/2020

COUNCIL DISTRICT: 6

**SUBJECT: REPORT ON BIDS AND AWARD OF CONTRACT FOR
CONSTRUCTION OF THE 9071 - FIRE STATION NO. 37 PROJECT**

RECOMMENDATION

- a. Report on bids and award of the construction contract for the 9071 - Fire Station No. 37 Project to the lowest responsive bidder Gonsalves & Stronck, Inc., for the base bid and the Bid Alternates Nos. 1 and 2 in the amount of \$8,715,600 and approval of a 10 percent contingency in the amount of \$871,560.
- b. Adopt the following 2020-2021 Appropriation Ordinance amendments in the Public Safety and Infrastructure Bond Fund:
 - 1) Increase the Measure T – Fire Station 37 appropriation to the Public Works Department in the amount of \$1,995,000;
 - 2) Decrease the Measure T – Fire Station 36 appropriation by \$1,118,000; and
 - 3) Decrease the Measure T – Program Reserves (Public Safety) appropriation by \$877,000.

OUTCOME

Approval of the construction contract with Gonsalves & Stronck, Inc., (G&S) enables the construction of Fire Station No. 37 at 2195 Lincoln Avenue, adjacent to the Willow Glen Community Center in south-central San José. Approval of the construction contingency will provide funding for any unanticipated work that may be necessary for completion of the project.

BACKGROUND

Fire Station No. 37 was part of the 2002 Measure O: Neighborhood Security Bond program. The project was not built due to insufficient capital funding available to construct the fire station and to properly outfit the fire station with fire apparatus and related fire station equipment, as well as

the lack of ongoing funding to support the costs of a new fire company and operations and maintenance expenses.

The site for Fire Station No. 37 was identified in a Memorandum of Agreement approved by the City Manager's Office on December 7, 2007. This document transferred control of two properties between the Fire Department (SJFD) and the Parks, Recreation and Neighborhood Services Department (PRNS). SJFD would acquire and occupy approximately 0.5-acre area of the Willow Glen Community Center, currently used as a parking lot, and PRNS would take possession of seven acres of land previously utilized for Fire Station No.19, adjacent to Penitencia Creek Park. On November 4, 2008, voters in Council District 6 approved the location of Fire Station No. 37 within the area of the Willow Glen Community Center parking lot by a special ballot measure (Attachment A).

On November 6, 2018, 70% of San José voters approved ballot Measure T - The Disaster Preparedness, Public Safety and Infrastructure Bond. The measure authorizes the City of San José to issue up to \$650,000,000 in general obligation bonds for infrastructure projects. The Bond provides \$175 million for Public Safety projects that includes three new fire stations (Nos. 32, 36, 37), two relocated fire stations (Nos. 8 and 23), and a number of other critical public safety projects.

On November 27, 2018, City Council unanimously approved Item 8.4: *General Obligation Bond (Measure T – The Disaster Preparedness, Public Safety and Infrastructure Bond)*¹ supplemental memorandum, which included Mayor Liccardo's recommendation to add two new fire stations and expedite the construction of Fire Station No. 37.

In addition, as directed by Council on February 12, 2019 relative to Item 3.4: *Measure T – Building a Sustainable Future* and the *Climate Smart San Jose Plan Semi-Annual Update*² and presented to the Transportation and Environment Committee on October 7, 2019, Measure T buildings will incorporate Zero Net Carbon (ZNC) technologies and will be evaluated for backup-ready systems to support the City's resiliency goals.

The Fire Station No. 37 project is the first new fire station to be initiated under the voter-approved Measure T Bond with a portion of the funding from the Fire Construction & Conveyance Tax Fund. Remaining funds in the Measure O Bond will be used for fire facilities remediation rather than to construct Fire Station 37.

The project consists of a new single-company, two-story building, with two apparatus bays containing an office, living spaces, and five dormitories, of approximately 8,100 square feet. The facility will be located at 2195 Lincoln Avenue, adjacent to the Willow Glen Community Center, near the intersection of Franquette Avenue, in south-central San José. Fire Station No. 37 is being designed as an "Essential Services Facility" in accordance with the California Essential Services Buildings Seismic Safety Act of 1986, and the 2016 Critical Operations Power Systems (COPS) - California Electrical Code (CEC) Section 708.

¹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3755302&GUID=0ABE3541-A422-4EC1-88EC-714BCE2B0474&Options=&Search=>

² <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3847489&GUID=DCF04188-1A48-4F02-B12D-24873EAD82E5&Options=&Search=>

Staff completed the bid package and issued the Notice to Contractors for bidding on April 8, 2020, via www.Biddingo.com. The bid package included the following Bid Alternates:

- Bid Alternate No. 1: A Battery back-up system to shave loads from the project solar panels
- Bid Alternate No. 2: Additional solar panels and supporting structures to be in the staff parking lot area.

Construction is scheduled to begin in September 2020 with completion in January 2022.

ANALYSIS

Since the bids from Katch Environmental, Inc. and Patriot Contracting are non-responsive, this memorandum recommends award of the construction contract to Gonsalves & Stronck as the lowest responsive bidder. Further details on this recommendation are provided below.

A. Report on Bids

Bids were opened on May 7, 2020, with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Variance Amount</u>	<u>Base Bid Over/(Under) Percent</u>
Katch Environmental (Fresno)	\$7,823,405	(\$176,595)	-2.2%
Engineers Estimate	8,000,000	-	-
Patriot Contracting (Union City)	8,127,500	127,500	1.6
Gonsalves & Stronck (San Carlos)	8,521,000	521,000	6.5
DL Falk Construction (Hayward)	8,669,000	669,000	8.4
Zovich Construction (Brentwood)	8,995,000	995,000	12.4

The bid results of the bid alternates are as follows:

<u>Contractor</u>	<u>Bid Alt. No. 1</u>	<u>Bid Alt. No.2</u>	<u>Total Bid Alts 1 and 2</u>	<u>Total Base Bid + Bid Alts</u>
Katch Environmental	\$179,733	\$127,552	\$307,285	\$8,130,690
Engineers Estimate	80,000	115,000	195,000	8,195,000
Patriot Contracting	35,000	\$67,692	102,692	8,230,192
Gonsalves & Stronck	48,600	146,000	194,600	8,715,600

DL Falk Construction	82,000	185,000	267,000	8,936,000
Zovich Construction	60,000	175,000	235,000	9,230,000

The procurement documents provide that the City will determine the low bidder based on the aggregate amount of the base bid and the bid alternates.

B. Non-Responsive Bids

A fire station must meet very specific and technical construction requirements, including special requirements applicable to the construction of an “essential facility.” The City has experienced difficulties on past fire station construction projects involving general contractors without fire station construction experience. Accordingly, for this project Public Works required bidders to identify a minimum of three projects involving the construction of a fire station building. The bids of Katch Environmental, Inc. and Patriot Contracting are non-responsive because they each failed to identify three fire station construction projects.¹

On May 18, 2020, Katch submitted a protest (as provided in Attachment B) to staff’s recommendation to award the contract to Gonsalves & Stronck. However, on its face, the bidder’s experience form submitted by Katch identifies two – not three – previous construction projects. Moreover, neither of the two projects involved construction of a fire station, although one of the projects identified by Katch involved a police station.

The bid submitted by Patriot Contracting, Inc. is also non-responsive because it did not identify any projects on its bidder’s experience form. In addition, Patriot Contracting, Inc.’s bid failed to include a properly executed bidder’s bond that included the required notary acknowledgement. The City consistently deems bids without proper notarization as “non-responsive.”

C. Award Recommendation

The bid submitted by the third lowest bidder, Gonsalves & Stronck, is responsive. Their bid is approximately six percent above the Engineer’s Estimate, which is considered acceptable for the work involved in the project.

Gonsalves & Stronck, has been involved in several City capital improvement projects and exhibited satisfactory performance. They have successfully completed the construction of Fire Stations Nos. 1, 33 and 34 for the City, with the Seven Trees Community Center and Branch Library as the most recently completed project for the City.

Staff recommends awarding the Bid Alternates along with the base bid for the project. The Bid Alternates provide additional energy savings and energy resiliency, in addition to the base design solar panel system on the roof of the building. At the same time, the fire station has implemented Zero Net Carbon (ZNC) features, which eliminates the use of natural gas to the building.

¹ The bid submitted by the fifth lowest bidder, Zovich Construction, was also non-responsive for failing to provide the demonstrated experience information requested by the City.

San Jose Municipal Code Section 27.04.050 provides that the contingency for all public works projects in the City (except those involving the renovation of a building or buildings) cannot exceed ten percent (10%) of the total contract amount. Staff recommends a ten percent (10%) contingency, which should be sufficient to account for unforeseen conditions that might arise in the construction of this project.

Project Labor Agreement Applicability

A project labor agreement (PLA) is applicable to this project because the Engineer's Estimate is over three million dollars.

Local and Small Business Outreach

Procurement staff used Biddingo to outreach to local and small business enterprises. Chapter 4.12 of the San Jose Municipal Code defines a "local business enterprise" as one with a legitimate business presence in Santa Clara County and "small business enterprise" as a local business enterprise with 35 or fewer employees. Procurement staff sent bid invitations to 2,600 vendors, and documents were downloaded by 48 vendors, approximately 12 of which were located within Santa Clara County and therefore local. The recommended contractor is not a local or a small business enterprise. Ten of the 24 contractor's subcontractors are located within Santa Clara County.

Green Building Policy

In accordance with the Green Building Policy, this project was designed and will be built to meet or exceed the equivalent of a "Certified" rating using the LEED rating system. The Project will not be registered since it does not meet the 10,000 square foot threshold, per the Green Building Policy.

CONCLUSION

Based on the findings as described in the Analysis section of this memorandum, staff recommends the approval of the contract for the Construction of the New Fire Station No. 37 to Gonsalves & Stronck.

EVALUATION AND FOLLOW-UP

Approval of this recommendation will enable the Project to move forward into the construction phase. No subsequent Council action on this issue is expected.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals. The new facilities shall be Net Zero Ready compliant. Fire Station No. 37 will be the first City facility that is fully Net-Zero Carbon compliant.

PUBLIC OUTREACH/INTEREST

To solicit contractors this project was listed on Biddingo. The complete bid package and project information for all Department of Public Works construction projects are available to be viewed and downloaded on Biddingo for interested contractor organizations and various builder's exchanges.

In addition, nearby residents were invited by mail to participate in the project design, and a community participation meeting for this facility was held in May 2019.

This memorandum will be posted on the City's Council Agenda website for the June 30, 2020 Council Meeting.

COORDINATION

The project and memorandum have been coordinated with the Fire Department, Finance Department, and the City Attorney's Office.

COMMISSION RECOMMENDATION

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Construction	\$8,715,600
Contingency (10%)	871,560
Project Delivery	2,273,024
TOTAL PROJECT COST:	\$11,860,184
Prior Years' Expenditures*/ Encumbrances Anticipated Through June 30, 2020:	(788,184)
 TOTAL REMAINING PROJECT COSTS	 \$11,072,000

*This figure does not include previous costs for design prior to the project's restart after the passage of Measure T.

2. COST ELEMENTS OF AGREEMENT/CONTRACT: Lump Sum \$8,715,600

3. SOURCE OF FUNDING: 498 - Measure T - The Disaster Preparedness, Public Safety and Infrastructure Bond
 392 - Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes

Total available funding for the Measure T – Fire Station 37 appropriation is \$9.1 million, leaving a gap of \$2.0 million. To award the contract and complete the project, recommended actions include the use of the \$877,000 currently available in the Measure T – Program Reserve for Public Safety, and the reallocation of \$1.1 million from the Measure T budget for Fire Station 36. The search for a site for the new Fire Station 36 is just beginning and funding to purchase property is not expected to be needed until beginning of 2021-2022, which coincides with the second bond issuance that will generate the funds necessary to restore funding for Fire Station 36.

Though not part of the construction contract, a reserve in the amount of \$1.18 million is set aside in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes for a new emergency fire apparatus and related equipment, along with the furniture, fixtures and equipment necessary to outfit Fire Station 37 and the new 14 Fire staff assigned to the station.

4. FISCAL IMPACT:

As revised by the City Council on September 9, 2008, City of San José Budget Principles include Budget Principle #8, which states that capital improvement projects *shall not proceed for projects with annual operating and maintenance costs exceeding \$100,000 in the General Fund without City Council certification that funding will be made available in the applicable year of the cost impact. Certification shall demonstrate that funding for the entire cost of the projects, including the operations and maintenance costs, will not require a decrease in existing basic neighborhood services.* The construction of Fire

Station 37 was previously certified by the City Council along with other projects included in the Measure O bond program. Though the budgetary outlook for the City is challenging and uncertain, staff recommends proceeding with this project due to the critical service level improvements that the new station will provide.

The estimated costs for operations and maintenance (O&M) for Fire Station 37, primarily attributable to 14 Fire sworn fire staff, is reflected below and were assumed as part of the 2021-2025 General Fund Five-Year Forecast.

2021-2022 - \$2,053,000 (partial year funding)

2022-2023 - \$4,175,000

2023-2024 - \$4,242,000

2024-2025 - \$4,311,000

The addition of necessary staff and equipment will be included as part of the 2021-2022 Proposed Budget development process. As part of the approval process for the 2020-2021 Proposed Budget, \$1.2 million is reserved to provide the City's match for the first two years for the 2020 Fire Staffing for Adequate Fire and Emergency Response (SAFER) grant. The SAFER grant would provide \$4.8 million over a three-year period to partially offset the costs for new sworn staff and is expected to be awarded in fall 2021.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund the contract recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	Current Total Appn	Rec. Budget Action	Amt for Contract	2020-2021 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
Remaining Project Costs			\$11,072,000				
392	411P	Measure T – Fire Station 37	\$2,595,000	N/A	\$238,600	V-334	N/A
498	411P	Measure T – Fire Station 37	\$6,482,000	\$1,995,000	\$8,477,000	V-334	N/A
Total Current Funding Available			\$9,077,000				
New Funding to be Appropriated				\$1,995,000			
TOTAL FUNDING				\$11,072,000			
Source of New Funding							
498	415B	Measure T – New Fire Station 36	\$1,452,000	(\$1,118,000)	N/A	V-341	N/A
498	8575	Measure T – Program Reserve (Public Safety)	\$877,000	(\$877,000)	N/A	V - 336	N/A
Total				(\$1,995,000)			

* The 2020-2021 Proposed Capital Budget is scheduled for City Council on June 16, 2020 and adoption on June 23, 2020.

HONORABLE MAYOR AND CITY COUNCIL

June 17, 2020

Subject: 9071 - Fire Station No. 37 Project

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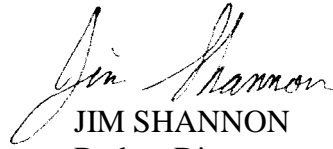
CEQA

CEQA: Categorically Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities.

/s/

MATT CANO

Director of Public Works



JIM SHANNON

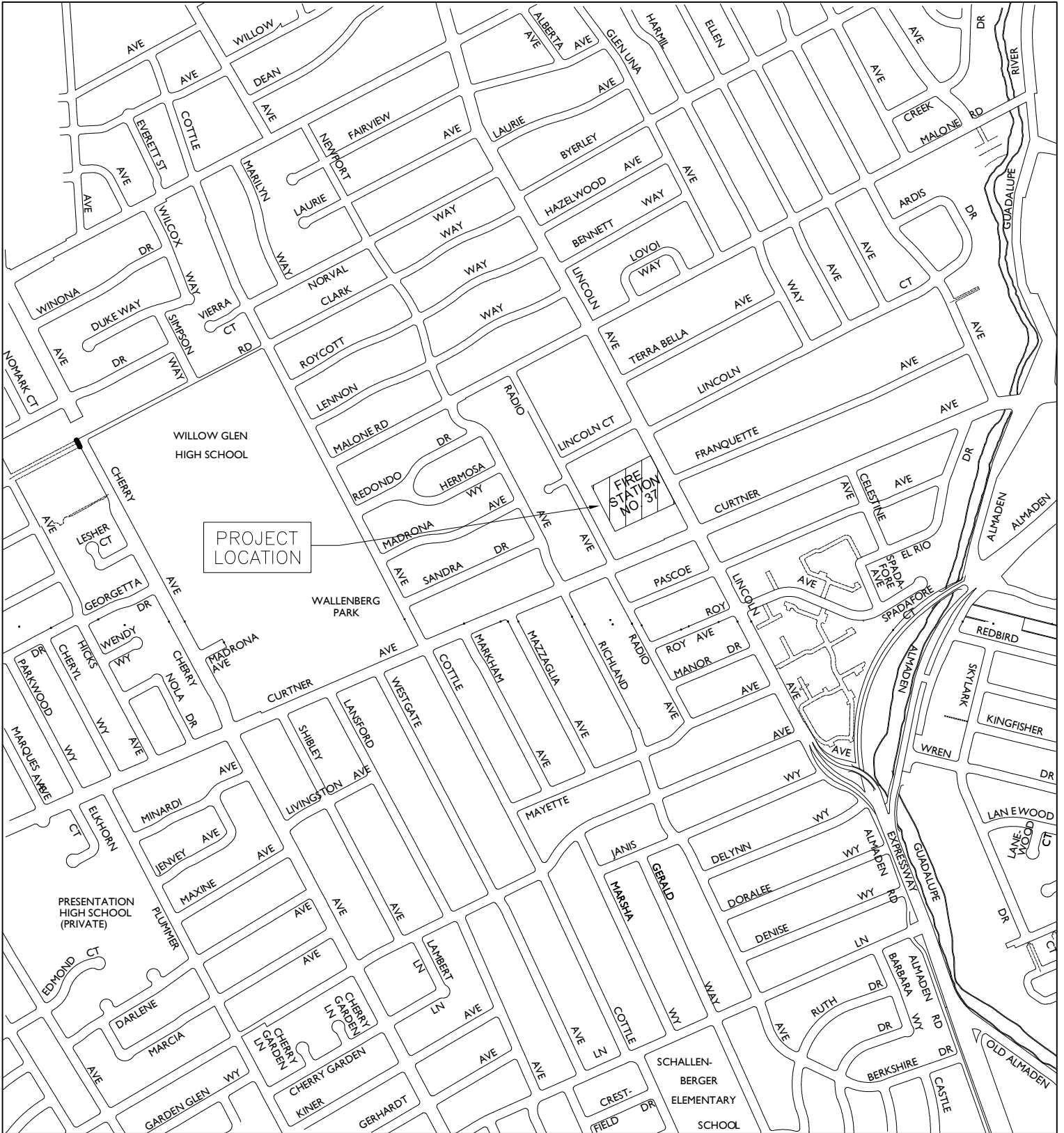
Budget Director

For questions please contact John Cannon, Deputy Director, at (408) 535-8340.

Attachments:

A – Fire Station No.37 Location Map.

B – Katch Environmental, Inc. Protest letter, (dated May 18, 2020)



FIRE STATION NO. 37 LOCATION MAP

NOT TO SCALE





KATCH ENVIRONMENTAL, INC.

Paul Katchadourian, President
4972 East Pontiac Way
Fresno, CA 93727
559.292.6653
paul@katchenvironmental.com

5/18/2020

City of San Jose
Department of Public Works
200 E. Santa Clara St.
San Jose CA 95113

RE: 9071 New Fire Station No. 37 (Measure T)

Dear Lauren Profeit

Katch Environmental Inc. is a licensed contractor who was the low bidder on the New Fire Station Project. We are being considered non-responsive for our experience. This was determined without an interview or background consideration. I am protesting this loss of award on several grounds.

I believe the qualification terms were meant to discriminate against my company. We are licensed for this project and successfully bonded it. We have worked on several PLA's and are wrapping up a very similar project in 45 days. A fire station is just another building and should not be a qualification or disqualification for anyone who has not built one.

You have removed all but one company which shows possible bias having listed a qualification tailored for one particular entity. We can build this building with 100% complete satisfaction with several references who can validate this claim. The city special provisions state: "The City may, in its sole discretion, waive any informalities or minor irregularities in the bid proposal". This shows you had an alternative and still chose to discriminate against a Small Disabled Veteran Owned company. You also chose to do so at taxpayer expense of \$697,595.00.

Katch Environmental Inc. has listed many of the same subs which shows the quality of the specialties will be similar. The only difference will be not using the hand-picked contractor.

I plan to litigate this.

Sincerely,

Paul Katchadourian
Paul Katchadourian