



Travis County Commissioners Court Agenda Request

Meeting Date: October 15, 2013

Prepared By/Phone Number: Jesus Angel Gómez/854-1187; Marvin Brice, CPPB/854-9765

Elected/Appointed Official/Dept. Head: Cyd V. Grimes, C.P.M., CPPO

Commissioners Court Sponsor: Judge Biscoe

Agenda Language: Approve contract awards for Fire and Smoke Detection Systems at TCCC Bldg. 12 and Training Academy Bldg. 50, IFB No. 1305-018-AG, to the two (2) low bidders, MCS Fire & Security Co. (Bldg. 12); and Koetter Fire Protection of Austin, LLC (Training Academy Bldg. 50).

- **Purchasing Recommendation and Comments:** Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.

These contracts require the Contractors to provide labor, equipment, materials and supervision necessary for two (2) related fire protection projects at the Travis County Correctional Complex, Building 12 and Training Academy Bldg. 50, Del Valle, Texas.

IFB 1305-018-AG was issued on July 31, 2013, to solicit bids for the projects referenced above. After a total of thirty-seven (37) vendors were solicited, two (2) bids were received electronically in response to the solicitation when subject IFB opened on August 15, 2013, at 3:00 p.m. The low bidders are MCS Fire & Security Co., for the Fire Detection System Building 12, with a base bid of \$75,650.00; and Koetter Fire Protection Systems of Austin, LLC for the Fire and Smoke Detection Systems Training Academy Building 50 with a base bid of \$28,075.00. Subject IFB allows for contract awards to multiple bidders on a “per project” or “all or none” basis to obtain the best value for the County. As a matter of interest to the Court, we received a lower bid for Building 50 but it was found non-responsive as it did not meet the requirements of the solicitation.

Travis County Sheriff’s Office (TCSO) recommends that two (2) contracts be awarded to the above referenced Contractors totaling

\$103,725.00. TCSO has determined that the price is fair and reasonable. Purchasing concurs with TCSO's contract award recommendation.

➤ **Contract-Related Information:**

Award Amount: \$103,725.00 (\$75,650.00 and \$28,075.00)

Contract Type: Construction

Contract Period: 60 Calendar Days after NTP issuance (per project)

➤ **Solicitation-Related Information:**

Solicitations Sent: 37

Responses Received: 2

HUB Information: 0

% HUB Subcontractor: 0

➤ **Special Contract Considerations:**

Award has been protested; interested parties have been notified.

Award is not to the lowest bidder on Building 50, as it was determined to be non-responsive, as it did not meet the requirements of the solicitation. Interested parties have been notified.

Comments:

➤ **Funding Information:**

Shopping Cart/Funds Reservation in SAP: 300000746

Cost Center-G/L no'(s): 1370440000-522020

Comments:

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AGREEMENT FOR CONSTRUCTION SERVICES

CONTRACT NO. 4400001652; IFB NO. B1305-018-AG

This Agreement for Construction Services (the "Construction Contract") is entered into by and between Travis County, Texas, a political subdivision of the State of Texas (the "Owner"), and Koetter Fire Protection of Austin, LLC (the "Contractor").

WHEREAS, the Owner desires to enter into the Construction Contract for the Fire and Smoke Detection Systems at TCCC Training Academy Bldg. 50 (the "Project") in accordance with the provisions of the state statutes and in conformance with the Notice to Proceed (as issued by the Travis County Purchasing Agent), the Contractor's Bid (including the Bidding Documents, the Bid Form, any appendices to the Specifications addressing additional technical or other Project requirements, and any Addenda or Amendments thereto), General Conditions, Supplementary Conditions, and the Specifications, which term shall include the Drawings and/or Plans marked as, Fire and Smoke Detection Systems at TCCC Training Academy Bldg. 50 IFB No. 1305-018-AG; and

WHEREAS, the Contractor has been engaged in and does comparable work and represents that it is fully equipped, competent and capable of performing the above-desired work, and desires to perform such work in accordance with the provisions of the Construction Contract; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions stated herein, the Owner and the Contractor agree as follows:

ARTICLE I

- 1.1 In addition to such other terms as may be specifically defined herein, the capitalized terms referenced herein shall have the meanings ascribed to such terms in the General Conditions.
- 1.2 The written notice to proceed as issued by the Travis County Purchasing Agent (the "Notice to Proceed"), the Contractor's Bid as accepted by the Travis County Commissioners Court, the General Conditions, the Supplementary Conditions, the Specifications (which term shall include the Drawings and Plans marked Fire and Smoke Detection Systems at TCCC Training Academy Bldg. 50 IFB No. 1305-018-AG, any appendices to the Specifications addressing additional technical or other Project requirements, and all addenda issued by the Architect/Engineer or the Travis County Purchasing Agent prior to the execution of this Construction Contract are incorporated in the Construction Contract as if set out at length.
- 1.3 The Contractor agrees to perform the work described in this Construction Contract and any and all documents incorporated therein (the "Work"). The Contractor shall commence the Work upon issuance of the Notice to Proceed, and subject to authorized adjustments, shall achieve substantial completion of the Work within 60 calendar days of such issuance (the "Substantial Completion Date"). All time limits stated in the Construction Contract, and/or the Contract Documents are of the essence. The Substantial Completion Date will not be modified, extended, or otherwise revised except because of rain or other adverse weather conditions or as expressly provided in the Construction Contract documents, and the Contractor acknowledges that it may be required to work on weekends or holidays in order to achieve substantial completion by the Substantial Completion Date.
- 1.4 If the Contractor fails to achieve substantial completion of the Work by the Substantial Completion Date, the Contractor, by execution of this Construction Contract, specifically acknowledges that the Owner will sustain damages for each day the Work extends beyond the Substantial Completion Date. Because of the impracticality and extreme difficulty of fixing and ascertaining the Owner's actual damages, the Contractor agrees \$100.00 per calendar day shall be retained by the Owner from any amounts due the Contractor for every day that the Contractor's performance of the Work extends beyond the Substantial Completion Date.

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ARTICLE II

- 2.1 For and in consideration of the Contractor's performance of the Work, the Owner shall pay the Contractor, in the manner provided for in Article 9 of the General Conditions, the total sum of \$ 28,075.00 (the "Contract Sum"). The Contract Sum is comprised of (i) \$ 22,742.00 for materials to be incorporated into the Project or completely consumed at the job site and services required by or integral to the performance of this Construction Contract and (ii) \$ 5,293.00 for all other charges, including the cost of other services, overhead, and materials which do not become part of the finished project or are reusable. This division of the Contract Sum is made to reflect sales tax purposes only. Invoices and payments need not reflect this division. However, Contractor shall maintain internal records to verify. Contractor shall make these records available upon request of the Travis County Auditor.
- 2.2 If at any time during the performance of this Construction Contract the Travis County Commissioners Court (i) fails to provide funding for this Construction Contract during the following fiscal year of Travis County, Texas, (ii) does not adopt a budget for expenditures, or (iii) is able only to partially fund the expenditures required by this Construction Contract, then the Owner may, upon giving the Contractor written notice of such failure to fund and termination, terminate this Construction Contract, or a part thereof, without any further liability, effective thirty (30) days after the Owner notifies the Contractor in writing of such failure to fund and termination. The Owner shall pay the Contractor for any portion of the Work completed up to the effective date. The Contractor shall have no recourse as to sums beyond those for any portion of the Work performed up to the effective date, including without limitation any recovery for lost profits anticipated to be made hereunder.
- 2.3 This Construction Contract may be amended only by a Travis County construction "Change Order" form signed by the Travis County Facilities Management Department (TCFMD), the Contractor, the Purchasing Agent, and the Commissioners Court, as necessary.
- 2.4 The Owner may terminate this Construction Contract if it is found that the Contractor offered or gave gratuities to any employee of the Owner with the intent to influence the purchasing process in any manner, either before or after the award of this Construction Contract. The Travis County Commissioners Court shall determine if the Contractor used gratuities to influence the process. If so determined and the Owner terminates this Construction Contract, the Owner shall be entitled to (i) pursue the same remedies against the Contractor as it could pursue if this Construction Contract were breached by the Contractor, and (ii) collect exemplary damages in an amount determined by the Travis County Commissioners Court which shall be not less than three nor more than ten times the amount given to any officer or employee of the Owner. The rights and remedies in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.
- 2.5 The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit or secure this Construction Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees and established commercial selling agencies maintained by the Contractor to secure business. If the Contractor breaches this warranty, then the Owner shall have the right to terminate this Construction Contract without liability, or in its discretion to deduct from the amount due to the Contractor from the Owner, or otherwise recover, the full amount of commission, percentage, brokerage, or contingent fee.
- 2.6 No action or failure to act by the Owner or the Contractor shall constitute a waiver of any right or duty afforded either of them under this Construction Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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The effective date of this Construction Contract shall for all purposes be the date of the execution of the last to sign, whether the Owner or the Contractor.

IN WITNESS WHEREOF, the parties have executed this Construction Contract as of the date(s) set forth below.

TRAVIS COUNTY, TEXAS

Koetter Fire Protection of Austin, LLC

By: _____
Samuel T. Biscoe
Travis County Judge
Date: _____

By: Jason Ferguson
Name: JASON FERGUSON
Title: MANAGER
Date: 9/25/13

APPROVED AS TO FORM BY:

County Attorney

FUNDS VERIFIED BY:

County Auditor

APPROVED BY PURCHASING AGENT:

County Purchasing Agent