



Office of the City Manager

CONSENT CALENDAR
November 18, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront
Subject: Contract: Paymun Building & Development, Inc. for the K-Dock Restroom Renovation Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the K-Dock Restroom Renovation Project (Bid Specification No. 25-11743-C); and
2. Rejecting the bid from ERA Construction, Inc., the fourth lowest bidder and deem ERA Construction, Inc. ineligible to protest against Argos Construction, apparent lowest bidder, Paymun Building & Development, Inc., apparent second lowest bidder, and Green Bay Remodeling, Inc., apparent third lowest bidder; and
3. Rejecting the bid from Argos Construction as non-responsive; and
4. Accepting the bid of Paymun Building & Development, Inc. as the lowest responsive and responsible bidder on the Project; and
5. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Paymun Building & Development, Inc., for the K-Dock Restroom Renovation Project, in an amount not to exceed \$440,000, which includes a contract amount consisting of base bid of \$368,000, additive bid item in the amount of \$32,000, and a 10% contingency in the amount of \$40,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2026 budget in the Marina Fund (Fund 608) and will be recommended for appropriation through the FY 2026 first amendment to the appropriations ordinance in the Measure T1 Bond Fund (Fund 511). No other funding is required, and no other projects will be delayed due to this expenditure.

CONTRACTOR	\$368,000
Additive Bid Item.....	\$32,000
<u>10% Contingency</u>	<u>\$40,000</u>
Total construction cost	\$440,000

Source of funds

Marina Fund	\$107,400
Measure T1	\$332,600
<hr/>	
Total construction cost	\$440,000

CURRENT SITUATION AND ITS EFFECTS

Built in the 1960's, K-Dock Restroom is an existing public restroom at the Berkeley Waterfront that is in need of renovation in order to provide quality amenities to the public. The following project elements will be renovated: two existing sinks will be replaced with four sinks in total, two in the slip-holder's restroom and two in the public restroom; five toilets and a urinal will be replaced with six toilets, each in their own fully walled-in room with mechanical ventilation; and two non-operational showers will be replaced with a single new ADA accessible shower. Two infant changing stations will be added and various restroom accessories will be added. A new bottle water filling station will be installed on the outside of the K-Dock. Staff recommends that a contract for this project be awarded to Paymun Building & Development, Inc.

BACKGROUND

The City conducted a competitive Invitation For Bid (IFB) process in July, 2025, and the bid opening was on August 26, 2025. Thirteen (13) bids were received from a low bid of \$348,000 to a high bid \$1,070,000 for the base bid work (see Attachment 2: Bid Abstract). The City has determined that Paymun Building and Development, Inc. meets the California public construction code definition of lowest responsive and responsible bidder. References for Paymun Building and Development, Inc. proved satisfactory. Staff therefore recommends the contract be awarded to Paymun Building and Development, Inc.

On August 29, 2025, the City received a bid protest from ERA Construction Inc. (ERA), the apparent fourth lowest bidder against Argos Construction, apparent lowest bidder, Paymun Building & Development, Inc., apparent second lowest bidder, and Green Bay Remodeling, Inc., apparent third lowest bidder. The City is required to comply with the Project Manual, and specifically the Mandatory Bid Protest Procedures on Document 00 2114, Article 4, Section 4.01E, Page 00 2113-4 of the Project Manual, which states the following: *“Only Bidders who the City otherwise determines are responsive and responsible are eligible to protest a Bid; protests from any other Bidder will not be considered. In order to determine whether a protesting Bidder is responsive and responsible, City may evaluate all information contained in any protesting Bidder’s Bid, and conduct the same investigation and evaluation as City is entitled to take regarding an Apparent Low Bidder.”*

City staff evaluated ERA's bid and deemed the bid non-responsive. Thus. ERA is ineligible to protest the project. A copy of the bid evaluation letter is attached as Attachment 3.

To further determine the lowest responsive and responsible bidder, Staff evaluated Argos Construction, apparent lowest bidder's bid proposal. Argos Construction failed to acknowledge Addendum No. 2 in the bid proposal.

While the City has discretion to waive inconsequential defects in a bid, the City cannot do so when the defect may affect the amount of the bid. (See *Ghilotti Construction v. City of Richmond* (1996) 45 Cal.App.4th 897, 904 (“... [A] bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given a bidder an advantage or benefit not allowed other bidders or, in other words, if the variance is inconsequential”). Here, Addendum No.2 contained changes to technical specifications that could have affected the amount of Argo's bid and gave Argos an advantage for the lowest bid price. Therefore, Argo's bid is non-responsive.

Staff evaluated the bid proposal of Paymun Building & Development, Inc. (Paymun), apparent second lowest bidder, and found two minor irregularities: 1) they did not fill out the company name on Document 004113, and 2) they did not fill out Tax ID No. on Document 004214. These minor irregularities did not affect the amount of the bid. The City has discretion to waive inconsequential defects in bids. Accordingly, staff determined that Paymun Building & Development, Inc. was the lowest responsive and responsible bidder.. Staff recommends that a contract for this project be awarded to Paymun Building & Development, Inc.

The Living Wage Ordinance does not apply to this project since construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor will need to submit a certification of Compliance for the Equal Benefits Ordinance. The contract will not be subject to the Community Workforce Agreement.

ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The work will also comply with the conditions contained in the Bay Conservation Development Commission (BCDC) Permit, and City of Berkeley Building Permit.

As a maintenance project, this project meets the criteria for a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities), since the project involves minor alteration (renovation) of an existing public facility with no expansion of existing use. On August 6, 2025, the City recorded a Notice of Exemption (NOE) for the project with the Alameda County Clerk.

RATIONALE FOR RECOMMENDATION

This project is part of the City's ongoing effort to update and maintain the deteriorated infrastructure at the Berkeley Marina. The project will help the City advance Strategic

Contract: Paymun Building & Development, Inc for the
K-Dock Restroom Renovation Project

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Plan Long-term goal number 1 to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700
Nelson Lam, Supervising Civil Engineer, PRW, 981-6395

Attachments:

- 1: Resolution
- 2: Bid Abstract Summary
- 3: Review of Bid Protest, Bid Proposal Letter

RESOLUTION NO. ##,###-N.S.

CONTRACT: PAYMUN BUILDING & DEVELOPMENT, INC. FOR THE K-DOCK
RESTROOM RENOVATION PROJECT

WHEREAS, the K-Dock Restroom, located at 201 University Avenue at the Berkeley Waterfront is in need of renovation; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised in July 23, 2025, bids were opened on August 26, 2025, and the City received thirteen bids; and

WHEREAS, the City rejected the bid from ERA Construction, Inc., the fourth lowest bidder and deemed ERA Construction, Inc ineligible to protest against Argos Construction, apparent lowest bidder, Paymun Building & Development, Inc., apparent second lowest bidder, and Green Bay Remodeling, Inc., apparent third lowest bidder; and

WHEREAS, the City rejected the bid from Argos Construction as non-responsive; and

WHEREAS, the City has determined that Paymun Building and Development, Inc. meets the California public construction code definition of lowest responsible and responsible bidder upon waiving inconsequential defects. References for Paymun Building and Development, Inc. proved satisfactory; and

WHEREAS, funding is available in the FY 2026 budget in the Marina Fund (Fund 608) and will be recommended for appropriation through the FY 2026 first amendment to the appropriations ordinance in the Measure T1 Bond Fund (Fund 511); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 25-11743-C for the K-Dock Restroom Renovation Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of the lowest responsive and responsible bidder, Paymun Building and Development, Inc.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Paymun Building and Development, Inc. for the K-Dock Restroom Renovation in an amount not to exceed \$440,000, which includes a contract amount consisting of base bid of \$368,000, additive bid item in the amount of \$32,000, and a 10% contingency in the amount of \$40,000 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

Attachment 2 - Bid Abstract



Finance Department
General Services Division

Internal

City of Berkeley
Abstract of Bid Worksheet

Bid Date: 8/26/2025
Spec. # [25-11743-C](#)

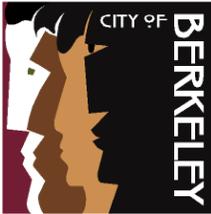
FOR: K-Dock Restroom Renovation Project

required w/ bid

	Bidders	Base Bid	Addenda (1)	Addenda (2)	Exp/Fin	NF	OS	Tax ID	Bid Bond	EBO	SC
1	Greenbay Remodeling, INC.	\$372,207.36	x	x					x		
2	Greentech Industry, INC	\$405,950.00	X	X					X		
3	One Workplace Construction	\$645,300.00	x	x							
4	Wickman Development & Construction	\$1,070,000.00	x	x							
5	CWS Construction Group	\$598,500.00	x	X							
6	Rubicon Builders	\$478,000.00	x	x							
7	BuildCorp, Inc.	\$472,680.00									
8	DMR Builders	\$514,510.00	x	x							
9	PAYMUM BUILDING & DEVELOPMENT INC.	\$368,000.00	x	x							
10	Grand Construction	\$420,000.00									
11	SDM Construction	\$415,000.00	x	x							
12	ERA Construction	\$389,487.00	X	X							
13	Argos Construction	\$348,000.00	X								

Bid Recorder: Tanisha Gainer *Tanisha Gainer* Date 08/28/2025
 Bid Opener: Roop Soorma *RSoorma* Date 08/27/2025
 Project Manager: Robert Chan *Robert Chan* Date 08/28/2025

finance@cityofberkeley.info



PARKS RECREATION & WATERFRONT

Via Email:
mich1064@aol.com

October 2, 2025

Mr. Enrique Avila
ERA Construction, Inc.
1220 Marin Avenue
San Pablo, CA 94806

SUBJECT: REVIEW OF BID PROTEST, BID PROPSAL
K-Dock Restroom Renovation Project
Specification No. 25-11743-C

Dear ERA Construction Inc:

The City of Berkeley (City) has completed review of the Bid Protest for the K-Dock Restroom Renovation Project (Project). The City finds ERA Construction, Inc. (ERA) ineligible to protest.

Background Facts and Bid Protest Requirements

On July 23, 2025, the City released Specification No. 25-11743-C for bid. The project involves renovating an existing slip holder restroom into a public restroom and separate slip holder restroom with shower room, work includes, demolition and waste tracking requirements, site security, temporary portable toilet facilities for public use while existing restroom is closed for construction, new perforated panels, doors, interior walls, ADA accessible ramps and stair, security fence, interior improvements, signage, HVAC and Mechanical components, motion activated seismic shut-off valve for gas-meter (included in Mechanical components), plumbing fixtures, water bottle filler, and electrical components including lighting. On August 26, 2025, the City of Berkeley received and opened 13 bids. Bids ranged from a low base bid of \$348,000 to a high base bid of \$1,070,000.

The Bid Protest

On August 29, 2025, the City received a bid protest from ERA.

The City is required to comply with the Project Manual, and specifically the Mandatory Bid Protest Procedures on Document 00 2114, Article 4, Section 4.01E, Page 00 2113-4 of the Project Manual, which states the following:

“Only Bidders who the City otherwise determines are responsive and responsible are eligible to protest a Bid; protests from any other Bidder will not be considered. In order to determine whether a protesting Bidder is responsive and responsible, City may evaluate all information contained in any protesting Bidder’s Bid, and conduct the same investigation and evaluation as City is entitled to take regarding an Apparent Low Bidder.”

After evaluating ERA’s bid, the City has determined ERA’s bid was non-responsive due to the incompleteness of Part C of ERA’s Statement of Qualifications in the bid solicitation, as well as the following issues:

1. ERA did not list any project to demonstrate ERA’s continuously operating entity engaging in the performance of similar work in accordance with Project Manual, Document 00 4513 Statement of Qualifications for Construction Projects, Article 1.01 Minimum Bidder Qualifications, Item B. Bidders must have three (3) years experience as a continuously operating entity engaged in the performance of similar work.
2. ERA listed one project completed in the past year in attached Exhibit A, Page 1 for the “Niven Park Playground. Drainage, Concrete, ADA. Pathway Landscape, Sitework, Fencing.” ERA did not list any project to demonstrate successful experience with type of work of this Project, and completed two (2) projects of a similar nature and complexity in accordance with Project Manual, Document 00 4513 Statement of Qualifications for Construction Projects, Article 1.01 Minimum Bidder Qualifications, Item C. Bidders must demonstrate successful experience with type of work of this Project, to include, within the past year, completed two (2) projects of a similar nature and complexity with a contract dollar amount of (i.) at least 75% of the amount of Bidder’s Bid or (ii.) 125% of such amount in the aggregate.
3. ERA did not respond to Question 6 Prevailing Wage Provisions on page 00 4513-4 of the Attachment “A” – Statement of Qualification Questionnaire in the Project Manual.
4. ERA did not provide the name of project superintendent, and name of project scheduler. ERA did not provide list key personnel that will be assigned to Work the current project and their experience/training with the projects listed. ERA provided Exhibit “A” in the bid proposal, however, the required information is missing in Exhibit “A” in accordance with Page 00 4513-5, Part C: Experience of Prime Contractor.
5. ERA did not provide required information related such as a) Architect/Engineer, b) Construction Manager/Project Manager, b) Total Change Order Amount, c) Change Order exceed 10% of original contract sum, d) Time Extensions Granted, and e) stop notices filed by Subcontractors or Suppliers. ERA provided Exhibit “A” in the bid proposal, however, the required information is missing in Exhibit “A” in accordance with Page 00 4513-6 Recent Projects, Provide information about three (3) of its most currently completed projects. Names and references must be current and verifiable.

This listing will be used to assess compliance with the stated minimum qualifications in Section 1.01. If a separate sheet is used, it must contain all of the following information.

Read in its entirety, the cumulative effect of the above findings provides that ERA's bid proposal is defective, and fails to meet the criteria set forth on Page 00 4513-3, ATTACHMENT "A" – STATEMENT OF QUALIFICATION QUESTIONNAIRE: "Bidders shall complete the entire Statement of Qualification Questionnaire and submit it in accordance with Document 00 2113 (Instructions to Bidders) and Document 00 4513 (Statement of Qualifications). Failure to complete the questionnaire or inclusion of any false statement(s) shall be ground for immediate disqualification."

As explained above, the City deems the ERA's bid is non-responsive thus ERA is ineligible to protest the project. This determination is final.

Please contact Nelson Lam, at NeLam@berkeleyca.gov should you have any questions.

Thank you,



Scott Ferris
Director of Parks, Recreation & Waterfront Department

cc:
Nelson Lam, Supervising Civil Engineer
Robert Chan, Assistant Civil Engineer

