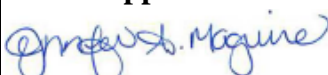


CITY COUNCIL ACTION REQUEST

Department(s): Finance	CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment	Coordination: Environmental Services Department, City Attorney's Office, and City Manager's Budget Office	Dept. Approval: /s/ Julia H. Cooper
Council District(s): Citywide			CMO Approval: 

SUBJECT: ACTIONS RELATED TO THE AGREEMENT WITH OVERLAY, LLC FOR A BUILDING PERFORMANCE ORDINANCE SOLUTION

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to:

- (a) Execute an Agreement with Overlay, LLC (Denver, CO) to provide a Building Performance Ordinance Solution, including related professional services, software subscription, support, and maintenance, for an initial two-year term beginning on or about January 6, 2021 through January 5, 2023 for a maximum compensation not to exceed \$114,919 for the initial term.
- (b) Negotiate and execute amendments and change orders as required for any unanticipated changes such as enhancements, API development, and custom report generation for a contingency amount not to exceed \$25,000 during the initial two-year term, subject to the appropriation of funds.
- (c) Exercise up to eight one-year options to extend the term through January 5, 2031 for ongoing licensing, support, maintenance, and related professional services, subject to the appropriation of funds.

Desired Outcome: To provide a Building Performance Ordinance Solution that will enable the Environmental Services Department to manage the long-term implementation of the Energy and Water Building Performance Ordinance.

BASIS FOR RECOMMENDATION:

In December 2018 the City of San José (“City”) voted to adopt the Energy and Water Building Performance Ordinance.¹ The intent of the Energy and Water Building Performance Ordinance is to assist the City with meeting greenhouse gas emission reduction and water conservation goals as described in the Climate Smart San José plan.² The Energy and Water Performance Ordinance builds on existing state law, CA Assembly Bill 802,³ which requires that yearly energy and water usage data be tracked for commercial and multifamily buildings larger than 20,000 square feet. Affected building owners report their energy and water data by linking utility accounts and manually entering information into the Environmental Protection Agency’s platform known as Energy Star Portfolio Manager. Currently, the City has approximately 2,500 buildings that qualify under the Energy and Water Performance Ordinance, and the current process for managing these buildings involves obtaining consolidated data from Energy Star Portfolio Manager, exporting that data to another third-party tool where the data is checked for errors, and then manually notifying each building owner of their compliance status.

In January 2020, the City released a Request for Proposal (“RFP”) for a Building Performance Ordinance Solution through the City’s e-procurement system, Biddingo. The Solution will provide City staff with an automated tool for managing the affected buildings in San José, including reporting, compliance, and notifications.

¹ https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT17BUCO_CH17.85CISAJJOENWABUPEOR

² <https://www.sanjoseca.gov/home/showpublisheddocument?id=32171>

³ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB802

Five proposals were received prior to the RFP deadline. The proposals were evaluated and scored independently by a three-member evaluation team comprised of representatives from the Environmental Services Department (“ESD”). Two companies were selected for oral interviews and system demonstrations, and staff conducted two Best and Final Offers (“BAFOs”) to make clarifications and obtain final pricing.

Evaluation scores for the two finalists are as follows:

Evaluation Criteria	Maximum Points	Maalka, Inc.	Overlay LLC
General Requirements	15	11	11
Experience and Qualifications	10	7	9
Project Approach/Schedule	10	9	9
Technical Capabilities	10	8	8
Cost Proposal (BAFO)	15	15	11
Oral Interview	30	20	29
Local Business Enterprise	5	0	0
Small Business Enterprise	5	0	0
TOTAL	100	70	77

Neither finalist requested the local or small business enterprise preference, and no protests were received, although staff conducted a debriefing with Maalka, Inc., at their request, to provide additional feedback on their scores.

Staff conducted reference checks for Overlay, LLC with the City and County of Denver (CO), Hennepin County (MN), and the City of Boulder (CO). All references provided positive feedback.

Based on these results, staff recommends award of contract to Overlay LLC as the most advantageous and best value proposal per the evaluation criteria set forth in the RFP.

Approval of this recommendation will provide ESD with the ability to manage the long-term implementation of the Energy and Water Building Performance Ordinance.

Climate Smart San José: The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals by facilitating the energy and water efficiency of homes and/or commercial buildings.

Commission Recommendation/Input: There is no commission recommendation or input associated with this action.

This action is consistent with the City’s 2020-2021 Adopted Operating Budget and City Service Area of Environmental and Utility Services to ensure: “clean and sustainable air, land, and energy.”

COST AND FUNDING SOURCE:

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2020-2021 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	0762	Non-Personal/Equipment	\$1,871,890	\$114,919	VIII - 145	10/20/2020, Ord# 30494

FOR QUESTIONS CONTACT: Jennifer Cheng, Deputy Director of Finance, at jennifer.cheng@sanjoseca.gov.