REQUEST TO AWARD A CONTRACT FOR THE DONALD C. TILLMAN WATER RECLAMATION PLANT (DCTWRP) UNDERGROUND HIGH PRESSURE EFFLUENT (HPE)/LOW PRESSURE EFFLUENT (LPE) VALVES REPLACEMENT PROJECT (PROJECT) - WORK ORDER NO. SZD11331

RECOMMENDATIONS

1. Declare Environmental Construction, Inc. (ECI), first low bidder, to be non-responsive, as discussed in this report.

2. Declare PPC Construction, Inc. (PPC), second low bidder, to be the lowest responsive, responsible bidder, and award PPC a contract for this project for $1,680,000.00.

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 email and letter dated January 30, 2019, from the Office of Contract Compliance (OCC) to ECI, 21550 Oxnard Street, Suite 1060, Woodland Hills, CA 91367.

3. Copy of the letter dated February 4, 2019, from ECI to the OCC.

DISCUSSION

Background
The current HPE and LPE systems were constructed with the original treatment plant site. Aside from some minor maintenance changes over the years, the system is mostly original in its configuration (Refer to Photograph No.1). The gate valves within the HPE and LPE systems are deteriorated. Some of the valves are frozen and inoperable due to age or inaccessibility for maintenance.

In the current state, the existing HPE and LPE system cannot be repaired without plant-wide HPE/LPE shut-downs due to failure of the existing isolation valves. Since
HPE is used as cooling water for the process air compressors this is a major issue to temporarily utilize potable water and shutdowns must be done at night during low flows. The scope of this project is to replace 30 valves along the HPE and LPE system at the DCTWRP. There are 13 valves on the HPE system and 17 on the LPE system that will be replaced. The contract duration of this Project is 430 calendar days.

The project has been reviewed for environmental considerations. It was determined to be categorically exempt pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970 under Article III, Section 1, Class 1, Category 2 and Section 1, Class 2, Category 3 of the City’s CEQA Guidelines.

**Bid Review**
The two lowest of the five bids received (Transmittal No. 1) compared with the City Engineer’s estimate of $1,843,600 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
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<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</td>
<td>ECI (OBE, LBE)</td>
<td>$1,666,556.00</td>
<td>9.60% Low</td>
<td>MBE    0.00% WBE 0.00% SBE 0.00%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE    0.00% DVBE 0.00% OBE 19.50%</td>
</tr>
<tr>
<td>2nd</td>
<td>PPC (SBE, LBE)</td>
<td>$1,680,000.00</td>
<td>8.87% Low</td>
<td>MBE    0.00% WBE 0.00% SBE 20.13%</td>
</tr>
<tr>
<td>Bid</td>
<td></td>
<td></td>
<td></td>
<td>EBE    0.00% DVBE 0.00% OBE 80.13%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>20.13% 0.00% 0.00%</td>
</tr>
</tbody>
</table>

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.

**Local Business Preference (LBP) Program**

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 a LBE subcontractor.

For this project, the Bureau of Contract Administration (BCA) verified that the first low bidder, ECI, and the second low bidder, PPC, are both certified LBEs.

**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 4.00 percent MBE, 2.00 percent WBE, 25.00 percent SBE, 8.00 percent EBE, and 3.00 percent DVBE, and
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with mandatory BIP documentation requirements. This project was also advertised with the Board’s Mandatory Subcontracting Minimum (MSM) requirement of 20.00 percent. The bidders’ MSM percentages were calculated after subtracting the fixed cost item of $100,000.00 from their total bid amount.

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

1. ECI, first low bidder, failed to pass their BIP Outreach Evaluation by failing the BIP Indicator 2: “Attended Pre-Bid Meeting” requirement. Therefore, it is recommended that their bid be deemed non-responsive.

In a letter and email dated January 30, 2019 (Transmittal No. 2), the OCC informed ECI that it would be recommending that ECI’s bid be deemed non-responsive for failing the BIP Indicator 2 requirement. The OCC based its determination on the following:

BIP Indicator 2 requires that the bidder must either attend the pre-bid meeting scheduled for this project or certify in writing that it “has participated in a City-sponsored or City approved matchmaking event in the prior 12 months as is evidenced by the event attendance documents.” Additionally, the event attendance document states that a waiver may apply to BIP-required contracting opportunities that require outreach to specific NAICS codes. The OCC confirmed that ECI did not attend the Pre-bid meeting for this Project and that the NAICS codes included in ECI’s event attendance letter were not applicable to this Project’s required outreach codes.

Communication Received
In a letter dated February 4, 2019 (Transmittal No. 3), ECI responded to the OCC BIP failure notification and asked the OCC to reconsider its decision.

In summary, ECI claimed that their “matchmaking attendance letter met the Prime NAICS codes for this project” and that previously ECI was granted a Pre-bid Meeting Waiver for the project, “South Park-New Maintenance Yard” for which “none of the Sub NAICS codes were covered by our matchmaking attendance letter, but the two Prime NAICS codes were covered by our matchmaking attendance letter.” ECI stated that this project’s Prime NAICS codes are similarly covered by our matchmaking attendance letter.

Staff Response
ECI’s statement that their “matchmaking attendance letter met the Prime NAICS codes for this project” is irrelevant since the NAICS codes in the attendance letter reflect the specified subcontractor work areas required for outreach for the project and are not the NAICS codes for the work areas the prime contractor is required to perform. Additionally, the waiver ECI previously received was granted by another office and was specific to the South Park Project. Bidders are encouraged to submit pre-bid meeting waiver requests well
in advance of a project’s pre-bid meeting in order to receive notification of the meeting waiver’s approval or denial. This Project’s pre-bid meeting was held on December 20, 2018 whereas ECI’s Pre-Bid Meeting request letter was dated January 23, 2019. Consequently, OCC was not able to notify ECI prior to the pre-bid meeting that their waiver request could not be granted.

In view of the above findings, the OCC recommends that ECI be found to be non-responsive for failure to pass the BIP Indicator 2 requirement and therefore the BIP Outreach requirement for this project.

2. PPC, second low bidder, complied with the BIP Outreach requirements of the bid. PPC pledged participation levels of 0.00 percent MBE, 0.00 percent WBE, 20.13 percent SBE, 20.13 percent EBE, 0.00 percent DVBE, 0.00 percent OBE, and complied with the MSM requirement by pledging a subcontractor participation level of 21.41 percent.

In view of the above findings, PPC, second low bidder, is the lowest responsive, responsible bidder.

PPC pledged the following subcontractor utilization:

Gender/Ethnicity Codes:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AA</td>
<td>African American</td>
</tr>
<tr>
<td>APA</td>
<td>Asian Pacific American</td>
</tr>
<tr>
<td>NA</td>
<td>Native American</td>
</tr>
<tr>
<td>M</td>
<td>Male</td>
</tr>
<tr>
<td>HA</td>
<td>Hispanic American</td>
</tr>
<tr>
<td>SAA</td>
<td>Subcontinent Asian American</td>
</tr>
<tr>
<td>C</td>
<td>Caucasian</td>
</tr>
<tr>
<td>F</td>
<td>Female</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Subcontractors</th>
<th>MBE/WBE/</th>
<th>Gender/</th>
<th>(%) of</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>316 Engineering &amp; Construction, Inc.</td>
<td>SBE, EBE</td>
<td>Ethnicity</td>
<td>of Bid</td>
<td>$338,200.00</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.
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Compliance with the City's Non-Discrimination Policies
PPC 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, Disclosure of Border Wall Contracting Ordinance, Disclosure of Contracts and Sponsorship of the National Rifle Association requirements of the bid.

Previous Work Record
PPC has worked on numerous contracts issued by the Board. No significant or unresolved problems in inspection, contract compliance, or bidder responsibility have been experienced by the BCA.

The following table summarizes the previous MBE/WBE/SBE/EBE/DVBE/OBE participation levels pledged by PPC in the past five years under the BIP:

<table>
<thead>
<tr>
<th>MBE/WBE/SBE/EBE/DVBE/OBE Pledged Utilization Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Contracts</td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>Total MBE (%)</td>
</tr>
</tbody>
</table>

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
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specified in the Ordinance may render this bidder’s contract subject to termination pursuant to the conditions expressed therein.

**Bid Bond Extension**
ECI and PPC were both requested to extend their bid bonds which expired on April 23, 2019. Both contractors have agreed to extend their bid bonds until May 24, 2019.

**Conclusion**
In view of the above findings, staff recommends that the Board find ECI, first low bidder, to be non-responsive; declare PPC, second low bidder, to be the lowest responsive, responsible bidder; and award PPC the contract for this project.

**Program Review Committee (PRC) Approval**
The PRC approved a total budget of $2,027,960, including contingency, for this project on November 14, 2018.

**STATUS OF FINANCING**

There is no impact to the General Fund. The total funding for this project is not-to-exceed $1,848,000.00. No funds are required in the current Fiscal Year. Funding will be budgeted within the Sewer Construction and Maintenance Fund.

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.”

<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</td>
<td>2019/20</td>
<td>$1,322,727</td>
<td>$132,273</td>
<td>$1,455,000</td>
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<tr>
<td>TBD*</td>
<td>WCIP Budget</td>
<td>Future</td>
<td>$357,273</td>
<td>$35,727</td>
<td>$393,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$1,680,000</strong></td>
<td><strong>$168,000</strong></td>
<td><strong>$1,848,000</strong></td>
</tr>
</tbody>
</table>

*To be determined by the Director of the Bureau of Sanitation or appointed designee.
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( MJS EBO RMK KRR CLS )

Report reviewed by:
BOE (ADM and EED) and BOS (FMD)

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Compliance Review performed and approved by:

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Hannah Choi, Assistant Director
Bureau of Contract Administration

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Questions regarding this report may be referred to:
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Respectfully submitted,

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City Engineer
Bureau of Engineering

John L. Reamer, Jr.
Inspector of Public Works
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