

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: Parks and Recreation

BOARD AGENDA #: *B-7

AGENDA DATE: August 29, 2017

SUBJECT:

Approval to Determine that No Responsive Bids were Received for the Modesto Reservoir Regional Park Marina Fuel Station Project and therefore Declare No Bids were Received for the Purposes of Public Contract Code Section 22038c

BOARD ACTION AS FOLLOWS:

No. 2017-474

On motion of Supervisor Olsen, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: 
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

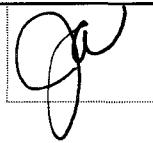
DEPT: Parks and Recreation

Urgent Routine

BOARD AGENDA #: *B-7

AGENDA DATE: August 29, 2017

CEO CONCURRENCE: *phst*



4/5 Vote Required: Yes No

SUBJECT:

Approval to Determine that No Responsive Bids were Received for the Modesto Reservoir Regional Park Marina Fuel Station Project and therefore Declare No Bids were Received for the Purposes of Public Contract Code Section 22038c

STAFF RECOMMENDATIONS:

1. Determine that no responsive bids were received for the Modesto Reservoir Regional Park Marina Fuel Station Upgrade Project and therefore "no bids" were received for purposes of Public Contract Code section 22038(c).
2. Authorize the Director of Department of Parks and Recreation, or designee, to negotiate with a qualified contractor for the work without further advertising for bids, pursuant to Public Contract Code section 22038(c).

DISCUSSION:

The Modesto Reservoir Regional Park Marina Fuel Station Upgrade Project (Project) is located at the Modesto Reservoir Regional Park (MRRP) Marina. The MRRP is owned and maintained by the Stanislaus County Department of Parks and Recreation (Department). Modesto Reservoir is a body of drinking water managed by the Modesto Irrigation District. The MRRP is used by the public for recreational activities such as camping, boating, fishing, and swimming.

The County's consultant, Blymyer Engineers, prepared the engineer-stamped plans, specifications, and materials list for the Project.

On August 16, 2016, the Board of Supervisors approved a recommendation to adopt the plans and specifications for the Project and directed staff to publish the Notice Inviting Bids (Notice). On August 17, 2016, the Notice was posted with Modesto Reprographics and on August 22, 2016, August 29, 2016, and September 25, 2016, the Notice was published in the Modesto Bee. On September 28, 2016, one sealed bid was received, publicly opened, and read. The engineer's estimate for the Project was \$190,000. The only bid received was from a firm named "CIC" and that came in at \$289,708, which was significantly above the project funds that were available. Given that, Department staff notified CIC that the County would not be proceeding with the project's construction at that time as there were funding limitations. To reduce construction costs, the plans and specifications were revised with minimal changes that did not change the intent or the scope of the project. The changes included adding the card readers into the pumps instead of utilizing a standalone unit; welded piping was changed to

Approval to Determine that No Responsive Bids were Received for the Modesto Reservoir Regional Park Marina Fuel Station Project and therefore Declare No Bids were Received for the Purposes of Public Contract Code Section 22038c

threaded; and eliminating an inventory system for the tanks, a leak detection system, hose reels, remote filler boxes, fencing and bollards. The project was put back out to bid a second time. On May 15, 2017, the Notice was posted with Modesto Reprographics and on May 15, 2017, May 22, 2017, and May 29, 2017, the Notice was published in the Modesto Bee. On June 14, 2017, three sealed bids were received, publicly opened, and read. The engineer's estimate for the revised Project was \$165,000. A summary of the bids is as follows:

- Construct ICON Corporation in the amount of \$184,249.97
- CIC in the amount of \$184,249.97
- Donlee Pump Company in the amount of \$257,615

Thus, all three bids exceeded the County's project estimate. Additionally, both the Construct ICON Corporation and CIC bids did not meet the requirement in Section 5-1.13, Subcontracting, of the Standard Specifications which states that the prime contractor must, "...perform work equaling at least 30 percent of the value of the original total bid..." and both bids indicated that the prime would perform zero percent of the work. In addition, after some research on the Secretary of State website, staff concluded that Construct ICON Corporation and CIC are the same entity. The firm submitted two different bids under two different names. While the price of each bid was the same, the content of each bid was different and this bidder could benefit over other bidders by deciding for themselves which bid is the "real bid" that they would agree to be bound by.

Donlee Pump Company submitted a bid that did not conform to the proposal requirements that stated, "All line items must have an entry placed in its appropriate box, and this form must be signed for the bid to be accepted as completed." Donlee Pump Company provided a total bid amount but did not provide unit prices for each bid item.

The Department has put this project out to bid twice in order to meet the Public Contracting Code requirements. Staff believe that there would be no advantage to the County to rebid this project a third time as interest in the project is low and rebidding would likely not produce different results. While staff attempted to recruit bidders, interest remains low and there are not enough competent bidders for this project. Staff has surveyed experts in the field, and the response has been that the work is undesirable because the project is relatively small, and complicated because it is near a body of water. It is likely for this reason that quality bids, within the engineer's estimate, have not been received. Rebidding this project would not produce an advantage to the County or the Public because it would be undesirable and impractical to spend the time and resources when there is no interest from qualified bidders.

Based on the bid responses as outlined above, the Department is requesting that the Board make the determination that no responsive bids were received, and as such "no bids" were received for purposes of Public Contract Code section 22038(c) which states: "If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without further complying with this article." Should the Board of Supervisors make this determination, the Department will negotiate a contract with a qualified contractor and return to the Board for approval of that contract.

Approval to Determine that No Responsive Bids were Received for the Modesto Reservoir Regional Park Marina Fuel Station Project and therefore Declare No Bids were Received for the Purposes of Public Contract Code Section 22038c

POLICY ISSUE:

A competitive bid process is required by the California Public Contracting Code, section 22037; however, if no bids are received through the process, California Public Contracting Code section 22038(c) allows the County to negotiate a contract without further advertising for bids. Additionally, in light of the lack of interest by qualified bidders, grounds exist in this instance for an exception under Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal.App.3d 631, which states that when it would be undesirable, impractical or impossible to advertise for competitive bids, then no such advertisement is required because it would not produce an advantage to the County and the public.

FISCAL IMPACT:

The engineer's estimate for this project, including the revisions of the plans and specifications, is \$165,000. This project is funded by the Parks and Recreation Modesto Reservoir Patrol funds and the use of Public Facilities Fees. The Board of Supervisors has previously approved the use of Public Facilities Fees in the amount of \$90,732 for this project. Funding is included in the Fiscal Year 2017-2018 Adopted Proposed Budget for Parks and Recreation.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Board's priorities of providing A Well Planned Infrastructure System and A Healthy Community by upgrading and improving recreational facilities and resources at the Modesto Reservoir Regional Park.

STAFFING IMPACT:

Existing Parks staff will oversee the project.

CONTACT PERSON:

Jami Aggers, Director
Merry Mayhew, Assistant Director

Telephone: (209) 525-6770
Telephone: (209) 525-6760

ATTACHMENT(S):

None