REQUEST TO AWARD A CONTRACT FOR THE GLENDALE-HYPERION COMPLEX OF BRIDGES - PHASE 1 - WORK ORDER NO. E700503F

RECOMMENDATIONS

1. Declare the first low bidder, Bosco Constructors, Inc. (Bosco), to be non-responsive, as discussed in this report.

2. Receive, file, and find to be unmerited, those portions of Transmittal No. 1 relating to Reyes, as discussed in this report.

3. Declare Reyes Construction, Inc. (Reyes), the second low bidder, to be the lowest responsive, responsible bidder, and award Reyes a contract for this project for $3,756,424.

4. 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. Communication No. 122331, copy of letter received by the Board on November 29, 2018, from Mr. George B. Cooke of G.B. Cooke, Inc. (G.B. Cooke), 660 South State College Boulevard, Fullerton, CA 92831.

2. Summary of bids received on November 14, 2018.

3. Copy of the letter dated November 20, 2018, from the Office of Contract Compliance (OCC) to Mr. Patrick Robinson, Mr. Rafael Fonseca Jr., and Mr. Steve Robinson, Bosco, 21353 Mayall Street, Chatsworth, CA 91311.


5. Copy of email dated January 7, 2019, from Bosco to the OCC.

6. Copy of the “List of Subcontractors” pages 1-6 through 1-8 of Bosco’s Bid Proposal.

DISCUSSION

Background
This project is Phase 1 of the Glendale-Hyperion Complex of Bridges, and will construct a pedestrian bridge over the Los Angeles River downstream from the existing northbound Glendale Boulevard Bridge. This pedestrian bridge is approximately 430 feet long and 17
feet wide, consisting of a prefabricated steel truss to be supported by two retrofitted piers and abutments, which originally supported the Red Car rail bridge decades ago. While the southerly touchdown of the new bridge would connect to the existing Los Angeles River bike path, a meandering pathway would be paved from its northerly touchdown to join the sidewalk of northbound Glendale Boulevard.

The new pedestrian bridge serves as a mitigation measure during the rehabilitation and retrofit of the Glendale-Hyperion Complex of Bridges Phase 2. This project’s contract duration is 365 calendar days.
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The project has been reviewed for environmental considerations. It was determined that the project does not have a significant impact on the environment and complies with the provisions of the National Environmental Policy Act under Environmental Assessment with a finding of no significant impact.

Bid Review
The two lowest of the eight bids received (Transmittal No. 2) compared with the City Engineer’s estimate of $3,027,075 are:

Business Codes:

<table>
<thead>
<tr>
<th>MBE</th>
<th>Minority Business Enterprise</th>
<th>EBE</th>
<th>Emerging Business Enterprise</th>
</tr>
</thead>
<tbody>
<tr>
<td>WBE</td>
<td>Women Business Enterprise</td>
<td>DVBE</td>
<td>Disabled Veteran Business Enterprise</td>
</tr>
<tr>
<td>SBE</td>
<td>Small Business Enterprise</td>
<td>OBE</td>
<td>Other Business Enterprise</td>
</tr>
<tr>
<td>LBE</td>
<td>Local Business Enterprise</td>
<td></td>
<td></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 Bid</td>
<td>Bosco (SBE)</td>
<td>$3,434,022.26</td>
<td>13.44% High</td>
<td>MBE 7.12%  WBE 0.00% SBE 0.58%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE 0.00%  DVBE 0.00% OBE 0.00%</td>
</tr>
<tr>
<td>2nd Bid</td>
<td>Reyes (OBE, LBE)</td>
<td>$3,756,424.00</td>
<td>24.09% High</td>
<td>MBE 3.33%  WBE 3.29% SBE 4.93%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>EBE 0.00%  DVBE 0.00% OBE 32.13%</td>
</tr>
</tbody>
</table>

Bosco, G.B. Cooke, and United Engineering & Construction, Inc. (United), apparent first, third, and eighth low bidders, respectively, listed their total bid amounts incorrectly. Staff corrected Bosco’s, G.B. Cooke’s, and United’s total bid amounts in accordance with the procedures set forth in the General Instructions and Information for Bidders. These three bidders were contacted and notified of corrections. The corrections moved United from an apparent fourth to an apparent eighth low bidder.

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 an 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 BCA has verified that the first low bidder, Bosco, is not a certified LBE and that the second low bidder, Reyes, is a certified LBE. However, the application of the LBP did not change the order of the bids.

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 $15,000 from their total bid amounts.

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

1. The BIP evaluation for Bosco, the first low bidder, was not completed once staff determined that Bosco failed to meet the MSM requirement. Bosco pledged an MSM amount of 7.73 percent which did not meet the required percentage of 25.00 percent set for this project; therefore, their bid may be deemed non-responsive.

In a letter dated November 20, 2018 (Transmittal No. 3), the OCC notified Bosco that the OCC would be recommending that their bid be deemed non-responsive for failure to meet the MSM requirement set for this project.

Communications Received
The OCC received a series of email correspondence from Bosco protesting the OCC’s determination. The following is a summary of that correspondence:

In emails dated November 20, 2018, and January 7, 2019 (Transmittal Nos. 4 and 5), Mr. Steve Robinson, Bosco, protested the OCC’s recommendation of non-responsiveness and stated why they “believe that Bosco Constructors is the lowest responsive bidder for this project.” As supporting documentation, Mr. Robinson submitted a copy of an earlier email
sent to the OCC on November 14, 2018, after the bid opening, in which they had requested and received information regarding “the supporting documents part of the online submission.” Mr. Robinson also attached a “worksheet” that listed subcontractors with amounts that totaled “over the 25 percent requirement,” and a copy of their online BIP Summary Sheet. Additionally, he referenced pages 21 and 22 of the General Conditions which states that “listed vendors and/or Suppliers will be limited to 60 percent of their listed dollar value toward achieving both the MSM and the anticipated MBE/WBE levels of participation for this Project…”

Staff’s Response
In the November 14th email attached to Transmittal No. 3, the OCC’s response was specific to the BIP “online submission” requirement and was provided after the proposal submission deadline. While Bosco included a worksheet with amounts that would exceed the MSM percentage and a copy of Bosco’s online BIP Summary Sheet, which included the worksheet’s subcontractors, these “selections” were also submitted after the bid proposal deadline. A review of the “List of Subcontractors” pages 1-6 through 1-8 in their bid proposal (Transmittal No. 5) shows that Bosco failed to include five of the seven “worksheet” subcontractors.

Since the Bid Specifications clearly state that “the bidder must list any additional subcontractor and dollar value to the subcontract, regardless of amount, if the bidder wishes to have the subcontract amount credited toward meeting the MSM level of participation for this project,” and that the “Failure to list the subcontractors and subcontracting amounts with the bid on the forms provided in the Proposal, sufficient to meet or exceed the required MSM, may cause the bid to be rejected by the Board of Public Works as non-responsive,” Staff cannot consider either the worksheet or BIP Summary Sheet lists when calculating the pledged MSM participation. Lastly, the General Conditions pages referenced by Bosco clearly state that “listed [emphasis added] vendors and/or Suppliers will be limited to 60 percent of their listed dollar value toward achieving…the MSM…participation for this Project.”

Bosco listed only two companies on its “List of Subcontractors” pages resulting in a pledged MSM percentage of 7.73, which was less than the required 25 percent set for this project. The OCC concluded that Bosco failed to acknowledge the MSM requirements stated throughout the bid specifications and failed to list subcontractors with subcontracting amounts on pages 1-6 through 1-8 of the bid sufficient to meet the project’s MSM requirement.

Based on the above findings, the OCC recommends that the Board find Bosco’s bid to be non-responsive for failure to meet the MSM requirement for this project.
2. Reyes, second low bidder, complied with the BIP Outreach requirements of the bid. The contractor pledged participation levels of 3.33 percent MBE, 3.29 percent WBE, 5.06 percent SBE, 2.31 percent EBE, 0.00 percent DVBE, 32.13 percent OBE, and complied with the MSM requirement for this project by pledging a subcontractor participation level of 38.91 percent.

Communications Received
In a letter received by the Board on November 29, 2018 (Transmittal No. 1), G.B. Cooke, the apparent third low bidder, is protesting Bosco’s bid for this project. G.B. Cooke stated that Bosco had only included two subcontractors into their bid for a total of $264,234 in work by subcontractors, which is less than the MSM requirement of 25 percent of the total bid amount, or $858,553. In the same letter, G.B. Cooke is protesting Reyes’ bid because Reyes had listed two different electrical subcontractors, Los Angeles Signal Construction, Inc. (L.A. Signal) and Faith Electric LLC (Faith Electric), for the same scope of work.

Staff’s Response
Since the OCC has found Bosco to only have pledged 7.73 percent of their total bid amount to subcontractors as described in this report, Bosco did not meet the MSM requirements for this project. Hence, it is being recommended that Bosco be deemed non-responsive as alleged in G.B. Cooke’s protest. Moreover, since Bosco is not being considered for award of this project, staff recommends that the Board receive and file those portions of Transmittal No. 1 relating to Bosco.

With regard to those portions of Transmittal No. 1 relating to Reyes, per Public Contract Code, Ch. 4, Sec. 4106, “...if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractor’s total bid, the prime contractor agrees that he or she is fully qualified to perform that portion himself or herself, and that the prime contractor shall perform that portion himself or herself.” The OCC did not include L.A. Signal’s and Faith Electric’s bids in the calculation of Reyes’ pledged participation levels. The MSM percentage for Reyes, based on these adjustments, is 38.91 percent, which meets the required minimum subcontractor percentage of 25 percent of their bid.

In view of the above findings, Reyes, the second low bidder, became and remains the lowest responsive, responsible bidder. Therefore, Reyes remains the lowest responsive, responsible bidder. Staff recommends that the Board find those portions of Transmittal No. 1 relating to Reyes to be unmerited.

The Assistant City Attorney, Mr. Edward Jordan, has concurred with the recommendations contained in this report.
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Reyes 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>
</tr>
</tbody>
</table>

<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>AZ Construction Inc. dba Ace Fence Co.</td>
<td>WBE</td>
<td>F/APA</td>
<td>0.86%</td>
<td>$32,200.00</td>
</tr>
<tr>
<td>Faith Electric, LLC¹</td>
<td>MBE</td>
<td></td>
<td>0.00%</td>
<td>$0.00</td>
</tr>
<tr>
<td>Hubcity Trucking, LLC</td>
<td>MBE, SBE</td>
<td>M/AA</td>
<td>2.62%</td>
<td>$98,600.00</td>
</tr>
<tr>
<td>Los Angeles Signal Construction, Inc.</td>
<td>MBE</td>
<td>M/HA</td>
<td>0.00%</td>
<td>$0.00</td>
</tr>
<tr>
<td>Sand Material &amp; Aggregate Sales, Inc., dba SM Sales²</td>
<td>WBE</td>
<td>F/C</td>
<td>0.12%</td>
<td>$4,665.00</td>
</tr>
<tr>
<td>Vista Steel Co.</td>
<td>WBE, SBE, EBE</td>
<td>F/C</td>
<td>2.31%</td>
<td>$86,698.00</td>
</tr>
<tr>
<td>Western Paving Contractors, Inc.*</td>
<td>MBE</td>
<td>M/HA</td>
<td>0.71%</td>
<td>$26,675.00</td>
</tr>
<tr>
<td>Steel Girder LLC dba Stinger Bridge and Iron³</td>
<td>OBE</td>
<td></td>
<td>31.52%</td>
<td>$1,184,100.00</td>
</tr>
<tr>
<td>PCI*</td>
<td>OBE</td>
<td></td>
<td>0.48%</td>
<td>$17,980.00</td>
</tr>
<tr>
<td>V &amp; E Tree Service, Inc. dba V &amp; E Landscape Maintenance</td>
<td>OBE</td>
<td></td>
<td>0.13%</td>
<td>$5,000.00</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.
²This firm is certified by the Southern California Minority Supplier Development Council who do not publicly provide a firm’s ethnicit information.
³This firm is a material supplier; therefore, its bid-listed amount of $7,775.00 was credited at the supplier rate of 60 percent.

The second low bidder, Reyes listed both Faith Electric and L.A. Signal in their bid but for the same portion of work. Therefore, these subcontractors’ bid-listed dollar amounts of $185,169.00 and $229,000, respectively, could not be credited toward the subcontractor or MSM pledged participation levels.
Compliance with the City's Non-Discrimination Policies
Reyes 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
Reyes 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 tables summarize the previous MBE/WBE/SBE/EBE/DVBE/OBE and Disadvantaged Business Enterprise (DBE)/OBE participation levels pledged by Reyes in the past five years:

<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>Pledged MBE ($ Amount)</td>
</tr>
<tr>
<td>Total MBE (%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DBE/OBE Pledged Utilization Table (Race-Conscious DBE Program)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Contracts</td>
</tr>
<tr>
<td>Total DBE (%)</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>4.26%</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 of Los Angeles' 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

Bosco, Reyes, and G.B. Cooke were all requested to extend their bid bonds which expired on February 12, 2019. All three contractors have agreed to extend their bid bonds until March 29, 2019.

Conclusion

In view of the above findings, staff recommends that the Board finds Bosco, first low bidder, to be non-responsive; receive and file and find to be unmerited those portions of Transmittal No. 1 relating to Reyes; declare Reyes, the second low bidder, to be the lowest responsive, responsible bidder; and award Reyes the contract for this project.

STATUS OF FINANCING

Funding for this project are available from Measure R and the Bridge Improvement Program Fund.

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.”

The following funding has been verified and approved by the Director of the Office of Accounting and the Assistant General Manager of the Los Angeles Department of Transportation subject to the conditions described above:

<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>298</td>
<td>50RBRC</td>
<td>2018/19</td>
<td>$2,556,424.00</td>
<td>$563,464.00</td>
<td>$3,119,888.00</td>
</tr>
<tr>
<td>51Q</td>
<td>94J222</td>
<td>2018/19</td>
<td>$1,200,000.00</td>
<td>$</td>
<td>$1,200,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$3,756,424.00</strong></td>
<td><strong>$563,464.00</strong></td>
<td><strong>$4,319,888.00</strong></td>
</tr>
</tbody>
</table>
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(SNL EBO RMK DJW CLS)

Report reviewed by:

BOE (ADM and Bid) and BCA

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

Respectfully submitted,

Gary Lee Moore, PE
City Engineer
Bureau of Engineering

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

Statement as to Funds approved by:

Victoria A. Santiago, Director
Office of Accounting
Fund Ref. F298/50RBRC/$3,119,888
Date: 2/10/2019

Statement as to Fund 51Q approved by:

Monique Earl
Assistant General Manager
Administration and Field Services
LA Department of Transportation
Date: 2/10/19

EO/WC/01-2019-0017.PAC.gva

Questions regarding this report may be referred to:
Wenn Chyn, Project Manager
Phone No. (213) 485-5192
E-mail: Wenn.Chyn@lacity.org