



COUNCIL REPORT

DATE: December 13, 2022

CATEGORY: Consent

DEPT.: Public Works

TITLE: **Planned and Emergency Facilities
Projects, Projects 18-18 and 20-18,
Recycling Center Building Retrofit—
Various Actions**

RECOMMENDATION

1. Accept the bid withdrawal of the apparent low bidder, EVRA Construction, Inc., of San Francisco, for Planned and Emergency Facilities Projects, Projects 18-18 and 20-18, Recycling Center Building Retrofit, without forfeiting its bid security on the basis that a material and clerical error was made in assembling the bid, as provided in Section 5103 of the California Public Contract Code.
2. Transfer and appropriate \$610,000 from the Construction/Conveyance Tax Fund to Planned and Emergency Facilities Projects, Project 20-18, Recycling Center Building Retrofit. (Five votes required)
3. Award the construction contract for Planned and Emergency Facilities Projects, Projects 18-18 and 20-18, Recycling Center Building Retrofit, to Southwest Construction & Property Management, for \$1,112,200, including a \$101,180 construction contingency.

BACKGROUND

The City-owned property at 935 Terra Bella Avenue is home to the Mountain View Recycling Center (see Figure 1). The site includes a building constructed in 1968 and is essential for Recycling Center operations performed under the terms of Recology's agreement with the City to provide collection services for recyclable materials, organic materials, and solid waste. In order to meet the terms of its agreement to provide these services, Recology leases 935 Terra Bella Avenue from the City for an annual rent of \$241,884.

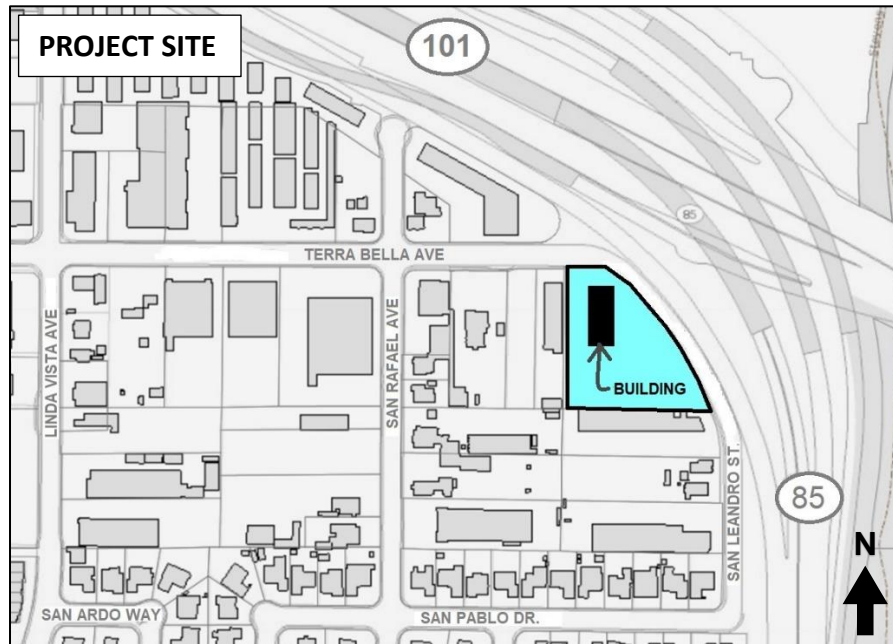


Figure 1: Project Location Map

In 2018, the interior upper-mezzanine level suffered extensive damage during rainstorms due to a deteriorating roof. The office area experienced some flooding, and the storage room had a partially collapsed ceiling. While the warehouse portion of the building remained operational, it was necessary to move all employees out of the office area immediately. In 2019, the City replaced the roof, preventing any further water damage. However, the interior upper-mezzanine level remained unsuitable for occupancy due to significant residual damage. In addition to the interior water damage to the office area, the heating and ventilation system is beyond its useful life, the ground-level restroom facilities are in need of updates, and the building and site do not meet Americans with Disabilities Act (ADA) requirements for the interior upper-mezzanine level area, the restrooms, or access to the recycling drop-off areas.

Since 2018, the office spaces have not been available to Recology employees. With the office area unavailable, Recology arranged to rent a portable office trailer housed in the front parking lot, which was approved under a Temporary Use Permit. The trailer is not a permitted use as a long-term solution and is inadequate for the general operational needs of the Recycling Center. Recology has continued to pay full rent for the land and building, and the City has been reimbursing Recology for the rental cost of the trailer.

To minimize construction costs and with concurrence from Recology as the tenant, the project scope was reduced from restoring the interior upper-mezzanine area to demolishing the upper-mezzanine level offices, kitchen, storage room, and restroom and converting the space to an unimproved attic.

On [April 26, 2022](#), Council approved the plans and specifications, augmented the project budget, and authorized staff to advertise the project for bids.

ANALYSIS

Staff advertised the project on September 16, 2022, and four bids were received on October 27, 2022 (see Table 1).

Table 1: Bid Results

Rank	Contractor	TOTAL BID	% above/ (below) estimate
	Engineer's Estimate	\$529,000	N/A
1	EVRA Construction, Inc.	\$697,050	31.8%
2	Southwest Construction & Property Management	\$1,079,020	104.0%
3	RC Benson & Sons, Inc.	\$1,094,407	106.9%
4	Zone 4 Construction	\$1,155,000	118.3%

The low bid was \$697,050 from EVRA Construction, Inc. (EVRA), which includes a \$68,000 construction contingency.

Relief of Bid Request

On October 28, 2022, EVRA submitted a request to withdraw their bid due to an inadvertent clerical mistake in their bid. Division 2, Part 1, Sections 5101 through 5103 of the California Public Contract Code (CPC) allows the City to consent to the withdrawal of a bid if the bidder can demonstrate: (a) an error was made; (b) the bidder gave the City notice of the error within the required time frame; (c) the mistake made the bid materially different than intended; and (d) the mistake was made filling out the bid rather than an error in judgment, site inspection, or reading the plans or specifications. Staff prepared a memorandum documenting the facts establishing the existence of each of these elements as required by the CPC (see Attachment 1).

Council previously authorized the City Manager or designee to award the construction contract if the bid was within the project budget. Because the remaining bids are over the project budget, Council remains the awarding authority for the project, including the authority to approve the bid withdrawal. Staff recommends that EVRA be allowed to withdraw its bid.

Evaluation of Bids

Staff evaluated the three remaining bids received and found them to all be within a relatively narrow range of values. All three, however, are significantly above the Engineer's Estimate. Staff has not experienced a cost discrepancy to this extent on building retrofit projects and reviewed the bid proposals to determine if there were any consistent increases in costs or trades that impacted the total costs relative to the Engineer's Estimate. While all proposals allocated costs slightly differently, staff did not find that the price increases were tied to any one trade or material but, rather, an overall higher cost increase for the project than anticipated.

The Engineer's Estimate was based on estimates from the consulting architect but were not evaluated by an independent third-party professional estimator given the smaller scale of the project and were not updated at final design when the drawings were more complete. With the high rate of inflation and supply chain disruptions, the market rate for materials and labor is significantly higher for building retrofit projects than the consultant anticipated. To help avoid such large bid deviations in the future for building retrofit projects, staff will consider including an independent third-party professional estimator in the scope of services to obtain more accurate estimates at final design and prior to seeking Council approval for advertisement.

Nonetheless, the bids received, excluding EVRA's, are indicative of the current market rate for material and construction costs.

Award Options

Should Council choose to move the project forward, the options are to either reduce the scope, reject all bids and rebid the project, or to award the contract to the next lowest responsible bidder. If the project is rebid, State law precludes EVRA from submitting a bid on the project. Staff does not recommend reducing scope or rebidding the project for the following reasons:

- Four bids were received, demonstrating competitiveness, and the second low bid was responsive.
- There are limited options to reduce the scope beyond the scope reductions already incorporated to eliminate the improvements to the upper-mezzanine level area; therefore, a redesign is unlikely to significantly lower costs.
- Delays from redesigning and/or rebidding the project may risk obtaining fewer bidders as a result of other competing projects.
- Rebidding the project may result in higher bids due to ongoing material and labor price increases from inflation and ongoing supply chain disruptions.

- As the property landlord and as outlined in the agreement with Recology as a tenant, the City is responsible to provide facilities to accommodate the needs of Recology, and rebidding efforts would further delay Recology staff from using the warehouse office and making ADA-compliant restrooms available.

Southwest Construction & Property Management's bid is \$1,079,020, which includes a construction contingency of \$68,000. Staff recommends adding \$33,180 to the construction contingency to provide a contingency near 10% of the construction cost and awarding the contract to Southwest Construction & Property Management for \$1,112,200, which includes a construction contingency of \$101,180.

Environmental Clearance

In the April 26, 2022 Council report, the project was determined to be categorically exempt in accordance with the requirements of Section 15301, Minor Alterations to Existing Public Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

FISCAL IMPACT

The Recycling Center Building Retrofit has a budget of \$800,000 and is funded as a subproject from two annual Nondiscretionary Capital Improvement Program (CIP) projects: (1) Planned and Emergency Facilities Projects, Project 18-18, funded with \$550,000 from the Construction/Conveyance Tax Fund, of which \$100,000 was allocated to this subproject; and (2) Planned and Emergency Facilities Projects, Project 20-18, funded with \$1,660,000 from the CIP Reserve Fund and \$752,000 from the Construction/Conveyance Tax Fund, for a total project funding of \$2,412,000, of which \$700,000 was allocated to this subproject. The remaining balance of funding in both Projects 18-18 and 20-18 have already been expended or allocated to other facility projects.

The estimated total project cost is as follows:

Construction (including contingency)	\$1,112,200
Consultant Services	119,000
City Project Management	27,000
Construction Inspection and Testing	25,000
Permits, Printing, and Miscellaneous	21,000
Project Contingency	<u>19,744</u>
Subtotal	\$1,323,944
City Administration	<u>86,056</u>
TOTAL ESTIMATED COST	<u>\$1,410,000</u>
PROJECT BUDGET	\$800,000
PROJECT SHORTFALL	\$610,000

The project shortfall is attributed to the higher-than-anticipated bids received. Staff recommends appropriating and transferring \$610,000 from the Construction/Conveyance Tax Fund to Planned and Emergency Facilities Projects, Project 20-18, providing a total subproject funding of \$1,410,000 for the Recycling Center Building Retrofit. The Construction/Conveyance Tax Fund has funding available for the recommended transfer.

CONCLUSION

Acceptance of the requested bid withdrawal of the apparent low bidder EVRA for Planned and Emergency Facilities Projects, Recycling Center Building Retrofit, Projects 18-18 and 20-18, due to inadvertent clerical errors will allow EVRA to forgo forfeiting their bid bond security. Three other bids were received, all within a narrow range of each other, indicating consistency of the market rate for material and construction costs. Staff recommends transferring and appropriating funding and awarding the construction contract to the responsive second low bidder, Southwest Construction & Property Management, to allow the project to move forward and provide needed updates to the Recycling Center building and site. The project will provide long-term usable offices required by the City's agreement with Recology, heating and ventilation system replacement, and ADA-compliant restrooms and access to the Recycling Center for the public.

ALTERNATIVES

1. Direct staff to reject all bids and rebid the project.
2. Direct staff to modify the scope and rebid the project.
3. Provide other direction.

PUBLIC NOTICING—Agenda posting.

Prepared by:

David O. Printy
Principal Project Manager

Reviewed by:

Edward Arango
Assistant Public Works Director/
City Engineer

Approved by:

Dawn S. Cameron
Public Works Director

Audrey Seymour Ramberg
Assistant City Manager/
Chief Operating Officer

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Attachment: 1. Bid Relief Request, Staff Memo

cc: APWD—Arango, PCE—Shah, PPM—Printy, SMA—Goedicke, PA—Li, SMA—Doan, File,
cmvgis@mountainview.gov