

RESOLUTION NO. 20-0035

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL MAKING SOLE SOURCE EXCEPTION FINDINGS AND DETERMINATIONS PURSUANT TO PUBLIC CONTRACT CODE 3400, AND DESIGNATING THE DIRECTOR OF PUBLIC WORKS TO SPECIFY CERTAIN SOLE SOURCE EQUIPMENT FOR CITY UTILITIES RELATED PROJECTS

WHEREAS, this City Council has been requested to make a finding and approve as an exception pursuant to Public Contract Code Section 3400 (c) (2) five certain materials, products, services, and/or systems as further identified herein below for City utilities related projects;

WHEREAS, Public Contract Code Section 3400 provides, in pertinent part, that: “(a) The Legislature finds and declares that it is the intent of this section to encourage contractors and manufacturers to develop and implement new and ingenious materials, products, and services that function as well, in all essential respects, as materials, products, and services that are required by a contract, but at a lower cost to taxpayers.

(b) No agency of the state, nor any political subdivision, municipal corporation, or district, nor any public officer or person charged with the letting of contracts for the construction, alteration, or repair of public works, shall draft or cause to be drafted specifications for bids, in connection with the construction, alteration, or repair of public works, (1) in a manner that limits the bidding, directly or indirectly, to any one specific brand or trade name unless the specification is followed by the words “or equal” so that bidders may furnish any equal material, product, thing, or service. In applying this section, the specifying agency shall, if aware of an equal product manufactured in this state, name that product in the specification. Specifications shall provide a period of time prior to or after, or prior to and after, the award of the contract for submission of data substantiating a request for a substitution of “an equal” item. If no time period is specified, data may be submitted any time within 35 days after the award of the contract.

(c) Subdivision (b) is not applicable if the awarding authority, or its designee, makes a finding that is described in the invitation for bids or request for proposals that a particular material, product, thing, or service is designated by specific brand or trade name for any of the following purposes:

(2) In order to match other products in use on a particular public improvement either completed or in the course of completion”;

WHEREAS, City staff have evaluated 5 equipment items for compliance with Section 3400(c)(2), as described in the attachment thereto (“Sole Source Justification Report and Recommendation”) submitted to the City Council with this Resolution;

WHEREAS, Stantec (design engineers) have reviewed the attachment thereto (“Sole Source Justification Report and Recommendation”) and have submitted to the City Council with this Resolution their letter concurring in the findings and recommendations made by City staff;

WHEREAS, the 5 proposed items are identified as:

1. Motor Control Centers (Allen-Bradley)
2. Variable Frequency Drives (ABB Group)
3. Programmable Logic Controllers (Allen-Bradley)
4. Control Valves (Cla-Val Company)
5. Standby Power Generator (Onan-Cummins); and

WHEREAS, applicable law requires the City to make certain findings under Public Contract Code Section 3400 to use the exceptions found therein.

NOW, THEREFORE, the Manhattan Beach City Council hereby, finds, determines and resolves:

1. The above recitals, and each of them, are true and correct.
2. The City Council has considered: (i) each of the 5 proposed items separately; (ii) the factual findings, statements and recommendations of City staff and Stantec (design engineers) regarding the 5 proposed items identified above, and hereby adopts the findings and conclusions in all of the foregoing as the City's own findings and conclusions.
3. The City Council accepts and approves the recommendations submitted by City staff and Stantec (design engineers).
4. The City Council finds and approves, as an exception pursuant to Public Contract Code Section 3400(c)(2) as stated above, each of the 5 items identified herein above and its/their subsequent and/or replacement: model, part number, or system form the specified manufacturer, for use in the City's utilities related projects.
5. The City Council directs staff to include this resolution in all future procurement notices inviting bids and/or requests for proposals that will involve said materials, products, services, and/or systems for City utilities related projects.
6. This Resolution shall take effect immediately upon its adoption.

ADOPTED on March 17, 2020.

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk