REQUEST TO AWARD A CONTRACT FOR THE NORTH OUTFALL SEWER (NOS) REHABILITATION UNIT 9 - ALISO TO 6TH - WORK ORDER NO. SZC13160

RECOMMENDATIONS

1. Find Blois Construction, Inc. (Blois), apparent first low bidder, to be non-responsive, as discussed in this report.

2. Declare Spiniello Infrastructure West, Inc. (Spiniello), the apparent second low bidder that became the first low bidder for bid evaluation purposes after the Local Business Preference (LBP) was applied, to be the lowest responsive, responsible bidder, and award Spiniello the contract for this project for $7,792,518.

3. Authorize the President or two members of the Board of Public Works (Board) to execute the contract after approval as-to-form has been obtained from the City Attorney.

TRANSMITTALS

1. Summary of bids received on January 23, 2019.

2. Copy of the letter dated January 30, 2019, from the Office of Contract Compliance (OCC) to Blois, 24005 Ventura Boulevard, Suite 100, Calabasas, CA 91302.

3. Copy of the email, dated January 31, 2019, from Blois to the OCC.

DISCUSSION

Background
This project will rehabilitate by slip-lining 4,066 linear feet of 45-, 48-, and 54-inch clay tile-lined Burns McDonnell Semi-Elliptical concrete sewer from 4th Street to Aliso Street in Mission Road (see Project Key Map). The scope of work will include cleaning the host pipe in preparation for the lining operation, odor control during construction, construction of a new maintenance hole, removal and replacement of 3 existing maintenance holes, re-establish/reactivate 9 laterals/connectivity nodes, and removal and disposal of abandoned railroad tracks in Mission Road. The contract duration is 540 calendar days.
The project has been reviewed for environmental considerations in March 27, 2016. It was determined to be Categorically Exempt pursuant to the provisions of the California Environmental Quality Act (CEQA) under Class 1 (15301 (b), Class 2 (15302 (c) Class 3 (15303 (d), as well as Class 1, Category 2, Class 2, Class 2, Category 5, Class 3 Category 5 of LA CEQA Guidelines. None of the limitations set forth in State CEQA Guidelines 15300.2 apply.

**Bid Review**

The two lowest of the six bids received (Transmittal No. 1) compared with the City Engineer’s estimate of $8,015,570 are:

**Business Codes:**

- **MBE** = Minority Business Enterprise
- **WBE** = Women Business Enterprise
- **SBE** = Small Business Enterprise
- **LBE** = Local Business Enterprise
- **EBE** = Emerging Business Enterprise
- **DVBE** = Disabled Veteran Business Enterprise
- **OBE** = Other Business Enterprise

<table>
<thead>
<tr>
<th>Bid No.</th>
<th>Contractor Name</th>
<th>Bid Amount</th>
<th>(%) High/Low</th>
<th>(%) Pledged</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Bid</td>
<td>Blois (OBE)</td>
<td>$7,396,249.00</td>
<td>7.73% Low</td>
<td>MBE 0.42% WBE 0.00% SBE 3.42%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE 3.42% DVBE 0.00% OBE 12.70%</td>
</tr>
<tr>
<td>2nd Bid</td>
<td>Spiniello (OBE, LBE)</td>
<td>$7,792,518.00</td>
<td>2.78% Low</td>
<td>MBE 2.39% WBE 0.38% SBE 4.40%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE 1.13% DVBE 0.00% OBE 16.74%</td>
</tr>
</tbody>
</table>
J. R. Pipeline Co., Inc. (JR Pipeline) and Colich & Sons, L.P. (Colich), third and fourth low bidders, respectively, listed their total bid amount incorrectly. Staff corrected JR Pipeline’s and Colich’s total bid amounts in accordance with the procedures set forth in the General Instructions and Information for Bidders. Both bidders were contacted and notified of corrections. The corrections did not change the order of the bids.

Based on the range of bids submitted for this project, staff believes these bids are reasonable. The contract may be awarded to either of the above bidders, subject to verification of all other bidding requirements.

**LBP Program**

The City of Los Angeles (City) Ordinance No. 181910 adopted the LBP Program. This program is designed to increase local employment and expenditures in the local private sector. Bidders that qualify as a LBE may be granted an 8 percent reduction of their bid amount solely for bid evaluation purposes. Additionally, all non-LBE bidders may be granted a 1 percent reduction, up to a maximum of 5 percent, of their bid amount for bid evaluation purposes, for every 10 percent of their bid that is to be performed by an LBE subcontractor.

For this project, the Bureau of Contract Administration (BCA) verified that the apparent first low bidder, Blois, is not a certified LBE, and that the apparent second low bidder, Spiniello, is a certified LBE.

Staff calculated the bids as follows:

<table>
<thead>
<tr>
<th>Bid No.</th>
<th>Prime Contractor</th>
<th>Certification</th>
<th>Bid ($) Amount</th>
<th>LBP (%) Percentage</th>
<th>LBP Adjusted Bid ($) Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Bid</td>
<td>Blois</td>
<td>Non-LBE</td>
<td>$7,396,249.00</td>
<td>0%</td>
<td>$7,396,249.00</td>
</tr>
<tr>
<td>2</td>
<td>Spiniello</td>
<td>LBE</td>
<td>$7,792,518.00</td>
<td>8%</td>
<td>$7,169,116.56</td>
</tr>
</tbody>
</table>

1This Bidder listed a certified LBE Subcontractor; however, its bid-listed amount equated to 3.42 percent, which was insufficient to qualify for the LBP Percentage.

Based on these findings, Spiniello becomes the first low bidder, and Blois becomes the second low bidder, for bid evaluation purposes, after the LBP Percentage is applied.

**Business Inclusion Program (BIP)**

On January 12, 2011, the Mayor issued Executive Directive No. 14, which created the BIP. This program provides MBE, WBE, SBE, EBE, DVBE, and OBE firms an equal opportunity to compete for and participate in City contracts. Additionally, the BIP
requires bidders to perform and document a BIP Outreach via the internet utilizing the Los Angeles Business Assistance Virtual Network service.

This project was advertised with anticipated participation levels of 4 percent MBE, 2 percent WBE, 25 percent SBE, 8 percent EBE, 3 percent DVBE, and with mandatory BIP documentation requirements. This project was also advertised with the Board’s Mandatory Subcontracting Minimum (MSM) requirement of 20 percent. The bidders’ MSM percentages were calculated after subtracting the fixed cost items of $582,000 from their total bid amounts.

The OCC, based on a review of the documents submitted, reported the following:

1. Blois, the apparent first low bidder, failed to meet the required MSM percentage set for this project. Blois pledged an MSM of 17.95 percent which did not meet the MSM requirement of 20 percent. Since Blois did not meet the MSM requirement, staff did not complete its evaluation of Blois’ BIP Outreach documentation.

In a letter dated, January 30, 2019 (Transmittal No. 2), the OCC notified Blois that the OCC would be recommending that Blois’ bid be deemed non-responsive for failing to meet the MSM requirement.

**Communication Received**

In an email dated January 31, 2019 (Transmittal No. 3), Blois responded to the OCC’s notification, stating that it understood “how that percentage was calculated from the documents we submitted but…our intention and our ability to meet the MSM of 20% is not accurately reflected in the Bid Proposal.” Blois explained that they listed their subcontractor, Thompson Pipe Group (Thompson), for “the 60% participation credit amount of $525,600 ($876,000 x 0.6) as the Total Dollar Amount of the Subcontract instead of listing that amount in the correct participation level box (Exhibit C).” Blois claimed that “if our bid had followed our intention…our participation total would be…21.04%, which exceeds the MSM for this project.”

Therefore, Blois requested that “the OCC consider this to be a minor, clerical error and to reconsider the evaluation of responsiveness based on Blois meeting the MSM for this project”.

**Staff Response**

Per the Public Contract Code Section 4107.5, a contractor may assert a claim of error in their bid within the two working days after bid opening. Blois explained that the amount listed for Thompson was an “unintentional clerical error” in Blois’ letter dated January 31, 2019, but failed to assert a claim of this error within the two working days after the time of the bid opening, as required under the Public Contract Code. Therefore, Blois should be held to the bid-listed amount for this subcontractor as entered because allowing
Blois to materially change their subcontractor’s bid amount after the specified time would be a violation of the Public Contract Code and could be considered a bidder advantage.

In view of the above findings, the OCC recommends that Blois be found non-responsive for failure to meet the MSM requirement for this project.

2. Spiniello, the first low bidder after the LBP is applied, complied with the BIP Outreach requirements of the bid. Spiniello pledged participation levels of 2.39 percent MBE, 0.38 percent WBE, 4.40 percent SBE, 1.13 percent EBE, 0 percent DVBE, 16.74 percent OBE, and complied with the MSM requirement by pledging a subcontractor participation level of 22.84 percent.

In view of the above findings, Spiniello, first low bidder after the LBP was applied, is the lowest responsive, responsible bidder.

Spiniello pledged the following subcontractor utilization:

Gender/Ethnicity Codes:

\[
\begin{align*}
AA &= \text{African American} \\
HA &= \text{Hispanic American} \\
APA &= \text{Asian Pacific American} \\
SAA &= \text{Subcontinent Asian American} \\
NA &= \text{Native American} \\
C &= \text{Caucasian} \\
M &= \text{Male} \\
F &= \text{Female}
\end{align*}
\]

<table>
<thead>
<tr>
<th>Subcontractors</th>
<th>MBE/WBE/ SBE/EBE/ DVBE/OBE</th>
<th>Gender/Ethnicity</th>
<th>(%) of Bid</th>
<th>($) Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>LNA Concrete Structures, Inc.</td>
<td>MBE/SBE</td>
<td>M/HA</td>
<td>2.39%</td>
<td>$185,984.00</td>
</tr>
<tr>
<td>T&amp;M Projects, Inc. dba T&amp;M Construction¹</td>
<td>WBE/SBE/EBE</td>
<td>F/C</td>
<td>0.38%</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>LPC Paving Co., Inc.</td>
<td>SBE/EBE</td>
<td></td>
<td>0.74%</td>
<td>$58,000.00</td>
</tr>
<tr>
<td>Aro Industries, Inc. dba Summit</td>
<td>SBE</td>
<td></td>
<td>0.88%</td>
<td>$68,750.00</td>
</tr>
<tr>
<td>Environmental Contractors</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barney’s Hole Digging Service, Inc.</td>
<td>OBE</td>
<td></td>
<td>0.38%</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>Cell-Crete Corp., Inc.</td>
<td>OBE</td>
<td></td>
<td>1.82%</td>
<td>$142,159.10</td>
</tr>
<tr>
<td>Channeline International, Ltd.</td>
<td>OBE</td>
<td></td>
<td>12.08%</td>
<td>$941,112.31</td>
</tr>
<tr>
<td>Pacifica Chemical, Inc.</td>
<td>OBE</td>
<td></td>
<td>0.91%</td>
<td>$71,080.00</td>
</tr>
<tr>
<td>Pipe-Tec, Inc.</td>
<td>OBE</td>
<td></td>
<td>0.50%</td>
<td>$38,913.00</td>
</tr>
<tr>
<td>RedZone Robotics, Inc.</td>
<td>OBE</td>
<td></td>
<td>1.04%</td>
<td>$80,999.00</td>
</tr>
</tbody>
</table>

Note: Subcontractors may be certified in multiple certification categories; therefore, per the requirements of Executive Directive No. 14, the dollar amounts were credited toward multiple pledged participation categories.¹Certified LBE.
Compliance with the City’s Non-Discrimination Policies
Spiniello shall continue to comply with the Affirmative Action, Non-Discrimination, and Equal Employment Practices Provisions, Equal Benefits Ordinance, Contractor’s Use of Criminal History for Consideration of Employment, Living Wage Ordinance, Worker Retention Ordinance, First Source Hiring, Slavery Disclosure Ordinance, and Disclosure of Border Wall Contracting Ordinance requirements of the bid.

Previous Work Record
Spiniello has not been awarded any contracts issued by the Board within the last five years.

Contractor Performance Evaluation
In accordance with Article 13, Chapter 1, Division 10, of the City of Los Angeles Administrative Code (L.A.A.C.), the Project Manager and the City Inspector for this construction contract shall submit Contractor Performance Evaluation Reports to the BCA (Department of Public Works), upon completion of this contract.

Peak Hour Construction and Right-of-Way Obstruction Regulations
All contractors must comply with the requirements specified in the Los Angeles Municipal Code Section 62.61 related to peak hour traffic restrictions, unless an exemption from the Peak Traffic Hours Prohibition is approved.

Contractor Responsibility Ordinance
All contractors participating in this program are subject to compliance with the requirements specified in the City’s Contractor Responsibility Ordinance No. 173677 (Article 14, Chapter 1, Division 10, L.A.A.C.). Failure to comply with all the requirements specified in the ordinance may render this bidder’s contract subject to termination pursuant to the conditions expressed therein.

Project Labor Agreement (PLA)
The project incorporates a PLA. The PLA will facilitate an orderly settlement of labor disputes and grievances without strikes, work stoppages, or lockouts to assure the timely and economical completion of the project. The PLA will also promote employment opportunities for local residents and will provide apprenticeship training for the duration of the construction. The contractor will be bound on all the provisions of the PLA.

Conclusion
In view of the above findings, staff recommends that the Board find Blois, apparent first low bidder, to be non-responsive; declare Spiniello, apparent second low bidder that became the first low bidder after the LBP was applied, to be the lowest responsive, responsible bidder; and award Spiniello the contract for this project.
Program Review Committee (PRC) Approval

The PRC approved a total budget of $8,419,000, including contingency, for this project on January 9, 2019.

Status of Financing

There is no impact to the General Fund. Total funding for this project is not-to-exceed $8,182,144. No funding is required in the current fiscal year. Funds will be budgeted within the Sewer Construction and Maintenance Fund.

<table>
<thead>
<tr>
<th>Fund No.</th>
<th>Appropriation Unit No.</th>
<th>Budget Fiscal Year</th>
<th>Contract</th>
<th>Contingencies</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>TBD</td>
<td>WCIP BUDGET SZC13160</td>
<td>Future</td>
<td>$7,792,518</td>
<td>$389,626</td>
<td>$8,182,144</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$7,792,518</strong></td>
<td><strong>$389,626</strong></td>
<td><strong>$8,182,144</strong></td>
</tr>
</tbody>
</table>

*To be determined by the Director of the Bureau of Sanitation or appointed designee.

However, funds and appropriations for future fiscal years are not yet identified and existing appropriations may change based on available cash balances. Therefore, funds and appropriations will be determined by the Director of Sanitation or designee.

The contract contains a “Financial Liability Clause” which states that “the City’s liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City’s liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.”
Report reviewed by:

BOE (ADM and WCE) and BOS

Report prepared by:

Project Award and Control Division

Edick Ohanian, PE
Division Engineer
Phone No. (213) 847-0577

Compliance Review performed and approved by:

Hannah Choi, Assistant Director
Bureau of Contract Administration

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Questions regarding this report may be referred to:
Sylvester Kueh, Project Manager
Phone No. (213) 485-1693
E-mail: Sylvester.Kueh@lacity.org

Respectfully submitted,

Gary Lee Moore, PE
City Engineer
Bureau of Engineering

John L. Reamer, Jr.
Inspector of Public Works
Bureau of Contract Administration