



OPERATIONS COMMITTEE

Administration Building
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Agenda Report

File #: 2021-1759

Agenda Date: 7/28/2021

Agenda Item No: 10.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

SOUTH PERIMETER SECURITY AND UTILITY IMPROVEMENTS AT PLANT NO. 1, PROJECT NO. P1-134

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

- A. Receive and file Bid Tabulation and Recommendation for South Perimeter Security and Utility Improvements at Plant No. 1, Project No. P1-134;
- B. Reject the bid from apparent low bidder, RT Contractor Corp., as non-responsive;
- C. Receive and file Orange County Sanitation District's Notice of Intent to Award dated June 3, 2021;
- D. Receive and file Award Protest from Act 1 Construction, Inc. dated June 4, 2021, concerning the award to Tovey/Shultz Construction, Inc.;
- E. Receive and file response letter from Tovey/Shultz Construction, Inc. dated June 8, 2021, regarding the bid protest of Act 1 Construction, Inc.;
- F. Receive and file Orange County Sanitation District's determination letter dated June 10, 2021, to Act 1 Construction, Inc. responding to award protest;
- G. Award a Construction Contract to Tovey/Shultz Construction, Inc. for South Perimeter Security and Utility Improvements at Plant No. 1, Project No. P1-134, for an amount not to exceed \$4,396,779; and
- H. Approve a contingency of \$439,678 (10%).

BACKGROUND

Orange County Sanitation District (OC San) Plant No. 1 is located adjacent to the intersection of Ward Street and Garfield Avenue in Fountain Valley. OC San's security infrastructure along Ward Street currently includes a chain link fence. Security infrastructure along Garfield Avenue includes a block wall topped with a chain link fence, gates for employee and contractor access, and a guard

booth for the contractor gate. The Department of Homeland Security identifies OC San as critical infrastructure. As such, OC San has adopted a standard perimeter wall height of 8 feet, which is aligned with industry-standard security guidelines.

RELEVANT STANDARDS

- Comply with California Public Contract Code Section 20103.8 by awarding a construction contract to the lowest responsive, responsible bidder
- Protect OC San assets
- Provide a safe and collegial workplace

PROBLEM

The southwest perimeter of Plant No. 1 lacks the permanent security features implemented in other areas of the Plant. In recent years, there have been encampments within the existing landscaping along Ward Street and a break-in through the existing chain link fence which resulted in a theft. Also, the approximately 25 feet of OC San property that extends outside the fence line is not available for OC San's use.

PROPOSED SOLUTION

Award a Construction Contract for South Perimeter Security and Utility Improvements at Plant No. 1, Project No. P1-134. This project will improve security around the southern and western perimeter of Plant No. 1 by replacing chain link fencing with a permanent wall, adding additional surveillance equipment, and replacing a temporary guard booth with a permanent one. The project will also integrate the back gate facilities into the overall aesthetic of the Plant by matching building materials and landscaping to the existing facilities. The new landscaping along Ward Street includes the replacement of the existing trees with new ones planted such that the new wall can be placed at the property line.

TIMING CONCERNS

The security deficiencies identified at the southwest perimeter of Plant No. 1 will continue to exist.

RAMIFICATIONS OF NOT TAKING ACTION

If work does not proceed, the southwest perimeter area will continue to be vulnerable to security issues.

ADDITIONAL INFORMATION

OC San advertised Project No. P1-134 for bids on March 18, 2021, and six sealed bids were received on May 4, 2021. A summary of the bid opening follows:

Engineer's Estimate	\$5,143,000
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Bidder	Amount of Bid
RT Contractor Corp.	\$4,350,000
Tovey/Shultz Construction, Inc.	\$4,396,779
Act 1 Construction, Inc.	\$4,799,251
Caliba Inc.	\$5,085,000
Mehta Mechanical Co. Inc.	\$5,324,000
MCEC Inc.	\$6,550,000

The bids were evaluated in accordance with OC San's policies and procedures. During the evaluation, it was determined RT Contractor Corp. was non-responsive when they were unable to provide backup information to confirm the referenced projects submitted were of comparable size and complexity. A notice was sent to all bidders on June 3, 2021, informing them of the intent of OC San to recommend award of the Construction Contract to Tovey/Shultz Construction, Inc.

Act 1 Construction, Inc., the third low bidder, submitted a formal Protest of the award recommendation to OC San on June 4, 2021, alleging deficiencies in the Tovey/Shultz Construction, Inc. bid due to failure to list a licensed surveyor as a subcontractor and listing more than one subcontractor for the cabling/fiber optic scope of work.

Staff reviewed the Bid Protest and found that it does not merit a change to the award recommendation for the following reasons:

1. The surveying subcontractor is not required to be listed because their bid is less than half of one percent of the total bid.
2. The subcontractors are listed for different work, not both for fiber optic.

Based on the above, staff, in consultation with OC San's General Counsel, determined the protest had no merit.

CEQA

The project is exempt from CEQA under the Class 1, 2, 3, and 4 categorical exemptions set forth in California Code of Regulations Sections 15301, 15302, 15303, and 15304. A Notice of Exemption will be filed with the OC Clerk-Recorder after OC San's Board of Directors approval of the construction contract.

FINANCIAL CONSIDERATIONS

This request complies with authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Year 2021-2022, Appendix A, Page A-9, South Perimeter Security & Utility Improvements at Plant No, 1, Project No. P1-134).

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- OC San Notice of Intent to Award
- Act 1 Construction, Inc. Award Protest Letter
- Tovey/Shultz Construction, Inc. Company Response to Bid Protest Letter
- OC San Determination Letter - Response to Act 1 Construction, Inc. Award Protest
- Construction Contract
- Presentation

AB:dm:gc