REQUEST TO AWARD A CONTRACT FOR THE CAPITAL IMPROVEMENT PROJECT (CIP) 7256 - VENICE PUMPING PLANT (PP646) VARIABLE FREQUENCY DRIVE NOS. 1 AND 4 REPLACEMENT AND CIP 7257 - BALLONA CREEK PUMPING PLANT (PP654) VARIABLE FREQUENCY DRIVES REPLACEMENT - WORK ORDER NOS. SZC13568 AND SZC13569

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

1. FIND Transmittal No. 1 to be unmerited, as discussed in this report.

2. DECLARE Leed Electric, Inc. (Leed), first low bidder, to be the lowest responsive, responsible bidder, and award Leed a contract for this project for $1,357,987.00.

3. AUTHORIZE the President or two members of the Board to execute the contract after approval as-to-form has been obtained from the City Attorney.

TRANSMITTALS

1. Summary of Bids Received on July 24, 2019.

2. Copy of the letter dated July 10, 2019 from Mr. Henry Stimson of Energy Management Corporation, dba, GP Electric Motor (EMC), 1020 Price Street, Pomona, CA 91767, to the Board.


DISCUSSION

Background

The Venice and Ballona Creek Pumping Plants (see Figure No.1) each operate five pumps and four pumps, respectively, to pump wastewater to the Hyperion Water Reclamation Plant for treatment. Each pump’s motor speed is operated via a dedicated variable frequency drive (VFD). The VFD is an electronic device that vary the power supply frequency to the motor and control the pump motor speed. The use of the VFD reduces the power consumption of a pump, which helps the pumps work more efficiently.
In 2003, five VFDs were installed at the Venice Pumping Plant as part of the plant upgrade. Since that time, three of the five VFDs have been replaced due to failures. The two remaining VFDs are still in operation but are projected to reach the end of their reliable service life and require replacement. The four VFDs originally installed at the Ballona Creek Pumping Plant in 2001 have experienced intermittent malfunctions and are also projected to reach the end of their reliable service life. Additionally, the original equipment manufacturer has discontinued the production and technical support for these VFD models. As a result, it has become difficult to obtain spare parts and services.

The scope of work at the Venice Pumping Plant includes the removal and replacement of VFD Nos. 1 and 4 with new VFDs manufactured by sole-sourced vendor, Rockwell Automation, Inc.

The scope of work at the Ballona Creek Pumping Plant includes the removal of four VFDs, existing soft-start, installation of four new VFDs manufactured by the sole-sourced vendor, Rockwell Automation, Inc. (Rockwell), core drill into VFD cabinets and reroute outgoing electrical conduit from VFDs to pump motors through each respective cabinet.

The contract duration for this project is 450 calendar days.

Figure No.1: Venice and Ballona Creek Pumping Plants

The project has been reviewed for environmental considerations. It was determined that both CIP 7256 and CIP 7257 are categorically exempt to the provisions of the California Environmental Quality Act (CEQA).
Bid Review

The lowest of the four bids received (Transmittal No. 1) compared with the City Engineer’s estimate of $1,609,470.00 is:

<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>Leed (SBE, LBE)</td>
<td>$1,357,987.00</td>
<td>15.63% Low</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>MBE 0.00%</td>
<td>WBE 0.00%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>SBE 6.45%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>EBE 6.45%</td>
<td>DVBE 0.00%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>OBE 0.00%</td>
<td></td>
</tr>
</tbody>
</table>

Tercero, Inc. (Tercero), third low bidder, listed their Total Bid Amount incorrectly. Staff corrected Tercero’s Total Bid Amount in accordance with the procedures set forth in the General Instructions and Information for Bidders. Tercero was contacted and notified of corrections. The corrections moved Tercero from the apparent second low bidder to the third low bidder.

Based on the range of bids submitted for this project, staff believes this bid is reasonable. The contract may be awarded to Leed, first low bidder, 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 8.00 percent reduction of their bid amount solely for bid evaluation purposes. Additionally, all non-LBE bidders may be granted a 1.00 percent reduction, up to a maximum of 5.00 percent, of their bid amount for bid evaluation purposes, for every 10.00 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, Leed, is a certified LBE.

**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 of Los Angeles (City) contracts. Additionally, the BIP requires bidders to perform and document BIP Outreach via the internet utilizing the Los Angeles Business Assistance Virtual Network service.

This project was advertised with anticipated participation levels of 3.00 percent MBE, 1.00 percent WBE, 10.00 percent SBE, 4.00 percent EBE, and 1.00 percent DVBE, and with mandatory BIP documentation requirements. The Office of Contract Compliance (OCC), based on a review of the documents submitted by Leed, reported that the contractor pledged participation levels of 0.00 percent MBE, 0.00 percent WBE, 6.45 percent SBE, 6.45 percent EBE, 0.00 percent DVBE, and 0.00 percent OBE, and complied with the BIP outreach requirements of the bid. The Mandatory Subcontracting Minimum requirement for this project is 15.00 percent and the contractor has complied by pledging a subcontractor participation level of 16.64 percent. This percentage was calculated after subtracting the fixed cost items of $831,641.00 from the total bid amount.

Leed pledged the following subcontractor utilization:

**Gender/Ethnicity Codes:**

- AA = African American
- APA = Asian Pacific American
- NA = Native American
- M = Male
- HA = Hispanic American
- SAA = Subcontinent Asian American
- C = Caucasian
- 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>Soffa Electric, Inc.*</td>
<td>SBE, EBE</td>
<td></td>
<td>6.45%</td>
<td>$87,590.00</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.

*Certified LBE

**Communications Received - Bid Protest**

In a letter to the Board dated July 10, 2019, EMC, a manufacturer of VFDs, protested Rockwell sole-source bid for VFD equipment vendors for this project (Transmittal No. 2). EMC stated that the bid for this project "specified the use of equipment from Rockwell as a
sole source supplier” despite a series of emails EMC has exchanged with the BOE, requesting that the BOE “consider the allowance of equal or superior products from other suppliers”. EMC asserts, in their email correspondence with the project manager, that there are other manufacturers of VFDs that “can meet and exceed” Rockwell’s equipment specifications with more competitive prices. EMC then inquires as to whether the City will consider bids that specify VFD manufacturers other than Rockwell. EMC also asserts that the United States Department of Justice states sole-source procurement is only justified when an item is only available from one source, public exigency for the requirement does not permit a delay resulting from competitive bidding, or competition from a number of bidders is determined inadequate. EMC further asserts that none of these conditions apply in this project.

Staff's Response
In a report adopted by the Board on January 23, 2019 (Transmittal No. 3), the Board authorized the City Engineer to sole-source Rockwell as a provider of VFDs for this project on the grounds that Rockwell VFDs have run successfully without major incident in various City pumping plants, are reliable and efficient, and are supported by timely responses to calls for service and troubleshooting. On the other hand, the VFDs installed by other companies at the Venice and Ballona Creek Pumping Plants as described in this report have experienced intermittent malfunctions, are nearing the end of their service life, and the original equipment manufacturers have discontinued production and technical support for the originally installed VFD models. The report cites the anticipation of the BOE and the LASAN that the sole-source procurement of Rockwell VFDs, which have a proven track record, will ensure the operation of reliable VFDs at the pumping plants. Moreover, these equipments will also provide uniform operations and maintenance through the elimination of the need for City staff to be trained to operate equipment from multiple manufacturers. Lastly, the improved design approach can be directly translated to the design of the Venice and Ballona Creek pumping plants and reduce the associated design timeframe and costs.

Compliance with the City's Non-Discrimination Policies
Leed 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 Sponsorship of the National Rifle Association Ordinance requirements of the bid.
Previous Work Record
Leed has no record of having worked on any previous contracts awarded by the Board within the last five years. The OCC has checked with various State agencies and none of these agencies reported any labor compliance problems on file concerning the contractor.

The Inspector of Public Works has conducted a First Time Bidder investigation of references provided by the contractor and did not find any evidence of violations of statutes, regulations, ordinances, or wrong doing by the contractor. The report was submitted to the Board on September 17, 2019.

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
Leed was requested to extend its bid bond which expired on October 22, 2019. The contractor has agreed to extend its bid bond until November 22, 2019.

Conclusion
In view of the above findings, staff recommends that the Board declare Leed, first low bidder, to be the lowest responsive, responsible bidder, and award Leed the contract for this project.
Program Review Committee (PRC) Approval
The PRC approved a total budget of $727,000, including contingency, for the project Venice Variable Frequency Drive Replacement (PP646) on April 10, 2019. The PRC approved a total budget of $1,105,000, including contingency, for the project Ballona Creek Variable Frequency Drive Replacement (PP654) on April 10, 2019. The overall approved budget for both projects is $1,832,000, including contingency.

STATUS OF FINANCING

There is no impact to the General Fund. The total funding for these projects is not-to-exceed $1,493,785.70. Funding for Fiscal Year 2019-20 in the amount of $500,000.00 is available in the WSSRB Construction Fund, Series 2018-A (Green Bonds), Fund No. 75R, Department No. 50, Appropriation Unit Nos. 50SFA9 and Department 50SFP6, which are part of the Sewer Construction and Maintenance Fund, as shown in the table below:

<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>75R 75R</td>
<td>50SFA9 (SZC13568)</td>
<td>2019/20</td>
<td>$181,818.18</td>
<td>$18,181.82</td>
<td>$200,000.00</td>
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<tr>
<td>75R 75R</td>
<td>50SFP6 (SZC13569)</td>
<td>2019/20</td>
<td>$272,727.27</td>
<td>$27,272.73</td>
<td>$300,000.00</td>
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<tr>
<td>TBD* TBD*</td>
<td>WCIP Budget</td>
<td>Future</td>
<td>$324,907.82</td>
<td>$32,490.78</td>
<td>$357,398.60</td>
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<tr>
<td></td>
<td>SZC13568</td>
<td></td>
<td>$578,533.73</td>
<td>$57,853.37</td>
<td>$636,387.10</td>
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<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$1,357,987.00</td>
<td>$135,798.70</td>
<td>$1,493,785.70</td>
</tr>
</tbody>
</table>

*To be determined by the Director of the LASAN 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 LASAN 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.”
Joint Report No.1

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

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Office of Contract Compliance
Bureau of Contract Administration

Statement as to funds approved by:
Victoria A. Santiago, Director
Office of Accounting
Fund Ref. 75R/50SFA9/$200,000
Fund Ref. 75R/50SFP6/$300,000
Date: 10/17/2019

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

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