

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 4/21/16

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

506



FROM: Economic Development Agency

SUBMITTAL DATE:
 April 21, 2016

SUBJECT: Riverside Public Defender/Probation Building Project – Award Bid for HVAC Trade, Reject Bids for Electrical and Low Voltage Trade and Authorize the Rebid, District 2, [\$2,899,000], Bond Proceeds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the bid for Bid Package 013 for the Heating, Ventilation and Air Conditioning, (HVAC) Trade from West Tech Mechanical, Inc. (West Tech) is non-responsive;
2. Waive any minor irregularities in the bid and award the contract for Bid Package 013 for the HVAC Trade to Liberty Climate Control, Inc. (Liberty), as the lowest responsive bidder in the amount of \$2,899,000;
3. Reject all bids received on Bid Package 014 for the Electrical and Low Voltage Trade due to non-waivable irregularities in the lower bids and the high cost of the remaining bids;

(Continued)

[Signature]
 Robert Field
 Assistant County Executive Officer/EDA
 By: Jeff Van Wagenen, Managing Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 100,000	\$ 2,799,000	\$ 2,899,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: Bond Proceeds 100% (Existing Bond Proceeds - Previously Approved Budget)				Budget Adjustment: No	
				For Fiscal Year: 2015/16 - 2016/17	

C.E.O. RECOMMENDATION:

REVIEWED BY CIP APPROVE
[Signature] BY: *[Signature]*
 Ivan M. Chand Rohini Dasika
 4/26/2016

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: 3-13 of 10/6/15 | District: 2 | Agenda Number:

3-13

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

FORM 11: Riverside Public Defender/Probation Building Project – Award Bid for HVAC Trade, Reject Bids for Electrical and Low Voltage Trade and Authorize the Rebid, District 2, [\$2,899,000], Bond Proceeds 100%

DATE: April 21, 2016

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RECOMMENDED MOTION: (Continued)

4. Authorize ProWest to re-bid Bid Package 014 for the Electrical and Low Voltage Trade necessary to complete the Riverside Public Defender/Probation Building Project per the plans and specifications;
5. Upon completion of the bid process for Bid Package 014, authorize the Assistant County Executive Officer/EDA to submit the contract for award of the bid to the lowest responsive and responsible bidder to the Chairman of the Board of Supervisors (Board), and authorize the Chairman to execute the agreement on behalf of the Board provided that, if any of the following occur, the award will be submitted to the Board for action: there is a bid protest, the lowest bid exceeds the estimated construction budget, the low bidder is disqualified, two or more bids are the same and are the lowest, or a bidder requests relief from its bid due to an error; and
6. Authorize the Assistant County Executive Officer/EDA to administer the contract for the awarded low bidder for Bid Package 014 in accordance with applicable Board policies.

BACKGROUND:

Summary

On October 6, 2015, the Board approved a professional services agreement between the County of Riverside (County) and ProWest PCM, Inc. (ProWest) for construction management services and authorized ProWest to release bid packages for all trades necessary to complete the project.

On March 24, 2016, the Economic Development Agency (EDA) received bids for Bid Package 013 for the HVAC Trade and Bid Package 014 for the Electrical and Low Voltage Trade. The apparent low bid for Bid Package 013 submitted by West Tech contained substantial white out corrections on multiple pages. The Bid Instructions clearly note that the County reserves the right to reject any bid containing erasures or deletions, inconsistent or illegible bids. Any interlineations should be authenticated by initialing in the margin. The bidder used white-out on an extensive area of the bid form rather than interlineate the changes, and these areas were not initialed. This caused the bid to be ambiguous; making it difficult to determine the changes and at which time the changes may have occurred, therefore the bid is deemed non-responsive. While the second low bid from Liberty also contained one minor section of white out, this was very minor, the original writing could be seen, and it could be determined that there was no change in the information, only movement of the same information to another line on the bid form. There was no ambiguity or inconsistency. EDA believes this irregularity is minor and the bid may be accepted.

For Bid Package 014, the low bidder filled out and signed the exemption portion of the Iran Contracting Act Declaration which would require substantial statutory requirements be followed to accept the bid. The second, third, and fourth low bids all failed to include full subcontractor listing information as required in the bidding instructions. Therefore, the four low bids have been determined to be non-responsive. In addition, acceptance of the fourth lowest bid would have increased the cost of this work by \$1.5 million. It is believed to be in the best interest of the County to reject all bids for this package and re-bid.

(Continued)

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

FORM 11: Riverside Public Defender/Probation Building Project – Award Bid for HVAC Trade, Reject Bids for Electrical and Low Voltage Trade and Authorize the Rebid, District 2, [\$2,899,000], Bond Proceeds 100%

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BACKGROUND:

Summary (Continued)

In order to keep the project moving forward without any impact and meet project schedule commitments, EDA recommends the Board authorize the Assistant County Executive Officer/EDA to determine award of Bid Package 014 in accordance with Board Policy B-11 and authorize the Chairman to execute the agreement on behalf of the Board, provided that the lowest bid falls within the allotted project budget amount.

Impact on Citizens and Businesses

The project will accommodate the Public Defender and Probation Departments and will provide the necessary office space to account for the long term growth of both departments. The Public Defender will have the space to consolidate all operations into one building, enhancing communication and work efficiencies and resulting in an environment that will serve the community in the most effective manner possible. The Probation Department will house court officers and pre-sentence investigators who would then be in close proximity to the courts that are served. Additionally, offenders completing the court process will receive initial reporting instructions which might reduce the FTA (Failure to Appear) rates.

Additional Fiscal Information

The total project budget was approved on October 6, 2015 via Agenda Item 3-16. The cost of this action is within the approved budget, and does not require a change order. This project is funded by Bond Proceeds that are already on hand, and will not require the issuance of new bonds. The construction of the project will be funded by the bonds, and the bond payments will be made by the department.

Attachment:

Construction Contract with Liberty Climate Control, Inc.

COPY

AGREEMENT FORM

THIS AGREEMENT IS MADE AND ENTERED INTO THIS 19th DAY OF APRIL, 2016, by and between the **County of Riverside** ("County") and **Liberty Climate Control, Inc.** ("Contractor") **HVAC & Controls-13** ("Agreement").

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

- 1. The Work:** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner, the work of the following project:

PROJECT: **Riverside Public Defender/Probation Building Project**
Project No. FM08240003992

Section 011200.13 HVAC & Controls

It is understood and agreed that the Work shall be performed and completed as required in the Contract Documents including, without limitation, the Drawings and Specifications, under the direction and supervision of, and subject to, the approval of the County or its authorized representative.

- 2. The Contract Documents:** The complete Agreement consists of all Contract Documents as defined in the General Conditions and incorporated herein by this reference. Any and all obligations of the County and Contractor are fully set forth and described in the Contract Documents. All Contract Documents are intended to cooperate so that any Work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all Contract Documents.
- 3. Interpretation of Contract Documents:** Should any question arise concerning the intent or meaning of Contract Documents, including the Drawings or Specifications, the question shall be submitted to the County for interpretation. If a conflict exists in the Contract Documents, modifications, beginning with the most recent, shall control over this Agreement (if any), which shall control over the Special Conditions, which shall control over any Supplemental Conditions, which shall control over the General Conditions, which shall control over the remaining Division 0 documents, which shall control over Division 1 documents which shall control over Division 2 through Division 33 documents, which shall control over figured dimensions, which shall control over large-scale drawings, which shall control over small-scale drawings. In no case shall a document calling for lower quality and/or quantity material or workmanship control. The decision of the County in the matter shall be final.
- 4. Time for Completion:** The County may give notice to proceed within ninety (90) days of the award of the bid by the County. Refer to Section 013216 for completion time line expectations from receipt of the Notice to Proceed. This shall be called Contract Time. It is expressly understood that time is of the essence.
- 5. Coordination of Work:** Should the Contractor fail to complete this Project, and the Work provided herein, within the time fixed for completion, due allowance being made for the contingencies provided for herein, the Contractor shall become liable to the County for all loss and damage that the County may suffer on account thereof. The

Contractor shall coordinate its Work with the work of all other contractors. The County shall not be liable for delays resulting from Contractor's failure to coordinate its Work with other contractors in a manner that will allow timely completion of Contractor's Work. Contractor shall be liable for delays to other contractors caused by Contractor's failure to coordinate its Work with the work of other contractors.

- 6. Liquidated Damages:** Time is of the essence for all Work under this Agreement. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that the County will sustain in the event of and by reason of Contractor's delay; therefore, Contractor agrees that it shall pay to the County the sum of **Five hundred** dollars (**\$500.00**) per day as liquidated damages for each and every day's delay beyond the time herein prescribed in finishing the Work.

It is hereby understood and agreed that this amount is not a penalty.

In the event any portion of the liquidated damages is not paid to the County, the County may deduct that amount from any money due or that may become due the Contractor under this Agreement. The County's right to assess liquidated damages is as indicated herein and in the General Conditions.

The time during which the Contract is delayed for cause as hereinafter specified may extend the time of completion for a reasonable time as the County may grant. This provision does not exclude the recovery of damages for delay by either party under other provisions in the Contract Documents.

- 7. Loss Or Damage:** The County and its authorized representatives shall not in any way or manner be answerable or suffer loss, damage, expense, or liability for any loss or damage that may happen to the Work, or any part thereof, or in or about the same during its construction and before acceptance, and the Contractor shall assume all liabilities of every kind or nature arising from the Work, either by accident, negligence, theft, vandalism, or any cause whatsoever; and shall hold the County and its authorized representatives harmless from all liability of every kind and nature arising from accident, negligence, or any cause whatsoever.
- 8. Insurance and Bonds:** Contractor shall provide all required certificates of insurance, and payment and performance bonds as evidence thereof.
- 9. Execution of Work:** If the Contractor should neglect to execute the Work properly or fail to perform any provisions of this Agreement, the County, may, pursuant to the General Conditions and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.
- 10. County Representatives:** Contractor hereby acknowledges that the Architect(s), County's Agent and the Project Inspector(s) have authority to approve and/or stop work if the Contractor's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations, and all applicable laws. The Contractor shall be liable for any delay caused by its non-compliant Work.
- 11. Assignment of Contract:** Neither the Contract, nor any part thereof, nor any monies due or to become due thereunder, may be assigned by the Contractor without the written approval of the County, nor without the written consent of the Surety on the Contractor's Performance Bond (the "Surety"), unless the Surety has waived in writing its right to notice of assignment.

- 12. Classification of Contractor's License:** Contractor hereby acknowledges that it currently holds valid Type **C-20** Contractor's license(s) issued by the State of California, Contractor's State Licensing Board, in accordance with division 3, chapter 9, of the Business and Professions Code and in the classification called for in the Contract Documents.
- 13. Payment of Prevailing Wages:** The Contractor and all Subcontractors under the Contractor shall pay all workers on all Work performed pursuant to this Agreement not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of the County, pursuant to sections 1770 et seq. of the California Labor Code.
- 14. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE), and, at the discretion of the County, by the County's labor compliance program.**
- 15. Contract Price:** In consideration of the foregoing covenants, promises, and agreements on the part of the Contractor, and the strict and literal fulfillment of each and every covenant, promise, and agreement, and as compensation agreed upon for the Work and construction, erection, and completion as aforesaid, the County covenants, promises, and agrees that it will well and truly pay and cause to be paid to the Contractor in full, and as the full Contract Price and compensation for construction, erection, and completion of the Work hereinabove agreed to be performed by the Contractor, the following price:

Two million eight hundred ninety-nine thousand Dollars (\$2,899,000.00), which includes one hundred thousand dollars (\$100,000.00) for Allowance No. 1, additional work associated with this trade required during the progress of the work

in lawful money of the United States, which sum is to be paid according to the schedule provided by the Contractor and accepted by the County and subject to additions and deductions as provided in the Contract. This amount supersedes any previously stated and/or agreed to amount(s).

The Contract Sum will be increased by an amount equal to the unit price multiplied by the actual number of units of each unit price item incorporated in the Work, or decreased by an amount equal to the unit price multiplied by the actual number of units of each unit price item eliminated in the Work.

- 16. Severability:** If any term, covenant, condition, or provision in any of the Contract Documents is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions in the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

IN WITNESS WHEREOF, accepted and agreed on the date indicated above:

CONTRACTOR:
West-Tech Mechanical, Inc.

COUNTY:
County of Riverside

By: _____

By: _____

Title: President

Title: Chairman, Board of Supervisors

Print Name: Louls O. Monroy, III

Print Name: John J. Benolt

NOTE: If the party executing this Agreement is a corporation, a certified copy of the by-laws, or of the resolution of the Board of Directors, authorizing the officers of said corporation to execute the Contract and the bonds required thereby must be attached hereto.

END OF DOCUMENT