



**NOTICE OF AND AGENDA FOR
SPECIAL MEETING OF THE CITY COUNCIL
TOWN OF COLMA**

**Colma Community Center
1520 Hillside Boulevard
Colma, CA 94014**


**Thursday, October 5, 2017
6:00 p.m.**

NOTICE IS HEREBY GIVEN that the City Council of the Town of Colma will hold a Special Meeting at the above time and place for transacting the following business:

1. NEW BUSINESS: Notice of Award - Town Hall Project - Infill & Sitework

Consider: Motion to Adopt a Resolution Waiving Any Irregularities in the Bid of and Awarding and Authorizing the City Manager to Execute a Construction Contract for the Town Hall Addition and Renovation Project, Phase IV Infill & Sitework with BHM Construction, Inc.

Posted: 10/4/17


Caitlin Corley, City Clerk





STAFF REPORT

TO: Mayor and Members of the City Council

FROM: Brad Donohue, Public Works Director/CSG Consultants
Mahan Bozorginia, Project Manager/CSG Consultants

VIA: William Norton, Interim City Manager

MEETING DATE: Thursday, October 5, 2017

SUBJECT: Notice of Award – Town Hall Addition and Renovation Project – Phase IV, Infill & Sitework

RECOMMENDATION

Staff recommends that City Council adopt the following Resolution:

RESOLUTION WAIVING ANY IRREGULARITIES IN THE BID OF AND AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT FOR THE TOWN HALL ADDITION AND RENOVATION PROJECT, PHASE IV INFILL & SITEWORK WITH BHM CONSTRUCTION, INC.

EXECUTIVE SUMMARY

The proposed resolution would award and authorize the City Manager to execute a construction contract with BHM Construction, Inc. for the Town Hall Addition and Renovation Project, Phase IV Infill & Sitework ("Phase IV").

Notice Inviting General Contractors to bid on Phase IV was advertised on August 24, 2017; bid opening occurred on Thursday, September 28, 2017. 5 total bids were received. Upon due diligence and analysis of bids received, Town Staff determined that BHM Construction, Inc., is the lowest responsible bidder submitting a responsive bid in the amount of \$9,892,435.00.

FISCAL IMPACT

Council initially approved a total budget of \$13,000,000.00 and later approved, via amendment, another \$5,000,000.00 to the Project; producing a total Project budget of \$18,000,000.00 for both soft and hard costs. The project was partially financed with \$5.1 million from a Certificate of Participation (COP) debt issuance. The project has incurred expenses over multiple years and the remaining Budget available as of July 1, 2017 was \$12,762,496. Of this amount \$11,406,523 was for construction including current work to prepare for the site for this contract.

The recommended bid submitted by BHM Contractors is \$9,892,435.00, including a 10% contingency of \$989,244 totals \$10,881,679.00. This is below the amount currently budgeted for Construction and allows for payments under the site preparedness contracts that was recently completed. The remainder of the remaining budget is appropriated for furnishings and fixtures, professional services, and other project costs.

Staff recommends that a 10% Construction Contingency be held by the Town to be used in the event of unforeseen condition, as well as for the Allowance items listed below.

The Total Contingency amount for Phase IV is \$989,244.00.

Allowance items to be paid for via Construction Contingency:

1. Owner Furnished & Owner Installed ("OFOI")
 - a. 3RD Party Systems Commissioning (Special Inspection)
 - b. Replacement of Main Town Hall Signage
 - c. Purchase of (5) Flat Panel TV Displays
 - d. Laminated Decorative Film at Glass Reception Wall
2. Owner Furnished & Contractor Installed ("OFCI")
 - a. Staff Kitchen/Break Room Kitchen Appliances
 - b. Re-Furbished Light Fixtures in Historic Town Hall building

BACKGROUND

This is the third time the Town is bidding the Phase IV construction contract; previous bids occurred in March 2016 and again in September 2016. In both previous bids the apparent low bidder rescinded their bids due to errors in the bids and the Town was forced to reject all bids.

Upon second rejection of all bids in Fall of 2016, City Council authorized the City Manager to start researching and interviewing with qualified contractors who have experience in working with designers and owners to assist in value engineering (reducing costs and keeping the aesthetic integrity of the project in tact). A contractor who appeared to meet all the qualifications of what was required to complete the project was selected and negotiations began in December of 2016. Negotiations continued through the Winter and Spring of 2017 and staff continued its work with the architect to value engineer various components to bring substantial saving to the Project. Negotiations with the contractor came to a halt in May of 2017. At that time, the contractor decided to no longer proceed with the Project, and all contract negotiations were suspended and subsequently terminated. Now left without a contractor, Staff recommended to the City Council that we complete the value engineering effort, clarify all the changes in the plan and specifications and re-bid the Phase IV construction contract for a third time.

Bid opening for the Phase IV construction contract occurred on Thursday, September 28, 2017 at 2:00 p.m.

ANALYSIS

A total of 5 bids were received on Thursday, September 28, 2017.

Staff reviewed all 5 bid submissions and has determined that BHM Construction is the lowest responsible bidder submitting a responsive bid of \$9,892,435.00. BHM Construction's bid included a minor irregularity arising from a miscalculation of the total bid amount.

As a threshold matter, the Town has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such mistakes are immaterial. (See *Menefee v. County of Fresno* (1985) 163 Cal.App.3d 1175; *Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.)

The bid solicitation documents provide clear instructions for resolution of irregularities related to calculation of the total bid amount. Applying those instructions, BHM Construction remains the low bidder. Staff contacted references provided within the low bid submittal, reviewed the submitted bid schedules in conjunction with submitted Subcontractor cost breakdowns within BHM Construction's bid.

Staff then analyzed each bid schedule item thoroughly to ensure that costs aligned with that of the Town's Engineer Estimate.

The Engineer Estimate for the Phase IV construction contract is \$9,496,984.00. There is a four percent (4%) difference between the Engineer Estimate and BHM Construction's bid.

Council Adopted Values

Approval of the proposed resolution is the responsible action. City Council has considered the fiscal impact of awarding the contract to the lowest responsible bidder while meeting or exceeding the latest standards of the California Building Standards Code while striving to meet the mandates and recommendations of the Town of Colma's Climate Action Plan.

Alternatives

While the City Council could reject all bids, Staff does not believe this is a reasonable alternative. Rejecting the bid from lowest responsible bidder, and moving to rebid the project, would not be an option that Staff would recommend to City Council.

CONCLUSION

Staff recommends that City Council adopt a Resolution waiving any irregularities in the bid of and awarding to and authorizing the City Manager to execute a construction contract with BHM Construction, Inc., for Phase IV.

ATTACHMENTS

- A. Resolution



RESOLUTION NO. 2017-_____
OF THE CITY COUNCIL OF THE TOWN OF COLMA

**RESOLUTION WAIVING ANY IRREGULARITIES IN THE BID OF AND AWARDING AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT FOR
THE TOWN HALL ADDITION AND RENOVATION PROJECT, PHASE IV INFILL &
SITWORK WITH BHM CONSTRUCTION, INC.**

The City Council of the Town of Colma does hereby resolve:

1. Background.

(a) The Town of Colma opened bids for the Town Hall Addition and Renovation Project – Phase IV, Infill & Sitework (“Phase IV”) on September 28, 2017.

(b) Town Staff determined that BHM Construction, Inc. (“BHM Construction”), is the lowest responsible bidder submitting a responsive bid in the amount of \$9,892,435.00.

(c) The bid from BHM Construction contained a minor irregularity arising from a miscalculation of the total bid amount.

(d) The Town has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such mistakes are immaterial. (See *Menefee v. County of Fresno* (1985) 163 Cal.App.3d 1175; *Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.)

(e) The Town’s bid solicitation documents provide that “[f]or purposes of evaluating Bids, the Town will correct any apparent errors in the extension of unit prices and any apparent errors in the addition of lump sum and extended prices.

2. Finding.

(a) The City Council finds that the minor bid irregularity in BHM Construction’s bid is immaterial.

(b) The City Council further finds that BHM Construction is the lowest responsible bidder submitting a responsive bid.

3. Order

(a) The minor bid irregularity in BHM Construction’s bid is hereby waived and the total bid amount established in the amount of \$9,892,435.00.

(b) Award of the construction contract for Phase IV in the amount of \$9,892,435.00 is hereby made to BHM Construction

(c) The construction contract for Phase IV between the Town of Colma and BHM Construction, a copy of which is on file with the City Clerk, is approved by the City Council of the Town of Colma.

(d) The City Manager is authorized to execute said contract on behalf of the Town of Colma, with such minor technical amendments as may be deemed appropriate by the City Manager and the City Attorney.

(e) A Town controlled ten percent (10%) construction contingency in the amount of \$989,244 to be used in the event of unforeseen conditions and certain allowance items is established for Phase IV.

Certification of Adoption

I certify that the foregoing Resolution No. 2017-___ was duly adopted at a regular meeting of said City Council held on October 5, 2017 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Helen Fisicaro, Mayor					
Raquel Gonzalez					
Joanne del Rosario					
Diana Colvin					
John Irish Goodwin					
Voting Tally					

Dated _____

Helen Fisicaro, Mayor

Attest: _____
Caitlin Corley, City Clerk