Department of Public Works
Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 3

May 29, 2019
CD No. 13

REQUEST TO AWARD A CONTRACT FOR THE CAPITAL IMPROVEMENT PROJECT (CIP) 4178 - LOS ANGELES GLENDALE WATER RECLAMATION PLANT (LAGWRP) DECHLORINATION CHAMBER IMPROVEMENTS, CIP 4179 - LAGWRP SODIUM BISULFATE FACILITY IMPROVEMENTS, CIP 4189 - LAGWRP COVER PLATES AND GRATING REPLACEMENT - WORK ORDER NOS. SZL11199, SZL11232, AND SZL11203

RECOMMENDATIONS

1. Find Metro Builders and Engineers Group, Ltd. (Metro Builders), first low bidder, to be non-responsive, as discussed in this report.

2. Declare Green Building Corporation (Green), second low bidder, to be the lowest responsive, responsible bidder, and award Green a contract for this project for $4,186,965.

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 February 13, 2019.

2. Copy of the letter dated March 18, 2019, from the Office of Contract Compliance (OCC) to Metro Builders, 2610 Avon Street, Newport Beach, CA 92663.

3. Copy of the letter dated March 19, 2019, from Metro Builders to the OCC.

DISCUSSION

Background
This project’s scope of work includes:

CIP 4178 - LAGWRP Dechlorination Chamber Improvements will implement improvements to the LAGWRP’s dechlorination chamber. The purpose of the dechlorination chamber is to provide appropriate detention time for sodium bisulfite to react and lower the total chlorine residual to below permitted levels. The chamber has 14 wooden baffle walls that are approximately six feet apart. The LAGWRP relies on the dechlorination chamber to provide disinfection of the chlorinated water before it is discharged to the Los Angeles River (LAR). The existing wooden baffles in the dechlorination chamber
have deteriorated and are leaking. It is critical that the dechlorination chamber walls function for proper mixing and residence time for dechlorination chemical to occur. Failure of baffles may lead to the plant exceeding discharge limits into the LAR and potential fines for inadequate dechlorination of plant effluent.

CIP 4178 will replace the existing wooden baffle wall system with a new stainless-steel baffle wall system. The improvements to the dechlorination chamber will include an extension of the access platform, four new chlorine analyzers, three new sampling pumps, and the installation of a new local control panel with a programmable logic controller.

CIP 4179 - Sodium Bisulfite Facility Improvements will remove and replace two existing sodium bisulfite tanks used to store sodium bisulfite in the dechlorination process and retrofit the existing foundation. In order to improve the circulation throughout the system, two new recirculation pumps, additional heat tracing on piping, and a temperature sensor system will be installed. A new local control panel will provide communication with the plants Distributed Control System.

CIP 4189 - LAGWRP Cover Plates and Grating Replacement will remove and replace the existing aluminum grating, steel anchors, and fasteners at the aeration tanks. The existing grating, anchors, and fasteners at the LAGWRP aeration tanks have deteriorated over time and are currently in damaged condition and require replacement to mitigate safety risks.

The contract duration for the combined projects is 357 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 of the City of Los Angeles’ (City) CEQA Guidelines.
Bid Review
The two bids received (Transmittal No. 1) compared with the City Engineer’s estimate of $4,048,911 are:

Business Codes:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBE</td>
<td>Minority Business Enterprise</td>
</tr>
<tr>
<td>WBE</td>
<td>Women Business Enterprise</td>
</tr>
<tr>
<td>SBE</td>
<td>Small Business Enterprise</td>
</tr>
<tr>
<td>LBE</td>
<td>Local Business Enterprise</td>
</tr>
<tr>
<td>EBE</td>
<td>Emerging Business Enterprise</td>
</tr>
<tr>
<td>DVBE</td>
<td>Disabled Veteran Business Enterprise</td>
</tr>
<tr>
<td>OBE</td>
<td>Other Business Enterprise</td>
</tr>
</tbody>
</table>

<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>Metro Builders (OBE)</td>
<td>$3,860,778.00</td>
<td>4.65% Low</td>
<td>MBE 0.00%  WBE 0.00% SBE 17.95%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE 0.00% DVBE 0.00% OBE 3.00%</td>
</tr>
<tr>
<td>2nd</td>
<td>Green (SBE, LBE)</td>
<td>$4,186,965.00</td>
<td>3.41% High</td>
<td>MBE 0.00%  WBE 0.00% SBE</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE 10.23% DVBE 0.00% OBE 13.97%</td>
</tr>
</tbody>
</table>

Metro Builders, first low bidder, listed their Total Bid Amount incorrectly. Staff corrected Metro Builders’ Total Bid Amount in accordance with the procedures set forth in the General Instructions and Information for Bidders. Metro Builders was contacted and notified of the 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.

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 apparent first low bidder, Metro Builders, is not a certified LBE, and that the apparent second low bidder, Green, is a certified LBE. The BCA staff also verified that Metro Builders listed one LBE-certified subcontractor for a total of 17.95 percent of their bid, resulting in a 1 percent bid reduction for bid evaluation purposes. When the LBP was applied to both bidders’ bid amounts, the bid order remained unchanged.

Staff calculated the bids as follows:

<table>
<thead>
<tr>
<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>Metro Builders</td>
<td>Non-LBE</td>
<td>$3,860,778.00</td>
<td>1.00%</td>
<td>$3,822,170.22</td>
</tr>
<tr>
<td>Green</td>
<td>LBE</td>
<td>$4,186,965.00</td>
<td>8.00%</td>
<td>$3,852,007.80</td>
</tr>
</tbody>
</table>

**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 25 percent. The bidders’ MSM percentages were calculated after subtracting the fixed cost items of $490,995 from their total bid amounts.

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

1. Metro Builders, the apparent first low bidder, failed to meet the required MSM percentage set for this project. Metro Builders pledged an MSM of 24 percent, which did not meet the MSM requirement of 25 percent; therefore, Metro Builders’ bid may be deemed non-responsive. Since Metro Builders did not meet the MSM requirement, staff did not complete its evaluation of Metro Builders’ BIP Outreach documentation.

   In a letter dated, March 18, 2019 (Transmittal No. 2), the OCC notified Metro Builders that the OCC would be recommending that Metro Builders’ bid be deemed non-responsive for failing to meet the MSM requirement.
Communications Received

In an email dated March 19, 2019 (Transmittal No. 3), Metro Builders responded to the OCC’s notification, stating that the MSM amount of 24 percent was due to a clerical error made by an employee who “failed to list the complete subcontractor dollar value on the bid”. Metro Builders attached a copy of what appeared to be a screenshot of a text message, dated February 13, 9:34 a.m., with a dollar amount included for the subcontractor, La Habra Fire Protection & Plumbing (La Habra). However, Metro Builders acknowledged that “our representative who submitted the bid before the due time did not list the dollar amount which we listed under La Habra”. Based on this information, Metro Builders asserted that with the inclusion of the dollar value for La Habra, its “updated” MSM amount is 29.67 percent. Additionally, on March 19, 2019, Metro Builders emailed a “revised” letter in which they added that they “plan on using other subcontractors who are less than 0.5 percent [of] the total contract value which also satisfies the MSM requirements.”

Staff Response

Staff confirmed that the bid proposal submitted by Metro Builders had no dollar value entered for the subcontractor La Habra. The OCC calculated Metro Builders’ pledged MSM per the bid specifications which state: “Failure to list subcontractors and subcontracting amounts on pages 1-6 through 1-8 with the bid sufficient to meet or exceed the MSM may cause the bid to be rejected by the Board as non-responsive”. Therefore, the OCC staff calculated Metro Builders’ pledged MSM amount based on the subcontractors and subcontract amounts listed on pages 1-6 through 1-8 of the bid proposal.

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

2. Green, the apparent second low bidder, complied with the BIP Outreach requirements of the bid. Green pledged participation levels of 0 percent MBE, 0 percent WBE, 10.23 percent SBE, 10.23 percent EBE, 0 percent DVBE, 13.97 percent OBE, and complied with the MSM requirement for this project by pledging a subcontractor participation level of 27.42 percent.
In view of the above findings, Green, second low bidder, is the lowest responsive, responsible bidder.

Green pledged the following subcontractor utilization:

Gender/Ethnicity Codes:

AA = African American
HA = Hispanic American
APA = Asian Pacific American
SAA = Subcontinent Asian American
NA = Native American
C = Caucasian
M = Male
F = Female

<table>
<thead>
<tr>
<th>Subcontractors</th>
<th>MBE/WBE/SBE/EBE/DVBE/OBE</th>
<th>Gender/Ethnicity</th>
<th>(%) of Bid</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lola Construction*</td>
<td>SBE, EBE</td>
<td></td>
<td>10.23%</td>
<td>$428,500.00</td>
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<tr>
<td>CSI Electrical Contractors, Inc.</td>
<td>OBE</td>
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<td>11.20%</td>
<td>$469,000.00</td>
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<tr>
<td>Techno Coatings, Inc.</td>
<td>OBE</td>
<td></td>
<td>2.77%</td>
<td>$115,882.00</td>
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</table>

*Certified LBE.

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.

**Compliance with the City's Non-Discrimination Policies**

Green shall 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, and Disclosure of Contracts and Sponsorships of the National Rifle Association requirements of the bid.

**Previous Work Record**

Green 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 Green in the past five years under the BIP:
Contractor Performance Evaluation
In accordance with Article 13, Chapter 1, Division 10, of the City 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 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.

Bid Bond Extension
Green and Metro Builders were requested to extend their bid bonds, which expired on May 14, 2019. The contractors have agreed to extend their Bid Bonds until June 14, 2019.

Conclusion
In view of the above findings, staff recommends that the Board find Metro Builders, first low bidder, to be non-responsive; declare Green, second low bidder, to be the lowest responsive, responsible bidder; and award Green the contract for this project.
Program Review Committee (PRC) Approval

The PRC approved a total budget of $2,117,206 including contingency, for the project LAGWRP Dechlorination Chamber Improvements on April 10, 2019; approved a total budget of $1,789,300 including contingency, for the project LAGWRP Bisulfite Facility Improvements on November 14, 2018; and approved a total budget of $554,200 including contingency, for the project LAGWRP Cover Plates and Grating Replacement on July 30, 2018. The overall approved budget for all three projects is $4,460,706, including contingency.

STATUS OF FINANCING

There is no impact to the General Fund. The total funding for this project is not-to-exceed $4,396,313. No funds are required in the current fiscal year. Funding will be budgeted within the Sewer Construction and Maintenance Fund.

<table>
<thead>
<tr>
<th>Fund No.</th>
<th>Appropriation Unit No.</th>
<th>Fiscal Year</th>
<th>Budget</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>TBD*</td>
<td>WCIP** Budget</td>
<td>2019/20</td>
<td>$913,333.00</td>
<td>$959,000.00</td>
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<tr>
<td></td>
<td>SZL11199</td>
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<td>$45,667.00</td>
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<tr>
<td>TBD</td>
<td>WCIP Budget</td>
<td>2019/20</td>
<td>$641,905.00</td>
<td>$674,000.00</td>
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<tr>
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<td>SZL11232</td>
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<td>$32,095.00</td>
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<tr>
<td>TBD</td>
<td>WCIP Budget</td>
<td>2019/20</td>
<td>$264,762.00</td>
<td>$278,000.00</td>
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<tr>
<td></td>
<td>SZL11203</td>
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<td>$13,238.00</td>
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<tr>
<td>TBD</td>
<td>WCIP Budget</td>
<td>Future</td>
<td>$942,119.00</td>
<td>$989,224.00</td>
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<tr>
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<td>SZL11199</td>
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<td>$47,105.00</td>
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<tr>
<td>TBD</td>
<td>WCIP Budget</td>
<td>Future</td>
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<td>$1,172,338.00</td>
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<tr>
<td></td>
<td>SZL11232</td>
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<td>$55,826.00</td>
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<tr>
<td>TBD</td>
<td>WCIP Budget</td>
<td>Future</td>
<td>$308,334.00</td>
<td>$323,751.00</td>
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<tr>
<td></td>
<td>SZL11203</td>
<td></td>
<td>$15,417.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td>$4,186,965.00</td>
<td>$4,396,313.00</td>
</tr>
</tbody>
</table>

*To be determined by the Director of the Bureau of Sanitation or appointed designee.
**WCIP - Wastewater Capital Improvement Project.

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” that 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.”
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(MJS EO RMK KRR CLS )

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