



## Legislation Text

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**File #: 23-58, Version: 1**

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Report regarding a resolution approving a consulting services agreement with Wilsey Ham, Inc. of San Mateo, California for design services of the Oyster Point Sanitary Sewer Pump Station Relocation (Project No. ss2202) in an amount of \$760,000, authorizing the City Manager to execute the agreement, and authorizing a design contingency in the amount of \$76,000 for unforeseen consulting scope of services for a total authorized design budget of \$836,000. (*Matthew Ruble, Principal Engineer*).

### **RECOMMENDATION**

**Staff recommends that the City Council adopt a resolution approving a consulting services agreement with Wilsey Ham, Inc. of San Mateo, California for design services of the Oyster Point Sanitary Sewer Pump Station Relocation (Project No. ss2202) in an amount of \$760,000, authorizing the City Manager to execute the agreement, and authorizing a design contingency in the amount of \$76,000 for unforeseen consulting scope of services for a total authorized design budget of \$836,000.**

### **BACKGROUND/DISCUSSION**

The Oyster Point Peninsula is located near the end of Oyster Point Boulevard in South San Francisco adjacent to the San Francisco Bay. Historically, the area operated as a Class III municipal landfill from 1956 to 1970. Landfill closure activities were performed around the site in the 1970's and 1980's, in accordance with state regulations at the time. Improvements were installed over the refuse, including a marina harbor, marina facilities, a park, roads, utilities, walkways, and other features.

More recently, additional development was entitled on the Oyster Point Peninsula consisting of new streets and utilities, office and Research and Development (R&D) buildings, a park, and open space. These improvements, which are being constructed by Kilroy and nearing completion, are located on the western half of the Oyster Point Peninsula.

On the eastern half of the Oyster Point Peninsula, there is a plan to construct a new 350 room hotel with a restaurant. The design of the hotel requires the City to relocate an existing sanitary sewer pump station that provides sewer service for the Harbor Master Spit office building, the WETA ferry terminal, the yacht club, the marina maintenance building, and three marina restrooms. The existing pump station is a vacuum and ejector pump station. The relocated pump station must have the capacity to serve the existing marina facilities plus the future 350 room hotel and 40,000 square foot restaurant development. In addition, an existing electrical switch gear cabinet that provides electric service to the pump station and marina harbor facilities must be relocated.

The Public Works Department desires to relocate these facilities in advance of the construction of the hotel development project. The Oyster Point Pump Station Relocation Project is included in the adopted FY 2022-23 Capital Improvement Program as project ss2202.

### **Overview of City's Procurement Process**

The City's procurement process is governed by both state and local law. State law requires contracts for construction to be competitively bid pursuant to a set of specific, established rules. In particular, the City is

required to award construction contracts to “lowest responsible bidder” after providing notice in accordance with law. (Pub. Contract Code §§ 20162, 20164.)

However, in awarding contracts for the purchase of professional services, equipment, and supplies, like for the procurement of the ATSPM system, the City has some latitude. State law requires the City to adopt regulations and policies to govern such service and supplies procurement, but otherwise provides the City flexibility in determining relevant requirements as long as they are consistent with applicable state law. (Gov. Code § 54202.) Chapter 4.04 of the Municipal Code and the City’s Purchasing Procedures (Administrative Instruction Section IV, No. 1) govern the City’s purchasing policies and contract procurement processes.

The City’s purchasing ordinance distinguishes between three primary types of procurement methods as follows:

### **1. Competitive Bidding for Construction Projects**

Public projects are specifically defined under the Public Contract Code, and generally involve any construction project that is paid with public funds or those projects involving improvements, demolition or other work on public property or facility. Public projects are required to be procured through competitive bidding and the City must award the contract to the lowest bidder whose bid complies with all the City’s solicitation requirements and demonstrates that the bidder is able to perform the work. Under the City’s policy, different levels of competitive bidding are required depending on the dollar limit of the underlying project.

For these contracts, cost is generally the sole determining factor, and the lowest responsible bidder is, awarded the project even if another bidder appears to be more skilled but is more expensive.

### **2. Open Market Procedures for Vendors (Supplies and Equipment)**

Open Market Procedures is the City’s vendor selection process for purchase of goods, supplies, and professional services. These rules do not apply to, and may not be used for, public construction projects.

Contracts for the purchase of goods and services that exceed \$10,000 require staff to utilize open market procedures. If the contract is \$25,000 or less, staff must obtain at least three quotes, which are informal offers to perform work at a stated price. If the contract is greater than \$25,000, staff will be required to solicit the project, such as issuing a Request for Proposals (“RFPs”) and obtain at least three written responses.

Under this vendor selection process, cost can be only one factor in determining which vendor the City will ultimately select for services, equipment, or supplies. This requirement is similarly reflected under SSFMC § 4.04.080.

Thus, when utilizing the open market vendor selection process, the City is focused on the skill, ability, and expertise of the entity or person to be able to provide the service, equipment, or goods to the City. The selection is based on competence, professional qualifications, and overall value to the City with cost being only one factor in the determination of an award.

### **Federally Funded Procurements for Vendors (Supplies and Equipment)**

Contracts that receive federal funding are required to incorporate and comply with additional terms and

conditions. The City's Purchasing Procedures also provides guidance on procuring supplies and equipment contracts that are federally funded. Federally funded procurements also require a written procedure for conducting evaluations and for selecting recipients and awarding the contract to the responsible firm whose proposal is most advantageous to the City with price being only one factor. It is also important to note that federally funded procurements do not include state or local geographical preferences unless specifically authorized by federal law. Each evaluation is a nondiscrimination and equal opportunity for all vendors.

### **3. Open Market Procedures for Architectural and Engineering (A&E) Professional Services**

For certain professional services such as architectural, engineering, environmental, land surveying, or construction project management, the Government Code also specifically requires that such services not be awarded solely based on price, but instead based on demonstrated competence. (Gov. Code § 4526.) Both the state law provision and the City's policy reflect the legislative view that when acquiring such services, the City does not necessarily receive the best value when it pays the lowest price. (*See e.g.*, California Attorney General Op. No. 94-819 (February 9, 1995)).

#### General Request for Proposals (RFP) Review Process

RFPs are the City's primary method to procure equipment, materials, supplies, and professional services. Typically, this process consists of the City issuing the RFP for proposals from consultants to demonstrate their qualifications and abilities to provide the City with desired professional services such as architectural, engineering, environmental, land surveying, or construction project management. The City's RFP will contain evaluation and scoring criteria used to rank vendor candidates based on the strength of their proposals.

The City assembles an evaluation panel comprised primarily of City staff and third-party consultants and personnel as necessary, to review and score the proposals, negotiate with the top-ranked candidate, and recommend the selection for City Council approval. Staff will also maintain records of the method of evaluation, final vendor selection and negotiations for a final contract.

Once candidates are ranked and a top-ranked candidate is identified, staff will negotiate terms of the contract with that candidate. The final award of the contract is subject to consideration and approval by the City Council. Staff will present the selection recommendation to the Council and prepare a resolution awarding the contract to the recommended candidate. If the Council does not support staff's recommendation, then it could elect not to take any action on the resolution or contract award and may instead direct staff to either reconsider the other proposals selected or to re-issue the RFP which may include additional or different selection criteria and qualification requirements.

On October 6, 2022 staff issued a Request for Proposal (RFP) for design services of the Oyster Point Sanitary Sewer Pump Station Relocation on the City's contract procurement software ProcureNow with a due date of November 3, 2022.

The RFP identified the following tasks for the project:

- a. As needed topographic survey for preparation of an Existing Site Conditions Plan identifying the existing facilities and sewer mains/laterals/cleanouts, etc. served by the existing pump station.

- An option for providing utility location services should be included given a lack of reliable as-built drawings.
- b. An evaluation of the existing vacuum station/ejector pump infrastructure and sewer lines to determine the feasibility of converting the new pump station facility into a traditional pressure system.
- c. Conceptual designs and preliminary cost estimates for the proposed pump station design alternatives (vacuum system vs. traditional pressure system).
- d. Conceptual design and preliminary cost estimate for the electric switch gear cabinet relocation.
- e. Geotechnical Report / Recommendations.
- f. Contract Documents for the selected design alternative. 30%, 90% and 100% PS&E
- g. Public Bidding / Construction Support Services

By the due date of November 3, 2022, the City only received one (1) proposal for this project. It was submitted by the firm of Wilsey Ham of San Mateo, California. Staff convened a panel to review the submitted proposal and found the firm to be responsive to the RFP requirements and qualified to perform the scope of work. Wilsey Ham's proposal demonstrates that they have the staff available and the expertise for the design of the Pump Station Relocation project.

Wilsey Ham submitted a fee proposal in the amount of \$759,528, which has been reviewed by staff and determined to be consistent with industry standards.

### FISCAL IMPACT

The cost to complete the design services with Wilsey Ham is as follows:

Wilsey Ham Fee Proposal	\$760,000
Design Contingency (10%)	\$ 76,000
<b>Total Budget for Design Phase</b>	<b>\$836,000</b>

This project is included with the fiscal year 2022-23 Capital Improvement Program (Project No. SS2202) with \$4.83M in available funding. Therefore, there is sufficient funding available with this CIP project to cover the cost of the Wilsey Ham design contract and a 10% design contingency. The total estimated cost to construct the project will not be known until the design consultant completes the conceptual design for the project.

### RELATIONSHIP TO STRATEGIC PLAN

Approval of this action will contribute to the City's Strategic Plan outcome of improved Quality of Life (Priority 2) by protecting the environment and creating an opportunity for future development.

### CONCLUSION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a consulting services agreement with Wilsey Ham in an amount of \$760,000 based on the firm's expertise, experience, qualifications, resources, project understanding, and positive references, and authorizing a design contingency in the amount of \$76,000 for unforeseen consulting scope of services for a total authorized design budget of \$836,000.

### **Attachments:**

1. PowerPoint Presentation
2. Wilsey Ham Proposal and Fee
3. Evaluation Tabulation