Department of Public Works

Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 1

January 8, 2020
CD No. 3

CONTRACT AWARD TO SULLY-MILLER CONTRACTING COMPANY FOR THE SHERMAN WAY STREETSCAPE IMPROVEMENTS WILBUR AVENUE TO LINDLEY AVENUE (WORK ORDER NO. E1908484)

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

1. RECEIVE and FILE Transmittal No. 1.

2. DECLARE Sully-Miller Contracting Company (Sully-Miller), first low bidder, to be the lowest responsive, responsible bidder, and AWARD Sully-Miller a contract for this project for $2,623,000.00.

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. Communication No. 122402, copy of letter dated September 18, 2019, from Mr. David Drukker, Palp, Inc., dba Excel Paving Co. (Excel), P.O. Box 16405, Long Beach, CA, 90806.

2. Summary of bids received on September 18, 2019.

DISCUSSION

Background
The proposed project consists of pedestrian and traffic facilities, tree wells, curb ramp repairs; street tree removal and replacement; intersection upgrades; crosswalks, traffic round-a-bouts, and median installation; and restriping street lanes. The entire length of Sherman Way is 1 mile and the length of Hart Street is 0.9 mile. The roundabout would be located on Hart Street and Baird Avenue. The intersection upgrades involve adding more visible continental crosswalks and a new crossing opportunity with a new pedestrian hybrid beacon at Sherman Way and Capps Avenue (see Figure No. 1). The contract duration is 251 working days.
The project has been reviewed for environmental considerations. The project is exempt pursuant to California Environmental Quality Act (CEQA) Article 19, Section 15301, Class 1(c) Existing Facilities, and Section 15304, Class 4(b) Minor Alterations to Land. The project is also exempt under the City of Los Angeles (City) CEQA Guidelines Article III, Section 1, Class 1, Existing Facilities, Categories 3 and 15; and Class 4, Minor Alterations to Land, Category 3.

**Bid Review**
The lowest of the three bids received (Transmittal No. 2) compared with the City Engineer’s estimate of $2,362,827 is:

**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</td>
<td>Sully-Miller (LBE, OBE)</td>
<td>$2,623,000.00</td>
<td>11.01% High</td>
<td></td>
</tr>
</tbody>
</table>

Excel, apparent first low bidder, listed their Total Bid Amount incorrectly. Staff corrected Excel’s Total Bid Amount in accordance with the procedures set forth in the General Instructions and Information for Bidders, and the bidder was contacted and notified of the correction. The correction moved Excel from apparent first low bidder to third low bidder, Sully-Miller from apparent second low bidder to first low bidder, and Toro Enterprises, Inc., from apparent third low bidder to second low bidder.
Sully Miller, apparent first low bidder, listed their Total Bid Item Amount for Bid Item 21 incorrectly. Staff corrected the Total Bid Item Amount for this Bid Item in accordance with the procedures set forth in the General Instructions and Information for Bidders, and the bidder was contacted and notified of the corrections. The correction did not change the order of the bids.

Based on the range of bids submitted for this project, staff believes this bid is reasonable. The contract may be awarded to Sully-Miller, first low bidder, subject to verification of all other bidding requirements.

**Communication Received**

The Board received correspondence from Mr. David Drukker, Excel (Transmittal No. 1), in which Excel attempted to explain the error in their Schedule of Work and Prices. Excel explained that on Bid Item 51, the number for the Unit Price was listed incorrectly due to communications error with the bid runner.

**Staff's Response**

Excel's Bid Item Total was corrected by the City in accordance with the procedures set forth in Part IV, General Instructions and Information for Bidders, Section 1.e, which states: “In case of discrepancy between the Unit Price and the Item Total for a bid item, the Unit Price shall prevail.”

In view of the above findings, staff recommends that the Board receive and file Transmittal No. 1.

**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, Sully-Miller, 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 contracts. Additionally, the BIP
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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 4.00 percent MBE, 2.00 percent WBE, 25.00 percent SBE, 8.00 percent EBE, and 3.00 percent DVBE, and with mandatory BIP documentation requirements. The Office of Contract Compliance, based on a review of the documents submitted by Sully-Miller, reported that the contractor pledged participation levels of 16.03 percent MBE, 4.16 percent WBE, 24.38 percent SBE, 9.52 percent EBE, 0.00 percent DVBE, and 10.64 percent OBE, and complied with the BIP outreach requirements of the bid. The Mandatory Subcontracting Minimum requirement for this project is 25.00 percent and the contractor has complied by pledging a subcontractor participation level of 37.04 percent. This percentage was calculated after subtracting the fixed cost items of $143,000 from the total bid amount.

Sully-Miller 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>Bravo Sign &amp; Design, Inc.</td>
<td>SBE, EBE</td>
<td>F/C</td>
<td>4.19%</td>
<td>$109,790.00</td>
</tr>
<tr>
<td>Cat Tracking, Inc.</td>
<td>WBE, SBE, EBE</td>
<td>F/C</td>
<td>4.16%</td>
<td>$109,150.00</td>
</tr>
<tr>
<td>CL Surveying and Mapping</td>
<td>MBE, SBE, EBE</td>
<td>M/APA</td>
<td>0.83%</td>
<td>$21,850.00</td>
</tr>
<tr>
<td>Kato Landscape, Inc.</td>
<td>MBE, SBE</td>
<td>M/APA</td>
<td>14.85%</td>
<td>$389,584.78</td>
</tr>
<tr>
<td>Treesmith Enterprises, Inc.</td>
<td>MBE, SBE, EBE</td>
<td>F/HA</td>
<td>0.34%</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>Elecnor Belco Electric, Inc.</td>
<td>OBE</td>
<td></td>
<td>10.64%</td>
<td>$279,111.00</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.

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

Previous Work Record
Sully-Miller has been awarded numerous contracts issued by the Board within the last five years. Sully-Miller has compiled the following record of violations while performing construction contracts for the City:

<table>
<thead>
<tr>
<th>Infraction</th>
<th>Fine Amount</th>
<th>Date</th>
<th>Contract No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unauthorized subcontractor substitution</td>
<td>$1,350.00</td>
<td>June 8, 2015</td>
<td>C120306</td>
</tr>
</tbody>
</table>

Other than the aforementioned, no significant or unresolved problems in inspection or contract compliance have been experienced by the BCA.

The following tables summarize the previous MBE/WBE/SBE/EBE/DVBE/OBE, and Disadvantaged Business Enterprise (DBE)/OBE participation levels pledged by Sully-Miller in the past five years under the BIP and the City’s Race-Conscious DBE Program:

<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>Pledged MBE ($)</td>
</tr>
<tr>
<td>Amount</td>
</tr>
<tr>
<td>$3,012,259.00</td>
</tr>
<tr>
<td>Total MBE (%)</td>
</tr>
<tr>
<td>11.04%</td>
</tr>
</tbody>
</table>

DBE/OBE Pledged Utilization Table (Race-Conscious DBE Program)

<table>
<thead>
<tr>
<th>No. of Contracts</th>
<th>Total ($) Value of Contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pledged DBE ($)</td>
<td>Pledged OBE ($)</td>
</tr>
<tr>
<td>Amount</td>
<td>Amount</td>
</tr>
<tr>
<td>Total DBE (%)</td>
<td>Total OBE (%)</td>
</tr>
<tr>
<td>$2,443,814.00</td>
<td>$5,960,900.00</td>
</tr>
<tr>
<td>12.40%</td>
<td>30.24%</td>
</tr>
</tbody>
</table>

Contractor Performance Evaluation
In accordance with Article 13, Chapter 1, Division 10, of the City’s 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 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**
Sully-Miller and Excel were requested to extend their Bid Bonds which expired on December 17, 2019. Both contractors have agreed to extend their Bid Bonds until January 17, 2020.

**Conclusion**
In view of the above findings, staff recommends that the Board receive and file Transmittal No. 1; declare Sully-Miller, first low bidder, to be the lowest responsive, responsible bidder; and award Sully-Miller the contract for this project.

**STATUS OF FUNDING**
The project is funded using different sources identified in the Council Motion (Council File No. 14-1174-S24, dated February 22, 2019.

The funding for the project comes from the Excess Non-Housing Bond Proceeds, Fund No. 57D, Department 22, Appropriation Unit Nos. 22L9PT, 22S9PT, 22L9PN, and 22S9PN, as indicated 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>57D</td>
<td>22L9PT</td>
<td>2019-20</td>
<td>$ 810,122</td>
<td>$ 0</td>
<td>$ 810,122</td>
</tr>
<tr>
<td>57D</td>
<td>22L9PN</td>
<td>2019-20</td>
<td>$1,699,596</td>
<td>$ 0</td>
<td>$1,699,596</td>
</tr>
<tr>
<td>57D</td>
<td>22S9PT</td>
<td>2019-20</td>
<td>$ 113,282</td>
<td>$245,627</td>
<td>$ 358,909</td>
</tr>
<tr>
<td>57D</td>
<td>22S9PN</td>
<td>2019-20</td>
<td>$ 0</td>
<td>$ 16,673</td>
<td>$ 16,673</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$2,623,000</strong></td>
<td><strong>$262,300</strong></td>
<td><strong>$2,885,300</strong></td>
</tr>
</tbody>
</table>

*Excess Non-Housing Bond Proceeds

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.”
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(SJC EO RMK ALM CLS)

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