ORIGINATING SECTION:  Flood Protection Engineering
CONTACT:  Joe Seto/Jarnail Chahal

AGENDA DATE:  March 18, 2020

SUBJECT:  Award for Contract for As-Needed Operated Equipment Supply for Engineered Repairs and Upgrades to Flood Control Facilities

SUMMARY:

• In order to provide an effective flood protection system, Zone 7 utilizes the services of a contractor to perform routine maintenance repairs, emergency work, and engineered repairs/upgrades to flood control facilities on an as-needed basis.

• In June 2017, Zone 7 executed a one-year operated equipment supply contract and extended for two additional one-year extensions per contract provisions for this work. The current contract is due to expire June 30, 2020.

• This year, staff determined that it is beneficial to separately bid and procure the contract for the engineered repair work from the routine maintenance and emergency work. The proposed contract is specifically for engineered repairs/upgrades work. Engineered repairs such as embankment repairs and stabilization projects on flood control channels and removal of major accumulated sediment from channels and basins would be performed under this contract. Last year, Zone 7 spent approximately $582,000 for engineered repairs/upgrades under a similar contract.

• Routine maintenance and emergency work will be covered under a separate contract managed by the maintenance section. Routine maintenance work such as repair and installation of aggregate base access roads, earthen or concrete V-ditches, drainage culverts, drop inlets and outfalls and emergency work such as debris removal and covering bank slides with impervious sheetings will be performed under this contract.

• In January 2020, Zone 7 advertised for bids for a contract for engineered repairs/upgrades to flood control facilities (Project Number 287-20) to be used on an as-needed basis.

• The proposed contract scope consists of supply of fully operated and maintained construction equipment and the furnishing of labor and material to implement engineered repairs and upgrades to flood control facilities on an as-needed basis.

• On February 24, 2020, four bids ranging from $921,920 to 1,041,954 were received, opened, and publicly read.
• The submitted bids have been reviewed by Zone 7 staff. Staff determined that GradeTech, Inc is the lowest responsive and responsible bidder despite that Fanfa, Inc. (Fanfa) submitted a bid protest on February 28, 2020 requesting that GradeTech, Inc’s bid be rejected. Staff and General Counsel have reviewed Fanfa’s bid protest and recommends rejecting the protest.

• Staff recommends that the Board authorize the General Manager to execute and amend as needed, a contract with GradeTech, Inc. for as-needed Operated Equipment Supply for Engineered Repairs and Upgrades to flood control facilities in an amount not-to-exceed $1,014,112 (which includes 10% contingency) for FY 2020/21.

• Staff also recommends that General Manager be authorized to extend the contract with GradeTech, Inc. for one additional year for FY 2021/22, with provisions for adjustments of unit bid prices and adjustment to the total contract amount ($1,014,112 plus adjustment) based on changes in the Engineering News Record Construction Cost Index for the San Francisco Bay Area as published by McGraw-Hill Publishing Company (ENR Index).

• The proposed contract will pay for actual labor and operated equipment used based on the time and materials unit prices contained in GradeTech, Inc’s bid.

**FUNDING:**

Funding is available and budgeted in Fund 200 – Flood Protection Operations

**RECOMMENDED ACTION:**

Adopt the attached Resolution
BACKGROUND:

Zone 7 owns and maintains approximately 37 miles of flood control channels in Dublin, Pleasanton, and Livermore. Zone 7 currently uses a contractor to perform engineered repairs on Zone 7-owned flood control channels and facilities on an as-needed basis at locations designated by Zone 7. The current contract is due to expire June 30, 2020.

Work under the proposed contract would include engineered repairs and upgrades for flood control channels and access roads. Work could also include sediment removal and miscellaneous work as directed by staff.

DISCUSSION:

In January 2020, following established bidding procedures, staff published the project manual for Operated Equipment Supply for Engineered Repairs and Upgrades to Flood Control Facilities - Project Number 287-20. On February 24, 2020, following four bids were received, opened, and read publicly:

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Price</th>
<th>Corrected Bid Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>GradeTech, Inc</td>
<td>$ 921,920.00</td>
<td>N/A</td>
</tr>
<tr>
<td>Fanfa, Inc</td>
<td>$ 945,240.00</td>
<td>N/A</td>
</tr>
<tr>
<td>PMK Contractors</td>
<td>$ 1,031,634.00</td>
<td>N/A</td>
</tr>
<tr>
<td>Engineered Soil Repairs, Inc</td>
<td>$ 1,098,136.00</td>
<td>1,041,954.00</td>
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</tbody>
</table>

On February 28, 2020, Fanfa, Inc. submitted a bid protest requesting that GradeTech, Inc’s bid be rejected. Fanfa’s protest and Zone 7 responses are summarized in the following table:

<table>
<thead>
<tr>
<th>Protest Claims Categories</th>
<th>Basis of Fanfa’s protest</th>
<th>Zone 7 Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience/Qualifications</td>
<td>The protest claims that GradeTech’s experience listed is not similar in nature and complexity to the projects listed in the project manual</td>
<td>The project manual requested the bidder to provide information for projects they had completed of “a similar nature.” Staff has reviewed the projects listed by Grade Tech and determined they are of a similar nature because they included storm drain installations and construction of trails. Staff determined that GradeTech met the experience requirements and this claim is without merit.</td>
</tr>
</tbody>
</table>
| Letters to be Submitted with the bid package | The protest claims that following documents were not submitted.  
- Transmittal Letter  
- Letter from Surety duly licensed to do business in the State of California  
- Letter from Insurance Underwriter  
- Description of Human and Physical Resources  
- Description of Safety Program | GradeTech’s bid package did not include these documents, but GradeTech met the other requirements of the bid documents and demonstrated in the bid package that they have the capacity and capability to provide bonds and insurances. Additionally, bonds and proof of insurance are required before executing the contract. Contract documents also require the contractor to provide Safety Program information before they begin work. **Staff determined these are minor and inconsequential deviations and the project manual provides Zone 7 discretion to waive such deviations.** Thus, staff recommends the Board waive these minor deviations. |
| Evidence of contractor license | The protest claims that GradeTech did not provide evidence of Current California Class “A” License | GradeTech provided their current and valid California Class “A” license number in at least three separate places in the bid document. |

In summary, staff has reviewed GradeTech’s bid package with respect to Fanfa’s protest and determined that GradeTech has demonstrated similar project experience and has a valid California Class “A” license.

The failure to include the cover letter and other documents mentioned in Fanfa’s protest letter are inconsequential minor deviations that do not involve time, price and quality of the Work, and did not provide GradeTech any competitive advantage in the bid. The project manual provides Zone 7 discretion to waive such deviations. The project manual requires the contractor to provide actual bonds and proof of insurance before Zone 7 executes the contract and also require that the contractor submit their safety program prior to starting any work. The bidder risks losing their bid bond, which is 10% of the bid amount, in case the bidder fails to meet these requirements.

Staff determined that GradeTech, Inc is the lowest responsive and responsible bidder. Staff believes the bid to be reasonable and recommends the award of the contract to the lowest responsive and responsible bidder, GradeTech, Inc.

**ATTACHMENT:**

Resolution
WHEREAS, Zone 7 owns and maintains approximately 37 miles of flood control channels in its service area; and

WHEREAS, in order to provide an effective flood protection system, Zone 7 utilizes the services of a contractor to perform engineered repairs and upgrades to its flood control facilities on an as-needed basis; and

WHEREAS, Zone 7 advertised for bids and received bids on February 24, 2020, for Operated Equipment Supply Contract for Engineering Repairs and Upgrades to Flood Control Facilities, Project No 287-20; and

WHEREAS, the lowest responsive and responsible bid received for this project is the bid by GradeTech, Inc.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby approve the specifications, appendices, and addenda for the Operated Equipment Supply Contract for Engineered Repairs and Upgrades to Flood Control Facilities, Project No 287-20; and

BE IT FURTHER RESOLVED that the bid of the lowest responsive and responsible bidder, GradeTech, Inc. be accepted, that any irregularities in the proposal or bid of GradeTech, Inc., are waived, and that the General Manager be authorized to negotiate, execute, and amend as needed, a contract with GradeTech, Inc., in an amount not-to-exceed $1,014,112 (which includes 10% contingency) for FY 2020/21; and
BE IT FURTHER RESOLVED that the General Manager be authorized to extend the contract for one additional one-year period for FY 2021/22, with provisions for adjustments to the Contract Unit Prices and adjustments to the total contract amount ($1,014,112 plus adjustment) in accordance with Engineering News Record Construction Cost Index for the San Francisco Bay Area as published by McGraw-Hill Publishing Company (ENR Index).

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on March 18, 2020.

By: ________________________________
   President, Board of Directors