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RECEIVED

JAN 13 2020

MEMORANDUM

MARY JO SPINO
COUNTY CLERK

DATE: January 10, 2020
TO: Jackson County Legislature
FROM: Katie Bartle, Chief Deputy Auditor – Compliance *KMB*
SUBJECT: **Ordinance 5304 - Recommended Action to Withdraw & Reintroduce**

RECAP: Ordinance 5304, introduced as an add-on January 6, 2020, appropriates money from the undesignated fund balance of the 2020 County Improvement Fund and awards a contract for the repair and restoration of water damage to the interior of the downtown courthouse. Public Works bid this project.

CONCERN: The RLA for Public Works bid PW 07-2019 had four additional unit prices included, totaling \$143,012. These unit prices were not enumerated on the Quotation Page of the Invitation to Bid. The Invitation to Bid procedure does not allow for specifications to be changed or added after the bid opening. Instead, an Addendum to the Invitation to Bid should be issued prior to the bid opening date, and the bid opening date should be extended if necessary. **The concern of a possible bid protest arose from this.**

ANALYSIS:

- It was the intention of Public Works to request itemized pricing on these four Unit Prices, but they were mistakenly omitted from the Quotation Page.
- The Unit Prices were included in the Invitation to Bid packet in Section 01 22 00. After reading Section 01 22 00, it is not clearly stated that these unit prices should be quoted separately from the base bid on the quotation page. Furthermore, the quotation page has the following statements:
 - “The undersigned Bidder hereby agrees to furnish all material, labor, equipment and services, including **all scheduled allowances and alternates**, necessary to complete the construction of the Jackson County Courthouse Emergency Services – Phase II, according to the requirements of the Procurement and Contracting Documents, for the stipulated sum of:”
 - “The above Base Bid **includes all allowances identified in the contract sections.**”
 - The above Base Bid does not include alternates identified in contract sections. **The price for all alternates are listed individually below and are bid in addition to the base bid.**”
- Given this wording, it could be interpreted that the Base Bid submitted by the respondent should include all of the Unit Prices since they were an allowance “identified in the contract sections”. Furthermore, a bid bond was submitted guaranteeing the price of the base bid and alternates given.
- After speaking with Brian Gaddie, Director of Public Works, it was the vendor’s understanding that the Unit Prices would be quoted separately and at a later date.

RECOMMENDATION:

- **The award amount for this contract should be the amount of the base bid of \$5,980,000 plus the two quoted alternates totaling \$1,040 for a sum of \$5,981,040.** A concession to the vendor of increasing the allowed contingency from 10% - 12% would be reasonable, since the discrepancy arose through an error on the part of the County.
- **Withdraw Ordinance 5304, correct the process and reintroduce**
- **Alternate Solution:** rebid this project with the unit prices included on the Quotation Page.