

CITY OF BUCKLEY, WASHINGTON

RESOLUTION NO. 24-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY,
WASHINGTON REJECTING THE LOW BID ON THE CITY HALL ADDITION &
MODERNIZATION PROJECT REBID BECAUSE IT WASN'T SUBMITTED BY A RESPONSIBLE
BIDDER AND AWARDING THE CONTRACT TO THE SECOND LOWEST BIDDER.**

WHEREAS, on April 7, 2024, the City of Buckley issued an invitation for bids for the City Hall Addition & Modernization Project Rebid; and

WHEREAS, the bids on the project were opened on May 14, 2024, and

WHEREAS, the lowest bid was submitted by a company that under the bidding terms had to disclose that it had been subject to 186 days of liquidated damages due to untimely completion of a past project; and

WHEREAS, the company's disclosure of its liquidated damages claim led City staff to investigate prior projects constructed by the low bidder and this investigation revealed that the company had significantly exceeded its original contract time on another project, and

WHEREAS, by letter dated June 4, 2024, from the City Administrator the low bidder was advised that it didn't qualify as a responsible bidder because its failure to meet contract deadlines for two projects constituted "a pattern of failing to meet Contract Time," which disqualified it as a responsible bidder under General condition 2.01.8.3h of the contract bid terms adopted for the project; and

WHEREAS, the low bidder appealed the City's June 4, 2024, determination by letter dated June 6, 2024 and asserted that its contract delays for the liquidated damages project were due to COVID, and

WHEREAS, the June 6 letter did not address the other project identified in the City Administrator's June 4, 2024, letter; and

WHEREAS, upon further investigation the City found that for the liquidated damages project the low bidder had not applied for any change order requests or extensions on the basis of COVID delays, and

WHEREAS, as a result of the City's additional investigation, the City sent a letter dated June 13, 2024, asking the low bidder to provide information by June 18, 2024, demonstrating that the delays in the liquidated damages project were the result of COVID, and

WHEREAS, in response by email dated June 18, 2024, the low bidder submitted an email providing a timeline of the delays in the project without any supporting documentation, and

WHEREAS, upon further investigation City staff found a third project constructed by the low bidder that had been subject to significant delays beyond the initially agreed upon deadlines, and

WHEREAS, Section 2.01.8.3h of the General Conditions adopted for the City Hall Addition & Modernization Project Rebid provides that to qualify as a responsible bidder a bidder must meet the following criterion:

The Bidder shall not have had liquidated damages assessed on any projects it has completed 5 years prior to the bid submittal date that demonstrate a pattern of failing to meet Contract Time, unless there are extenuating circumstances and such circumstances are deemed acceptable to the Owner.

WHEREAS, the low bidder has not provided any documentation except an undocumented timeline proving its assertion that its delays were subject to COVID and also did not provide any requests for change orders or time extensions to the owner of the liquidated damages project based on COVID, and

WHEREAS, the lack of documentation and lack of communication associated with the liquidated damages project in conjunction with delays associated with two other projects establishes both a pattern of failing to meet Contract Time and a lack of any acceptable extenuating circumstances, and

WHEREAS, timeliness of completion is of critical importance to the City Hall Addition & Modernization Project Rebid since City employees will be displaced to difficult working conditions during project construction, and

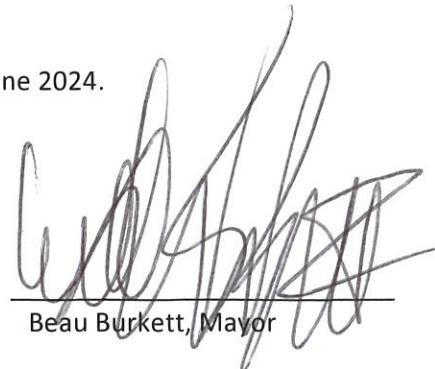
WHEREAS, for the reasons identified in the whereas clauses above, the bid of the low bidder is rejected because the low bidder is not found to qualify as a responsible bidder and the City Hall Addition & Modernization Project Rebid will be awarded to the second low bid from Lincoln Construction Inc.,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Buckley hereby declares:

Section 1. The City Hall Addition & Modernization Project Rebid is awarded to the second lowest bidder, Lincoln Construction Inc.

Section 2. The low bid for the City Hall Addition & Modernization Project Rebid project is not found to have been submitted by a responsible bidder for the reasons identified in the Whereas clauses above, adopted by this reference. The low bid is rejected because it was not submitted by a responsible bidder. This resolution constitutes the "final determination" on responsible bidder status as referenced in Section 2.01.8.3 of the General Conditions applicable to the bids solicited for the City Hall Addition & Modernization Project Rebid project.

Introduced, passed and approved this 25th day of June 2024.



Beau Burkett, Mayor

ATTEST:



Treva Zumeck, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

Posted: June 26, 2024