



COUNCIL AGENDA: 10/23/18

FILE: 18-1407

ITEM: 2.11

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: October 10, 2018

Approved

D. DSYL

Date

10/12/18

COUNCIL DISTRICT: 7

**SUBJECT: AGREEMENT WITH FALL CREEK ENGINEERING, INC. FOR
CONSULTANT AND PROFESSIONAL ENGINEERING SERVICES FOR
8831 – FEMA - JAPANESE FRIENDSHIP GARDEN KOI POND AND
PUMP HOUSE PROJECT (SCSJE81/PW1051)**

RECOMMENDATION

- (a) Approve an agreement with Fall Creek Engineering, Inc. to provide engineering consultant services for the Japanese Friendship Garden Koi Pond and Pump House Project from the date of execution to October 31, 2021, in a maximum total compensation amount of \$605,188.
- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute any amendments to the scope of services provided that the total cost of the agreement does not increase.

OUTCOME

Approval of the agreement will enable the City to obtain engineering consultant services for the Japanese Friendship Garden Koi Pond and Pump House Project (Project), and provide the City with the ability to advance the Project to the construction phase. Additionally, adoption of these recommendations will enable the Director of Public Works to negotiate and execute any amendments to the scope of services provided that the total cost of the agreement does not increase.

BACKGROUND

During the severe storms in February 2017, Coyote Creek overflowed and entered Kelley Park depositing debris and silt throughout the area, causing significant damage to the Japanese Friendship Garden. The Japanese Friendship Garden covers a large landscaped area and contains

three large koi ponds ("Koi Pond") whose water is regulated by a pump and filtration system. The Koi Pond equipment is stored in a metal 350 square foot structure called the Pump House. The Koi Ponds cover an area approximately 37,600 square feet and contain approximately 422,000 gallons of water with a circulation flow rate of 1,500 gallons per minute. Flood waters at the Pump House reached a height of approximately seven feet submerging the Koi Pond filtration system and all pumps and controllers.

The purpose of the Project is to test the pump house mechanical and electrical systems, with reports outlining damage and need for replacement/repairs, perform an analysis of the Koi Pond structures and pump house, with reports outlining damages, provide required design work and preparation of contract documents for mitigating the damages found through testing and inspection, develop conceptual design(s) for 'future mitigation' to prevent flood waters from damaging the existing facility if a flood event occurs again, and, if the conceptual design is approved by the Federal Emergency Management Agency (FEMA), prepare contract documents. Under the recommended agreement the consultant will provide engineering services for the design development through the construction phase in conformance with FEMA's provisions, City of San José's policies and procedures, and other applicable local, state, and federal laws and regulations. Construction is estimated to begin in summer 2019 with completion in spring 2020.

ANALYSIS

On April 3, 2018, the City issued a Request for Proposals (RFP) for the engineering consultant design services for the Project. The RFP was successfully advertised to 9,281 registered BidSync users. On April 27, 2018, the City received one proposal from Fall Creek Engineering, Inc. Upon completion of the RFP evaluation, staff worked closely with the City Attorney's Office, FEMA, California Governor's Office of Emergency Services and Fall Creek Engineering, Inc. to develop and finalize the consultant agreement.

City staff solicited feedback from consultant firms who viewed and/or downloaded the RFP on why they did not decide to submit a proposal. The reasons consultants did not submit proposals included: a) the level of effort to prepare a thoughtful proposal was too great in relation to the potential contract amount; b) consultants preferred to serve as a sub rather than a prime due to the breadth of disciplines needed for the project; and c) consultants did not have the needed expertise or experience to perform the work.

City staff found Fall Creek Engineering's proposal to be responsive, and a Technical Evaluation Panel consisting of three City staff subject matter experts, determined Fall Creek Engineering, Inc. to be qualified to provide the engineering consultant services for the project. Each panel member evaluated the proposal using a consistent scoring matrix based on the following evaluation criteria: firm experience, key staff expertise and experience, project approach, and fee schedule.

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Evaluation Criteria	Possible Points
Submittal Requirements	Pass/Fail
Minimum Qualifications	Pass/Fail
Technical Evaluation Criteria	
Expertise – Key Personnel Resumes Organization Chart	10
Experience – Design Projects FEMA/Federally Funded Projects Construction Management Support	45
Approach – Future Hazard Mitigation Measures Project Estimates Conceptual to Final Design Project Schedule Cost Benefit Analysis	30
Non-Technical Criteria	
Fee Schedule	15
TOTAL	100

* Due to this project seeking federal reimbursement, Small Business and local business preference could not be given. However, please note that Fall Creek Engineering, Inc. is neither a Small Business or a Local Business.

The final ranking and score was as follows:

Rank	Firm	Expertise	Experience	Approach	Fee Schedule	Total
1	Fall Creek Engineering, Inc.	9.67	38.67	25.33	15	88.67

The proposed maximum total compensation of the agreement is \$605,188, based on consultant's reimbursable actual costs including direct expenses, \$551,062, plus a negotiated fixed fee (profit), \$54,126.

The Director of Public Works will also have the authority to negotiate and execute any amendments to the scope of services provided that the total cost of the agreement does not increase.

EVALUATION AND FOLLOW-UP

No additional follow-up action with the City Council is expected at this time. This Project is currently within budget, and the work in the Agreement is expected to be completed in Spring 2020. The agreement term is from the Contract Date to October 31, 2021, which will account for any potential delays.

Since the current action is for award of a consultant agreement for consultant and professional engineering services only, staff will return to City Council with a construction contract award recommendation after the final design and bidding phases of the Project are complete.

POLICY ALTERNATIVES

Alternative #1: Direct City staff to perform the work using in-house resources

Pros: Staff would have opportunity to work on a unique project that is multi-disciplinary, requiring mechanical expertise and electrical and geotechnical and structural engineering disciplines.

Cons: Lack of in-house technical and design expertise to support this project.

Reason for not recommending: This complex project requires the use of design professionals with experience and expertise that is not available among City staff, including testing of complex mechanical and electrical systems, analyzing structures, geotechnical investigation, design and analysis of future flood mitigation, and environmental review and permitting work.

PUBLIC OUTREACH

The RFP was issued and was successfully advertised to 9,281 registered BidSync users. Among the businesses and suppliers invited to participate in the RFP process included 251 companies that were registered as Small Business Enterprise, 445 registered as Disadvantaged Business Enterprise, 545 registered as Minority-Owned Business Enterprise, and 358 registered as Woman-Owned Business Enterprise.

This memorandum will be posted on the City's website for the October 23, 2018, City Council meeting.

COORDINATION

This Project and the Agreement have been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Department of Parks, Recreation and Neighborhood Services, the Department of Planning, Building and Code Enforcement, FEMA, and the California Governor's Office of Emergency Services (Cal OES).

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This Project is consistent with the City's General Plan, the City Council-approved budget strategy for City-wide parks, and the budget strategy principle of focusing on protecting our core services.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: **\$605,188**
2. COST ELEMENTS OF CONSULTANT AGREEMENT:

Professional Services	\$ 541,262
Consultant's Reimbursable Expenses	9,800
Fixed Fee (Profit)	54,126

TOTAL AGREEMENT AMOUNT: \$ 605,188
3. SOURCE OF FUNDING: 391 – Construction and Conveyance Tax Fund: City-wide Parks Purposes.
4. FISCAL IMPACT: This Project is funded through the Construction and Conveyance Tax Fund and will have no impact on the operation and maintenance costs of City-wide Parks.

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BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the consultant agreement recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Consultant Agreement	2018-2019 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
391	407H	2017 Flood – Japanese Friendship Garden Koi Pond and Pump House	\$1,451,000	\$605,188	V-425	6/19/18, Ord. 30124

*The 2018-2019 Proposed Capital Budget was adopted by the City Council on June 19, 2018

CEQA

Statutorily Exempt, CEQA Guidelines Section 15269 (a), Emergency Projects, File No. PP18-003.

/s/
MATT CANO
Director of Public Works

For questions, please contact Michael O'Connell, Deputy Director, Public Works Department, at (408) 535-8300.