

## Agenda Report

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**File #:** 2019-602, **Version:** 1

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

**SUBJECT:**

RETURN ACTIVATED SLUDGE PIPING REPLACEMENT AT PLANT NO. 2, PROJECT NO. P2-123

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION:

- A. Receive and file Bid Tabulation and Recommendation for Return Activated Sludge Piping Replacement at Plant No. 2, Project P2-123;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated August 8, 2019;
- C. Receive and file Award Protest from W.M. Lyles Co. dated August 13, 2019, concerning the award to Shimmick Construction Company;
- D. Receive and file response letter from Shimmick Construction Company dated August 20, 2019, regarding the bid protest of W.M. Lyles Co.;
- E. Receive and file Orange County Sanitation District's determination letter dated August 23, 2019, to W.M. Lyles Co. responding to Award Protest;
- F. Deny award protest filed by W.M. Lyles Co.;
- G. Award a Construction Contract to Shimmick Construction Company for Return Activated Sludge Piping Replacement at Plant No. 2, Project No. P2-123, for a total amount not to exceed \$6,042,111; and
- H. Approve a Construction Contract contingency of \$604,211 (10%).

**BACKGROUND**

Orange County Sanitation District's (Sanitation District) Plant No. 2 has two biological secondary treatment facilities, one of which is the Activated Sludge Plant, which uses pure oxygen for wastewater treatment. The Activated Sludge Plant was built in 1979 and includes a concrete deck that seals oxygen into the process basins and ninety-two light poles and fixtures installed throughout the facility to provide operators safe working conditions at night.

## RELEVANT STANDARDS

- 24/7/365 treatment plant reliability
- Comply with California Government Code Section 4256 to engage the best qualified firm “on the basis of demonstrated competence and qualifications” and “negotiate fair and reasonable fees”

## PROBLEM

There are three major deficiencies in the Activated Sludge Plant. Approximately 1,800 feet of sludge piping and appurtenances ranging in size from 4 inches to 36 inches is corroded and no longer provides reliable service. Repair of leaks on this pipe directly impacts the operation and capacity of the plant. As corrosion continues, the frequency of leakage is expected to become worse and leaks more difficult to repair.

Cracking and spalling of the concrete deck of the process basins pose oxygen safety threats and will likely reduce the life of the plant.

Exterior light poles on the plant are corroded to the point where some light fixtures have fallen, posing a safety hazard to operators from falling objects and insufficient lighting. The light poles also require significant fall protection methods to service.

## PROPOSED SOLUTION

Award a construction contract for replacement of the return activated sludge discharge piping, repair the damaged concrete on the deck of the plant, and replace the light poles and fixtures.

## TIMING CONCERNS

Delaying this project will extend the period when treatment interruptions could occur due to leaks from corroded pipes and cracks in concrete, and safety hazards would not be addressed.

## RAMIFICATIONS OF NOT TAKING ACTION

Reliability of the treatment process will suffer, and maintenance staff will be required to make inefficient unplanned repairs to maintain the full operational ability of the aeration basin facilities. A sudden pipeline rupture is a risk to staff and equipment in the tunnel system. The damaged concrete and corroded light poles will continue to be safety concerns.

## PRIOR COMMITTEE/BOARD ACTIONS

N/A

## ADDITIONAL INFORMATION

The Sanitation District advertised Project No. P2-123 for bids on June 11, 2019 and eight sealed bids

were received on July 29, 2019. A summary of the bid opening follows:

Engineer's Estimate	\$14,000,000
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Bidder	Amount of Bid
Shimmick Construction Company	\$ 6,042,110.35
W.M. Lyles Co.	\$ 6,593,870.00
Kiewit Infrastructure West Co.	\$ 6,843,000.00
Stanek Constructors, Inc.	\$ 8,414,700.00
Innovative Construction Solutions (ICS)	\$ 8,732,866.00
Steve P. Rados, Inc.	\$ 8,837,625.00
Myers & Sons Construction, LLC	\$10,620,000.00
OHL USA, Inc.	\$10,839,350.00

The bids were evaluated in accordance with the Sanitation District's policies and procedures. A notice was sent to all bidders on August 8, 2019 informing them of the intent of Sanitation District staff to recommend award of the Construction Contract to Shimmick Construction Company.

W.M. Lyles Co., the second low bidder, sent a formal Protest of the award to the Sanitation District on August 13, 2019, alleging bid defects in the Shimmick Construction Company bid due to various accidents and safety incidents occurring on Shimmick Construction Company projects.

In consultation with Sanitation District General Counsel, the Sanitation District reviewed and responded to this Protest. The protest does not merit a change to the award recommendation for the following reasons:

1. Many of the incidents cited in the Protest are not considered final for legal for administrative purposes as they are still open or pending appeal.
2. Several of the incidents identified in the Protest were not cited against Shimmick Construction Company specifically, but rather against several partners on joint venture projects.
3. The Sanitation District believes that the PCC and public policy behind California's competitive bidding laws prohibit public agencies from finding a bidder non-responsible for safety reasons unless the bidder demonstrates a clear and consistent pattern of significant safety violations or an inability to take appropriate safety precautions; which is not the case with the valid items listed in this protest.

Based on the above, staff, in consultation with Sanitation District's General Counsel, responded to the W.M. Lyles Co. protest and found protest statement allegations unfounded. W.M. Lyles Co. can still request an appeal of Sanitation District staff's determination as provided for by the Sanitation District's procedures before the deadline of August 30, 2019.

After receipt of the bids and considering the cost differences when compared with the Engineer's estimate, staff, in consultation with the design consultant, reviewed the Engineer's estimate and determined there were some conservative assumptions made about the material, equipment, and construction methodology to be used to complete this project. Also, the most competitive bids may

be taking advantage of reduced overhead costs. Considering that there are several bids within the same range, staff believes that the low bids are valid and recommends award as stated above.

## **CEQA**

This project is exempt from CEQA under the Class 1 categorical exemptions set forth in California Code of Regulations Section 15301. Section 15301 (Class 1) exempts from CEQA “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination”, including “(b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services”.

The project consists of minor alterations to existing public facilities.

A Notice of Exemption for this project was filed and recorded with the County of Orange on March 29, 2018 after the Board of Directors approved the Professional Design Services Agreement.

## **FINANCIAL CONSIDERATIONS**

This request complies with authority levels of the Sanitation District’s Purchasing Ordinance. This project has been budgeted (FY2019-20 Budget Update, Appendix A, Page A-10) and the budget is sufficient for the action.

## **ATTACHMENT**

*The following attachment(s) are included in hard copy may also be viewed on-line at the OCSD website ([www.ocsd.com](http://www.ocsd.com)) with the complete agenda package:*

- W.M. Lyles Co. Award Protest Letter
- Shimmick Construction Company Response to Bid Protest Letter
- Sanitation District Response to W.M. Lyles Co. Award Protest
- Sanitation District Intent to Award Letter
- Construction Contract (Online Only)
- September 4, 2019 Operations Committee Presentation (Online Only)