

AGENDA REPORT

Resolution: Authorization to Award the Performing Emergency Spill Response or Emergency Repairs in a Hazardous Environment Contract to Patriot Environmental Services for \$450,000 for the Period Commencing July 1, 2021 and Ending June 30, 2022, 2023, or 2024. **(Environmental Programs & Planning)**

MEETING DATE: 4/22/2021

AMOUNT: \$450,000 (Total Contract Amount)
Operating Expense

PARTIES INVOLVED: Patriot Environmental Services, Richmond/CA,
Josh Teves

SUBMITTED BY: Richard Sinkoff, Director of Environmental Programs & Planning

APPROVED BY: Danny Wan, Acting Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

This Agenda Report seeks authorization to award the Performing Emergency Spill Response or Emergency Repairs in a Hazardous Environment contract to Patriot Environmental Services for \$450,000 for the period commencing July 1, 2021 and ending June 30, 2022, 2023, or 2024.

BACKGROUND

The Environmental Programs and Planning Division (EP&P) manages environmental compliance for the Port of Oakland (Port), including the emergency spill response and emergency repairs in a hazardous environment program. Incidents requiring emergency spill response and repairs in a hazardous environment actions occur on Port properties, most related to chemical spills, utility failures or vehicle collisions. To rapidly respond to mitigate risk to human health and the environment, the Port routinely contracts with specialized hazardous waste management companies.

For the period July 1, 2018-June 30, 2020, the Port averaged approximately \$120,000 per year in emergency response costs. This amount can vary given the unpredictable nature and scope of unforeseen emergencies. Accordingly, Port staff estimate that a contract for a potential

\$450,000 over three years (\$120,000 per year plus an annual 25% contingency of \$30,000) is reasonable for these services. Costs are incurred when and if emergency response is required.

The scope of work also includes performing time-sensitive work in hazardous environments and assisting Port staff in determining strategies to lower the risk of emergency incidents.

ANALYSIS

Port staff conducted the solicitation pursuant to its public works bid process. Port staff issued the solicitation notice on January 15, 2021, for *Performing Emergency Spill Response or Emergency Repairs in a Hazardous Environment* services. Staff posted the solicitation on the Port's website at the following link:

<http://www.portofoakland.com/business/bids-RFQs/rfq-engineering/>.

The Port held a pre-bid meeting on February 1, 2021.

Bids were due on February 17, 2021. Representatives from six firms attended the pre-bid meeting.

Only one respondent – Patriot Environmental Services (Patriot) - submitted a formal bid. Port staff believe that the specialized scope of services and the qualifications required to perform services as well as the potential liquidated damages included in the bidding documents may have affected the response. Due to the nature of emergency response, the contract at times necessitates a one-hour response time for incidents, after which liquidated damages begin to accrue. This requires firms to maintain a local crew available for rapid response, which appears to be an obstacle to many firms. For the past two bidding solicitations (in 2014 and 2017), only 1 and 2 contractors, respectively, submitted a bid.

Patriot Environmental Services was the lowest responsible bidder. Port staff evaluated the formal bid based on criteria set forth in the solicitation and determined that it was responsive and reasonably priced, based upon a comparison to previous contracts for similar services. The Port's Social Responsibility Division (SRD) completed its analysis and determined that the bidder is a Port-certified Local Business Area (LBA) firm.

Patriot Environmental Services is the incumbent contract holder and currently provides emergency spill response services to the Port. It is headquartered in Long Beach, California, and maintains a local office in Richmond, California. Patriot has approximately 70 employees, and specializes in emergency response, hazardous waste management, waste characterization, and general environmental and industrial services. This work requires specialized registrations and licenses to work in emergency and hazardous environments. Patriot staff also generally maintain HAZWOPER licenses, which is a specialized certification required to work in dangerous environments including hazardous or contaminated areas.

The contract will provide for \$150,000 per year (includes a 25% annual contingency), which is based on recent annual expenditures for similar emergency spill response and repair services. Port staff will review Patriot's work on an annual basis. Based upon the review, Port staff will

have the option to engage Patriot for the subsequent year. This is an “on-call” contract, and expenses are only incurred when and if emergency response is required.

BUDGET & STAFFING

Costs for performing Emergency Spill Response or Emergency Repairs are included in the Port’s annual operating budget.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

This contract is not part of the Port’s Capital Improvement Program (CIP). Therefore, provisions of the MAPLA do not apply to this work.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port’s Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: *Improve Customer Service* by providing timely emergency response.
- Goal: *Modernize and Maintain Infrastructure* by rapidly responding to active incidents to minimize potential damage to property and infrastructure.
- Goal: *Strengthen Safety and Security* by responding to and containing emergency situations.
- Goal: *Serve Our Community* by minimizing the risk of emergencies.
- Goal: *Care for Our Environment* by minimizing the negative effects of hazardous materials releases through emergency incidents.

LIVING WAGE

Living wage requirements, in accordance with the Port’s Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the “Living Wage Regulations”), do not apply because the contract is a construction contract covered by State of California prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations.

SUSTAINABILITY

Port staff has reviewed the Port’s 2000 Sustainability Policy. The Port will encourage the selected firm to incorporate sustainable practices into its work, including paperless reporting to the Port, utilizing technology in the field to reduce paper, and helping the Port to notify tenants and employees of emergency preparedness and response issues without creating paper waste.

ENVIRONMENTAL

Port staff reviewed the proposed action – award a contract for emergency response services for the Port of Oakland - in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. The action is statutorily exempt from CEQA per Section 15269(b) of the CEQA Guidelines, which exempts emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare, as well as categorically exempt under Section 15330 of the CEQA Guidelines, which exempts minor actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

This project is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

OPTIONS

- Approve the recommendation as described in this Agenda Report. This would reduce processing time for emergency response incidents and ensure the Port's ability to perform emergency repairs in a hazardous environment, thereby preventing potential interruptions in service to the Port and its tenants. This is the recommended action.
- Reject the recommendation as described below and direct Port staff to solicit new proposals for the work. The current on-call contract will expire on June 30, 2021. Soliciting for new bids will increase the time to establish the contract, require additional Port staff time, and result in delays in responding to potential emergency spills and repairs in a hazardous environment.

- **RECOMMENDATION**

- Adopt a resolution authorizing the Executive Director to award the Performing Emergency Spill Response or Emergency Repairs in a Hazardous Environment contract to Patriot Environmental Services for \$450,000, for the period commencing July 1, 2021 and ending June 30, 2022, 2023, or 2024.