

**S T A F F   R E P O R T**

**SUBJECT:** Rescind Contract Previously Awarded and Reject Sole Bid Received for LAVTA Rutan Maintenance Area Resurfacing Project #2018-06

**FROM:** Jennifer Yeamans, Senior Grants, Project Management & Contract Specialist

**DATE:** June 4, 2018

**Action Requested**

Based on a recommendation of the Finance & Administration Committee, staff requests the Board of Directors adopt Resolution 17-2018, rejecting the sole bid received in response to IFB #2018-06 for the LAVTA Rutan Maintenance Floor Resurfacing Project as non-responsive, rescinding the contract previously awarded to Raider Painting in November 2016 for an amount not to exceed \$194,950 that was not executed by Raider Painting, and directing staff to initiate an open-market procurement for the project in accordance with LAVTA’s Procurement Policy (Resolution 19-2006).

**Background**

In 2013, LAVTA identified a necessary facility refurbishment needed in the maintenance area of the Rutan facility. At that time, an Invitation for Bids (IFB) was issued for the resurfacing of the maintenance area floor. The project was not accomplished at that time because of budget constraints. In the meantime, LAVTA was able to identify and apply for Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) funds to finance the project in addition to other needed improvements to the Rutan facility. The original engineer’s estimate for the subject work was \$175,000. Since then, LAVTA has advertised numerous opportunities to solicit competitive bids to complete the project, which have been unsuccessful for various reasons summarized below:

<b>Solicitation</b>	<b>Date Released</b>	<b>Result</b>
IFB #2014-07	March 2014	Two bids received in excess of available budget
IFB #2015-12	September 2015	Three bids received; low bid non-responsive, others in excess of available budget
IFB #2015-14	November 2015	One bid received; contract awarded January 2016 and rescinded November 2016 for vendor non-performance. Contract awarded November 2016 to Raider Painting following open-market procurement but was never executed for lack of agreement on terms.
IFB #2017-08	February 2017	No bids received
IFB #2017-12	March 2017	No bids received
IFB #2018-06	April 2018	One bid received; non-responsive

In November 2016, the Board of Directors adopted Resolution 35-2016, awarding the contract for the work to Raider Painting via an open-market solicitation, but that contract was never executed due to the inability of Raider Painting to fulfill all of the contract requirements for the agreed upon price. LAVTA staff then attempted twice in 2017 to procure the work via two additional formal solicitations, IFB #2017-08 and IFB #2017-12, both of which received no bids.

### **Discussion**

LAVTA's most recent effort to solicit formal bids for this project was IFB #2018-06, which was released on April 12, 2018. A pre-bid meeting was held April 24, 2018, and written questions were due May 1, 2018. Bids were due May 9, 2018, on which date one bid was received from Genard, Inc., dba Lenova totaling \$112,548. However, the submitted bid included a Request for Approved Equal that was not submitted to LAVTA prior to the May 1, 2018, deadline for written questions, including Approved Equal Requests, as required by the solicitation documents. The bid was therefore deemed by LAVTA staff and Legal Counsel as non-responsive to the requirements of the Contract Documents.

LAVTA's Procurement Policy (Resolution 19-2006) states that the Board of Directors may waive the requirements for formal competitive bidding when permissible under applicable law and when a determination is made that the best interests of LAVTA will be served. The policy provides for cases when, if no bids are received in connection with a procurement requiring formal competitive bidding, LAVTA may proceed with an open market purchase in certain circumstances if it is determined that the best interests of LAVTA will be served by such an approach. The policy requires these circumstances be evaluated on a case-by-case basis and include such factors as the reasons why no bids were received, the availability of the supplies, equipment, or materials on the open market, and a price or cost analysis.

In the case of the Rutan Maintenance Area Resurfacing Project, staff's analysis finds as follows:

- The last three solicitations for this project have received no responsive bids, despite LAVTA's efforts to lower requirements for bidders in subsequent solicitation efforts based on feedback from prospective vendors. Having been out for formal bidding now 6 times, LAVTA has provided ample opportunity for "full and open competition" from prospective vendors for this work.
- Rehabilitation work of this nature requires specific expertise and knowledge of materials and practices needed to carry out the work successfully, and it is LAVTA's understanding that such vendors are available on the open market.
- The most recent Independent Cost Estimate for a modified scope that fits within LAVTA's available budget for this project was \$185,000 (May 2017).

For these reasons, staff believes that the project can be successfully contracted via open market negotiations consistent with LAVTA's Procurement Policy and other laws and regulations that may be applicable to LAVTA's procurement procedures. After six attempts to procure a vendor for the work through formal competitive bidding, staff has determined an open-market solicitation will be the most effective way for LAVTA to complete the resurfacing work needed to restore the Rutan Maintenance Area to a state of good repair.

In order to proceed with a future contract award, staff is also recommending the Board of Directors rescind the contract previously awarded for this work to Raider Painting by Resolution 35-2016, since LAVTA and the vendor were unable to agree upon terms for the work for the price originally agreed upon and approved by the Board of Directors. The issues that arose with the previous contract terms will be vetted by staff in the process of soliciting open-market bids for the work.

**Fiscal Impact**

There is no fiscal impact to the recommended action. LAVTA staff will return to the Board of Directors with any contract recommendation based on open-market solicitation for future action.

**Next Steps**

Staff will proceed with an open-market procurement consistent with LAVTA’s procurement policies. Pending successful negotiations with a responsible vendor including advance review and mutual agreement of LAVTA’s proposed contract terms with respect to price, staff will bring a contract recommendation to a future Finance & Administration Committee meeting for consideration.

**Recommendation**

Based on the recommendation of the Finance & Administration Committee, staff recommends the Board of Directors approve Resolution 17-2018, rejecting the sole bid received in response to IFB #2018-06 for the LAVTA Rutan Maintenance Floor Resurfacing Project as non-responsive, rescinding the contract previously awarded to Raider Painting in November 2016 for an amount not to exceed \$194,950 that was not executed by Raider Painting, and directing staff to initiate an open-market procurement for the project in accordance with LAVTA’s Procurement Policy (Resolution 19-2006).

**Attachments**

1. Resolution 17-2018

*Approved:* \_\_\_\_\_

**RESOLUTION NO. 17-2018**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY  
RESCINDING THE CONTRACT PREVIOUSLY AWARDED TO RAIDER  
PAINTING FOR THE RUTAN MAINTENANCE AREA RESURFACING  
PROJECT AND REJECTING ALL BIDS FOR LAVTA IFB #2018-06.**

**WHEREAS**, the Livermore Amador Valley Transit Authority (LAVTA) requires the services of a third-party contractor to perform the resurfacing of the Rutan Maintenance Area floor as described in LAVTA Invitation for Bids (IFB) #2018-06; and

**WHEREAS**, the Board of Directors previously adopted Resolution 35-2016, awarding a contract for the work to Raider Painting, which was never executed due to a lack of mutual agreement on price with respect to contract terms; and

**WHEREAS**, staff issued two subsequent formal solicitations for the work in 2017, as IFB #2017-08 and IFB #2017-12, both of which received no bids; and

**WHEREAS**, staff issued IFB #2018-06 in March 2018 to solicit bids for the project; and

**WHEREAS**, one bid was received, which was reviewed by LAVTA staff and Legal Counsel and determined to be non-responsive; and

**WHEREAS**, LAVTA's Procurement Policy adopted by the Board of Directors as Resolution #19-2006 and as further detailed in LAVTA's Procurement Manual updated July 2015 provides for the right of the Board of Directors to reject any or all bids in such instances where none of the bids was deemed responsive to the requirements of the Contract Documents; and

**WHEREAS**, staff has determined that through six attempts at formal competitive bidding for the project, including modifications to the Contract Documents to ensure the Contract Documents were not excessively burdensome or restrictive to prospective bidders, that LAVTA has allowed for full and open competition in soliciting the work; and

**WHEREAS**, staff recommends that the Board of Directors reject the sole bid received for IFB #2018-06 and direct staff to solicit a responsible vendor via the open market to complete the work in accordance with Resolution #19-2006;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors hereby rejects all bids for the LAVTA Rutan Maintenance Area Resurfacing Project #2018-06; and

**BE IT FURTHER RESOLVED** that the Board of Directors of the Livermore Amador Valley Transit Authority hereby rescinds the contract for the resurfacing of the LAVTA Rutan facility maintenance area previously awarded to Raider Painting by Resolution 35-2016; and

**BE IT FURTHER RESOLVED** that staff is directed to undertake an open-market solicitation for the Rutan Maintenance Area Resurfacing Project in accordance with LAVTA's Procurement Policy, Resolution #19-2006.

**PASSED AND ADOPTED** this 4<sup>th</sup> day of June 2018.

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Karla Brown, Chair

**ATTEST:**

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Michael Tree, Executive Director

**APPROVED AS TO FORM:**

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Michael Conneran, Legal Counsel