



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Award of Construction Contract for Public Safety Facilities Project

RECOMMENDED MOTION:

- Authorize Swinerton Management to issue the Notice of Award of Contract for the Public Safety Facilities Project to the Sausal Corporation for \$9,311,500; and
 - Authorize the City Manager to execute the necessary contractual documents with Sausal Corporation for construction of the Public Safety Facilities Project.
-

SUMMARY

Bids for construction of the Public Safety Facilities (PSF) project were received on August 27, 2008. Sausal Corporation is the apparent low bidder with a bid of \$9,311,500. The City received a bid protest from Jeff Luchetti Construction alleging Sausal's bid was not responsive to the City's bid specifications. The protest issues are under review by Swinerton Management, Glass Architects, the City Attorney, and outside counsel. An oral report will be provided at the September 2, 2008 City Council meeting.

BACKGROUND

On May 27, 2008, the PSF Committee invited interested general contractors to submit information including their relevant experience, safety record, financial stability, licensure, and insurance for a "pre-qualification" review. Thirteen firms submitted information. On the basis of this review, seven general contractors were deemed "pre-qualified." On July 25, 2008, the seven general contractors were invited to submit bids for construction of the PSF project. The firms and their respective bids, which were received on August 25, 2008, are listed below:

1	Sausal Corporation	\$9,311,500
2	Jeff Luchetti Construction	\$9,633,000
3	Alten Construction	\$9,826,000
4	Midstate Construction	\$10,167,000
5	Roebbelen	\$10,268,000
6	West Bay Builders	\$10,571,000
7	West Coast Contractors	\$10,661,000

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DISCUSSION

Based upon the above bids, Sausal Corporation is the "apparent low bidder" (see **Attachment 1** for the Sausal Corporation Bid Form). On August 28, 2008 Jeff Luchetti Construction filed a bid protest. Luchetti alleges that Sausal's bid is non-responsive to the City's bid specifications because Sausal is not using the type of pile (i.e., Tubex Piles), which was specified in the City's bid specifications (see **Attachment 2** for protest letter). Swinerton is working with Glass Architects and City staff to determine whether Sausal's bid is responsive to the City's bid specifications. Sausal has been asked to respond to the protest, in writing, no later than 3:00 p.m. on September 2, 2008. An oral update on this issue will be presented at the September 2, 2008 City Council meeting.

If it is determined that Sausal's bid is responsive to the City's bid specifications, the City Council may proceed with awarding the contract to Sausal, as the low bidder. Upon issuance of the Notice of Award, the general contractor will have ten days to return a signed agreement and provide Payment and Performance Bonds as well as other required documents.

FISCAL IMPACT

Funding will be provided from the General Obligation Bond Funds specifically approved by the voters for the PSF Project.

RECOMMENDATION

Swinerton and City staff will provide an oral update at the September 2, 2008 City Council meeting. If the City determines that Sausal's bid is responsive to the City's bid specifications, staff recommends the City Council take the following actions:

- Authorize Swinerton Management to issue the Notice of Award of Contract for the Public Safety Facilities Project to the Sausal Corporation for nine million three hundred eleven thousand five hundred dollars (\$9,311,500.00); and
- Authorize the City Manager to execute the necessary contractual documents with Sausal Corporation for construction of the Public Safety Facilities Project.

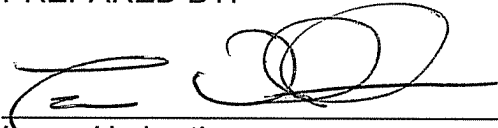
If the City determines that Sausal's bid is not responsive, staff may present other options to the Council at the meeting.

ATTACHMENTS

- 1 Sausal Corporation Bid Form
- 2 Jeff Luchetti Construction Protest Letter, date stamped August 28, 2008

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PREPARED BY:



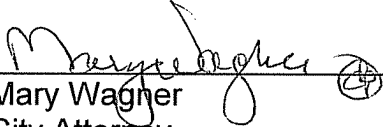
Loren Umbertis
Swinerton Management & Consulting

REVIEWED BY:



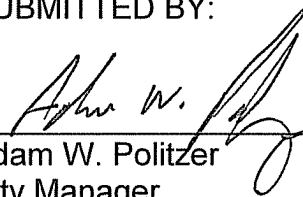
Jeremy Graves
Community Development Director

REVIEWED BY:



Mary Wagner
City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager

CDD\Projects Address\Caledonia 29\CCSR 09-02-08

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SECTION 00400

BID FORM

To be submitted as part of bid by the time and date specified in Section 00200 (Instructions to Bidders), paragraph 1.

TO THE CITY COUNCIL OF THE CITY OF SAUSALITO

THIS BID IS SUBMITTED BY:

Sausal Corporation
(Firm/Company Name)

Re: BID NUMBER F-141, THE SAUSALITO PUBLIC SAFETY FACILITIES PROJECT

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Sausalito ("City of Sausalito") in the form included in the Contract Documents, Section 00520 (Agreement), to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Sum and within the Contract Time indicated in this Bid and in accordance with all other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Contract Documents, Section 00100 (Advertisement for Bids), and Section 00200 (Instructions to Bidders), including, without limitation, those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for 60 Days after the day of Bid opening.
3. In submitting this Bid, Bidder represents:
 - (a) Bidder has examined all of the Contract Documents and the following Addenda (receipt of all of which is hereby acknowledged).

Addendum No.	Addendum Date	Signature of Bidder
#1	August 7, '08	<i>[Signature]</i> ✓
#2	August 13, '08	<i>[Signature]</i> ✓
#3	August 18, '08	<i>[Signature]</i> ✓
#4, 5, 6	August 19, '08	<i>[Signature]</i> ✓

- (b) Bidder has visited the Site and performed tasks, reviews, examinations, and analysis and given notices, regarding the Project and the Site, as set forth in Section 00520 (Agreement), Article 5.
- (c) Bidder has received and examined copies of the following technical specifications on City of Sausalito-provided, Contractor-installed equipment. (N/A)
- (d) Bidder has given City of Sausalito prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and as-built drawings and actual conditions and the written resolution thereof through Addenda issued by City of Sausalito is acceptable to Contractor.

4. Based on the foregoing, Bidder proposes and agrees to fully perform the Work within the time stated and in strict accordance with the Contract Documents for the following sums of money listed in the following Schedule of Bid Prices:

ATTACHMENT 1
(3 PAGES)

FIRM/COMPANY NAME: Sausal Corp. 00400 - 1

Bid Form

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SCHEDULE OF BID PRICES

All Bid items must be filled in completely. Section 01100 (Summary of Work) describes the scope of work to be performed under this contract. Quote in figures only, unless words are specifically requested.

UNIT PRICE FOR VARIATIONS IN PILE QUANTITIES PER SECTION 02300-1.4 SHALL BE \$ 120.00 PER LINEAR FOOT FOR ADDITIONAL PILE FOTTAGE OR OMITTED PILE FOOTAGE.

ITEM	DESCRIPTION	BID PRICE
1.	All Work of Contract Documents other than Work separately provided for under other Bid items	\$ 9,311,500.00
2.	Alternate Item No. 1	\$ 44,200.00
3.	Alternate Item No. 2	\$ 50,000.00 - 8,000.00 (JW)
4.	Alternate Item No. 3	\$ 50,000.00
		\$ 9,311,500.00 (JW)

Total Bid Price: nine million three hundred ninety seven thousand seven hundred (Words) 9,397,400

5. The low bidder will be determined by the sum of base bid.
6. The undersigned Bidder understands that City of Sausalito reserves the right to reject this Bid.
7. If written notice of the acceptance of this Bid, hereinafter referred to as Notice of Award, is mailed or delivered to the undersigned Bidder within the time described in paragraph 2 of this Section 00400 or at any other time thereafter before it is withdrawn, the undersigned Bidder will execute and deliver the documents required by Section 00200 (Instructions to Bidders) within the times specified therein. These documents include, but are not limited to, Section 00520 (Agreement), Section 00610 (Construction Performance Bond), and Section 00620 (Construction Labor and Material Payment Bond).
8. Notice of Award or request for additional information may be addressed to the undersigned Bidder at the address set forth below.
9. The undersigned Bidder herewith encloses cash, a cashier's check, or certified check of or on a responsible bank in the United States, or a corporate surety bond furnished by a surety authorized to do a surety business in the State of California, in form specified in Section 00200 (Instructions to Bidders), in the amount of ten percent (10%) of the total of Bid and made payable to "City of Sausalito".
10. The undersigned Bidder agrees to commence Work under the Contract Documents on the date established in Section 00700 (General Conditions) and to complete all work within the time specified in Section 00520 (Agreement). The undersigned Bidder acknowledges that City of Sausalito has reserved the right to delay or modify the commencement date. The undersigned Bidder further acknowledges City of Sausalito has reserved the right to perform independent work at the Site, the extent of such work may not be determined until after the opening of the Bids, and that the undersigned Bidder will be required to cooperate with such other work in accordance with the requirements of the Contract Documents.

FIRM/COMPANY NAME: Sausal Corp 00400 - 2

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- 11. The undersigned Bidder agrees that, in accordance with Section 00700 (General Conditions), liquidated damages for failure to complete all Work in the Contract within the time specified shall be as set forth in Section 00520 (Agreement).
- 12. The names of all persons interested in the foregoing Bid as principals are:

(IMPORTANT NOTICE: If Bidder or other interested person is a corporation, give the legal name of corporation, state where incorporated, and names of president and secretary thereof; if a partnership, give name of the firm and names of all individual co-partners composing the firm; if Bidder or other interested person is an individual, give first and last names in full).

NAME OF BIDDER: Sausal Corporation
licensed in accordance with the act for the registration of Contractors, and with
License Number: 281425
Expiration: 1/31/10

State of California
Where incorporated, if applicable

James E Ward, President
Leslie Ward, Vice President
Greg Gillis, Secretary/Treasurer
Principals

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[Signature]
Signature of Bidder

NOTE: If Bidder is a corporation, set forth the legal name of the corporation together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If Bidder is a partnership, set forth the name of the firm together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership.

Business Address: 422 Whitney Street
San Leandro CA 94577

Officers authorized to sign contracts: James E Ward

Telephone Number(s): 510-568-6600

Fax Number(s): 510-632-9769

E-Mail address: Jim@sausal.net

Federal ID Number: 946096402

Date of Bid: 8/22/08

END OF SECTION

JLC
Jeff Luchetti Construction, Inc.
August 27, 2008

RECEIVED

AUG 28 2008

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

Via email: Loren Umbertis [LUmbertis@swinerton.com]

City of Sausalito
C/O Mr. Loren Umbertis
Project Manager
Swinerton Management & Consulting
260 Townsend
San Francisco, CA. 94107

RE: Sausalito Public Safety Facility
Bid date: August 27, 2008 @ 1:00 PM
Subject: Bid Protest – *Amended*

Dr. Mr. Umbertis;

Pursuant to the plans and specifications for the above referenced project and the Public Contract Code, Jeff Luchetti Construction, Inc. (JLC) hereby submits its protest of the bid submitted by Sausal Corporation (Sausal), on the basis that their bid is nonresponsive and should be rejected because it fails to meet the minimum requirements of the Contract Documents and Public Contract Code.

The structural drawings and Specification Section 02300 – Piling (Tubex Piles) specify Tubex piles for use on this project and does not list other manufactures as equivalent alternatives. JLC's listed subcontractor, Foundation Constructors, Inc., is the sole source provider of Tubex for the United States and Canada. JLC received bids from several subcontractors proposing alternative systems but did not use them as Tubex was specified. JLC and the third and forth bidders listed Foundation Constructors, the specified system, as well.

Sausal listed Substructure Support, Inc. (SSI) who bid an alternate product that will not meet the requirements of the Contract Documents. Furthermore, SSI can not purchase Tubex Piles and does not have "at least three (3) years experience in the successful manufacture of Tubex Piles" required in specification section 02300- 1.3D.

The use of a non-specified product by Sausal in its bid provided them with an unfair competitive bid advantage. The defect in Sausal's bid is not a ministerial mistake that can be corrected, and thus Sausal's bid is defective and must be rejected as non-responsive. JLC requests that the City reject Sausal's bid for the Project as it is nonresponsive, and award the contract to the lowest responsive bidder, JLC. Please advise as to how the City intends to proceed.

ATTACHMENT 2
(2 PAGES)

Please feel free to contact me should you have any questions concerning your response to this protest.



Sincerely,
Jeff Luchetti Construction, Inc.

Jeff Luchetti
President

Cc: Sausal Corporation - via fax 510-632-9769
Foundation Constructors, Inc. - via fax 925-625-5783
Dan Galvin: Shapiro Galvin Shapiro & Moran Attorneys

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