

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: January 24, 2019

Approved

D. DSYL

Date

1/24/19

COUNCIL DISTRICT: 3

**SUBJECT: ACTIONS RELATED TO THE 8379-CITY HALL BUILDING HVAC
CONTROLS UPGRADE PROJECT - REBID**

RECOMMENDATION

- (a) Report on bids and award of a construction contract for the 8379 – City Hall Building Heating, Ventilation, and Air Conditioning (HVAC) Controls Upgrade to the low bidder, Sunbelt Controls Corporation, in the amount of \$5,290,000 and approval of a fifteen percent contingency in the amount of \$793,500.
- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute any single and/or multiple change orders for the 8379-City Hall Building HVAC Controls Upgrade Project in excess of \$100,000 up to the amount of the contingency of \$793,500.

OUTCOME

Approval of this construction contract will allow for the construction of the City Hall Building HVAC Controls Upgrade project. Approval of a standard fifteen percent contingency would provide funding for any unanticipated work necessary for the proper completion of the project.

BACKGROUND

The HVAC controls were engineered and installed as part of the original City Hall building construction in 2005. The controls regulate the heating and air conditioning system in all three City Hall buildings including the Tower, Rotunda, and Council Wing. Failure of the control components cause undesired temperature swings and zone air circulation inconsistencies resulting in tenant discomfort and energy inefficiency.

Over time, the HVAC control system has become obsolete and the manufacturer has transitioned to no longer support the hardware components, and provides limited software technical

assistance, making it difficult to keep the system operating efficiently and reliably. The upgrade of the controls is required as the replacement parts of the existing system are scarce and no longer readily available. In recent years, City Hall trade staff has resorted to purchasing used components to keep the system operational.

The bid package consists of project construction documents prepared by Advance Design Consultants, Inc., a City consultant.

Construction is scheduled to begin in March 2019, with projected completion by September 2020.

ANALYSIS

Bids were opened on December 13, 2018, with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Engineer's Estimate	\$6,000,000		
Sunbelt Controls Corporation	\$5,290,000	(\$710,000)	-11.8%
Mesa Energy Systems, Inc.	\$5,904,436	(\$95,564)	-1.6%
Stronghold Engineering, Inc.	\$6,998,100	\$998,100	16.6%

The low bid submitted by Sunbelt Controls Corporation in the amount of \$5,290,000 is 11.8 percent lower than the Engineer's Estimate. Sunbelt Controls Corporation has offices located in Pleasanton and in San Leandro, and has over 30 years of experience as an independent Building Automation System contractor. Staff reviewed its bid schedule of quantities and recommends awarding the project to Sunbelt Controls Corporation.

Council Policy No. 1-18, entitled "Operating Budget and Capital Improvement Program Policy" sets a standard contingency of 15 percent for building renovation/remodeling projects. The standard fifteen percent contingency is appropriate for this renovation project.

The Municipal Code authorizes the Director to issue changes orders in the amount of \$100,000 or less in an aggregate amount of the contingency. The requested delegation of authority would allow the Director of Public Works to execute change orders more than \$100,000 within the contingency amount for the timely completion of the project. Due to the limitation of allowed construction time, the complexity of the coordination required, and the minimum interruption to the normal operation requirement for this project, a delegation of authority is appropriate.

Reject Bid Protest

The second low bidder, EMCOR Services/Mesa Energy Systems, Inc., protests that the bid submitted by Sunbelt Controls Corporation is not responsive. Specifically, Mesa Energy Systems claims Sunbelt did not meet the experience requirements, which it asserts required listing 3 reference projects having a contract amount equal or greater than \$1,000,000. One project listed by Sunbelt had a contract amount of \$850,000.

The protest by Mesa Energy Systems is without merit. The Statement of Bidder's Experience form states:

Bidder or its subcontractor, must have installed and completed
Three (3) commercial grade HVAC controller upgrade projects
with similar controllers points and scope and these three projects
should have the contract amount equal or greater than \$1,000,000
within the past 5 years from the time of the bid opening date.

Initially, the requirement states that the bidder or subcontractor "must" have installed and completed 3 commercial HVAC controller upgrade projects. In contrast to the use of the word "must," the second part of the requirement states that the 3 projects "should" have a contract amount equal or greater than \$1,000,000. The use of the word "should" reflects that – unlike the number of HVAC controller upgrade projects completed – the contract dollar amount was not intended to be mandatory. This is consistent at least one of the definitions of "should" in the online English Oxford Living Dictionaries as "indicating a desirable or expected state." Therefore, Sunbelt's bid is responsive.

Even assuming the low bid was not responsive, the irregularity is minor and could be waived. Sunbelt's listing of an \$850,000 project did not affect its bid with regard to price, quantity or quality of the work for which bids were submitted. Moreover, the purpose of the experience requirement is to help the City determine that the bidder is qualified to do the work.

After evaluating the bid protest, staff has concluded that there is no merit to the claim submitted by EMCOR Services/Mesa Energy Systems, Inc.

Construction Management

Construction is anticipated to begin in March 2019, with a construction window through September 2020. Final project closeout and full system operation is expected by December 2020. During the construction phase, the Public Works project engineer will manage the construction scheduling and coordination by taking the following steps to ensure minimum physical interruption as well as temperature discomfort that might occur during the construction work for this project.

- The HVAC system will remain in general operation during the entire construction period.
- Construction activities, hours, and security will be regulated and coordinated per zones such as common areas, internal office space, conference rooms, equipment rooms, and special areas such as the United States Patent and Trademark office.
- The Public Works project engineer will hold coordination meetings with City staff providing advance notification of contractor work within staff areas. Construction impacts during normal operating hours will be updated regularly and timely.

Project Labor Agreement Applicability

Project labor agreement (PLA) is not applicable to this project because the PLA is not yet executed.

Local and Small Business Outreach

This project was advertised in the *San Jose Post Record* newspaper and on BidSync. The BidSync advertisement reached 9,097 businesses of which 509 were located within Santa Clara County.

Sunbelt Controls Corporation, a large firm with offices in San Leandro and Pleasanton, is a wholly-owned subsidiary of ACCO Engineered Systems (ACCO) and will be managing the project from the ACCO local office located on Qume Drive in San Jose. ACCO is one of the largest specialty mechanical contractors in the western United States.

Sunbelt Controls Corporation listed one subcontractor, Colevan Electric (Pleasanton).

Due to the size and complexity of this project, the Public Works Department was unable to make any specific modifications to the scope of work that would increase local and small business participation.

EVALUATION AND FOLLOW-UP

No additional follow up action with the Council is anticipated at this time.

PUBLIC OUTREACH

This project was listed on BidSync (www.bidsync.com) and advertised in the *San Jose Post Record*. The complete bid package and project information for all Department of Public Works construction projects are available on BidSync for interested contractors, contractor organizations and builders' exchange. This memorandum will be posted on the City's website for the February 5, 2019, City Council meeting.

COORDINATION

This project and memorandum have been coordinated with City Manager's Budget Office, Department of Finance, San Jose Fire Department, Planning, Building and Code Enforcement Department, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Project Delivery	\$1,929,400
Construction Costs	5,290,000
Contingency	793,500
Total Project Costs	\$8,012,900
2. SOURCE OF FUNDING: 001 – General Fund
3. COST ELEMENTS OF CONSTRUCTION CONTRACT: \$5,290,000
4. OPERATING COSTS: It is anticipated that this project will not have an operating and maintenance impact. One-year system warranty is included in the contract amount.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the remaining project delivery costs recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	Estimated Amt. for Contract	2018-2019 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
001	7866	City Hall HVAC Control System Replacement	\$8,454,000	\$5,290,000	V-853	10/16/2018, Ord. No. 30172

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

Exempt, File No. PP13-115. A CEQA Negative Declaration for the repair, replacement, and retrofit of HVAC systems located on/within existing public facilities.

/s/

MATT CANO

Director of Public Works

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

Attachment: Location Map



SAN JOSE CITY HALL

Location Map

Not to Scale