

MARIN EMERGENCY RADIO AUTHORITY

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DATE: March 12, 2014

TO: MERA Executive Board

FROM: Maureen Cassingham, Executive Officer

SUBJECT: AGENDA ITEM C-2: SELECTION OF ENGINEERING FIRM AND APPROVAL OF NEGOTIATED PROCUREMENT – MERA FORBES RESERVOIR UTILITIES UNDERGROUNDING PROJECT

Recommended Action:

- 1) Approve the selection of Harris & Associates per the firm's Proposal dated March 4, 2014 to provide Engineering Services for the Forbes Utilities Undergrounding Project subject to negotiation of certain line items and authorize the Executive Officer to execute a contract for same as developed by MERA's General Counsel; and,
- 2) Approve Negotiated Procurement for Contractual Services based on public exigency.

Background: On January 8, 2014 the MERA Executive Board authorized the Executive Officer to proceed with the Forbes Reservoir Tower Site Utilities Undergrounding Project per MERA's Purchasing Policies and Procedures with increased procurement authorization up to \$50,000 (see attached Staff Report dated 1-8-14 for background).

Since that action, an initial site visit was conducted on January 7 which included representatives of MMWD, PG&E, Ross Valley and Los Gallinas Valley Sanitary Districts and AT&T.

Subsequent to this visit, MERA offered MMWD two options to better control and facilitate the undergrounding work which must be completed by the District's previously stated deadline of June 1, 2014. The first option was for the District to perform this work on MERA's behalf via a Reimbursement Agreement. The second was to include the work in their primary construction contractor's contract, likewise to be reimbursed by MERA. Both options were declined by the District due to workload. These options were proffered in the best interest of the criticality of this Reservoir Improvement Project (RIP) - (\$3.7M estimated budget), the tight project schedule so as not to delay the RIP and the fact that MERA is a very small organization that has extremely limited capacity to undertake public works projects.

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Likewise, other methodologies for performing this work at potentially lesser cost and in a shorter timeframe were declined by the District (e.g. alternative alignment routes, aerial relocation, etc.). It should also be emphasized that MERA will own and be responsible for ongoing maintenance and repair of the undergrounding facilities from the meter to our building, which may have future cost implications. Finally, the District did not suggest that MERA use their project design firm, Beyaz & Patel, for a potential economy of scale and improved coordination of design work.

MERA has since submitted a written action plan to MMWD, which includes development of the attached Request for Proposals (RFP) for Engineering Services (trench/conduit alignment, design, plans and specifications, construction cost estimation, and contractor oversight) and selection of a firm to provide these client services for the Project.

Other issues identified in MERA's action plan that must be addressed before contractor selection for this project are:

- 1) Confirmation of MERA's project completion date since the Reservoir Improvement Project does not commence until Fall 2014. MERA has stated in writing its commitment to complete the undergrounding project as expeditiously as reasonably possible. However, it is unlikely the work will be completed by the District's previously stated deadline of June 1;
- 2) Review of pre-construction ordering/acquisition of the required electrical panel for the project; and,
- 3) Review of the District's indemnification of MERA should the District's required plan for the undergrounding work create a liability.

MERA will work with the District to resolve these pending matters in parallel with the engineering work.

MERA released the RFP for Engineering Services on February 18, 2014 to eight (8) engineering firms.

Subsequent to a site visit on February 26 with five (5) interested engineering firms, proposals were received by the March 4 deadline and reviewed by Gallinas Sanitary District Engineer Cortez, Ross Valley Sanitary District Engineer Ishii and me. We jointly recommend the selection of Harris & Associates to perform the services outlined in their proposal, subject to the negotiation of certain line items. Selection criteria included qualifications, experience, cost, assigned personnel, responsiveness to the RFP and Client/Project needs and timeline for completion of the Project.

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In accordance with MERA's Purchasing Policies and Procedures, procurement by competitive bids is required for goods and services in excess of \$10,000. The Executive Board may authorize a negotiated procurement, however, if it determines public exigency will not permit the delay incidental to formally advertised procurement (among other reasons). In this case, the undergrounding project and procurement of a contractor cannot proceed until an engineering firm is retained to develop plans and specifications and construction cost estimates. The extremely short deadline required by MMWD does not permit a formally advertised procurement for construction services.

The findings of public exigency is further supported by the criticality (the Reservoir serves most of San Rafael) and urgency of the Reservoir Improvement Project and the requirements of Section 18 Interference of MERA's Forbes Site Lease with the District. Relevant language in Section 18 is as follows:

“In the event Lessee's continued occupancy of the Premises conflicts with the District's operations, the District's operations as a public water agency shall take priority and precedence over Lessee's operations.

Lessee shall operate its Communication Facility in a manner which will not in the District's sole judgment cause interference with any facilities (including transmitting and receiving radio signals) the District may have or may install in the future on the Property or the Premises.

. . . Lessee will not interfere with any existing or future District facilities, operations or equipment. If such interference occurs, Lessee, upon receiving notice from the District of the interference, shall immediately take all steps necessary to eliminate the interference.

Notwithstanding the provisions of Section 11(D), Default, Remedies, Termination (District's Right to Terminate/non-Emergency), if Lessee is unable to eliminate the interference within five days of receiving notice from the District, the District may terminate this Lease 30 days after giving written notice of its intention to do so.”

MMWD has issued the attached letter formally authorizing MERA to undertake this Project as required by our lease.

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Once the engineering firm is in place and has developed plans and specifications for the Undergrounding Project, procurement of the construction firm will follow. That procurement will utilize the informal procedures authorized by MERA's Purchasing Policies and Procedures for public works projects of \$125,000 or less in cost. MERA will use the County's list of contractors to solicit bids.

Should members of the Executive Board have any questions for MMWD about the Reservoir Improvement Project or requirements of MERA, a representative will be present to answer them.

ATTACHMENTS:

- C-2a) Report on MERA and Subleasees Utilities Undergrounding –
Forbes Reservoir Tower Site –
Executive Board Meeting – January 8, 2014 – Agenda Item B-6
- C-2b) Engineering Services RFP Proposal from Harris & Associates
- C-2c) MMWD Authorization Letter - dated February 28, 2014
- C-2d) Forbes Reservoir Project Engineering Services – RFP – 2/18/14