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Title: BID SPECIFICATION NO. 2017-03 DEMOLITION AND SITE IMPROVEMENTS OF TRANSIT SHED 1 AT TENTH AVENUE MARINE TERMINAL SAN DIEGO, CALIFORNIA
A) RESOLUTION REJECTING ALL BIDS
B) RESOLUTION AUTHORIZING REVISIONS TO CLARIFY THE SCOPE OF THE IMPROVEMENTS AND RE-ADVERTISE THE PROJECT

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Date	Ver.	Action By	Action	Result
8/8/2017	1	Board of Port Commissioners	adopted	

DATE: August 8, 2017

SUBJECT:

BID SPECIFICATION NO. 2017-03 DEMOLITION AND SITE IMPROVEMENTS OF TRANSIT SHED 1 AT TENTH AVENUE MARINE TERMINAL SAN DIEGO, CALIFORNIA
A) RESOLUTION REJECTING ALL BIDS
B) RESOLUTION AUTHORIZING REVISIONS TO CLARIFY THE SCOPE OF THE IMPROVEMENTS AND RE-ADVERTISE THE PROJECT

EXECUTIVE SUMMARY:

Bid Specification No. 2017-03 Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal (TAMT) San Diego, California is the first of three (3) contract packages that are under the overall TAMT Shed Demolition & Initial Rail Component - TIGER Grant Project. The scope of the Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego, California consists of the demolition of an obsolete and underutilized transit shed and grading and compaction to support a finished pavement (Project). The Engineer's Estimate for this contract is \$12M.

On June 28, 2017, four (4) bids were received ranging in cost from \$13,131,313.00 to \$15,460,260.65. The bid specifications require the bidders to submit a total contract bid amount including the base bid plus two (2) additive bid alternates, each alternate consists of a different type of pavement system to be located in the current footprint of Bays 'A' and 'B'. Only one pavement type will be chosen; however, the determination of low bidder is determined by adding the base bid amount plus both additive alternate amounts. The structure of this determination is to encourage competitive bid prices for both pavement system types.

The bids received were confusing and even included negative number for one of the additive bid items. Two protests were also submitted by bidders pointing out irregularities in the bids received. Due to the perceived confusion on behalf of the bidders the District recommends that the Board reject all bids and re-advertise the project without additive bid items.

RECOMMENDATION:

- A) Adopt a resolution Rejecting all bids for Bid Specification No. 2017-03 Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego
- B) Adopt a resolution authorizing revisions to revise the scope of the improvements and re-advertise the Project

FISCAL IMPACT:

The TAMT Transit Shed Demolition & Initial Rail Component - TIGER Grant Project has a budget of \$24M, consisting of the \$10M TIGER Grant and the District's match of \$14M. Contract 2017-03 Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego, California is the first of three (3) contract packages that are under the overall Tenth Avenue Marine Terminal Transit Shed Demolition & Initial Rail Component - TIGER Grant Project. This construction contract addresses a major component of the overall TIGER Grant Project, as reflected in the \$12M Engineer's Estimate.

Authorizing the rejection of all bids will defer this fiscal impact until a contract is awarded.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A thriving and modern maritime seaport

DISCUSSION:

Background

Bid Specification No. 2017-03 Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego, California is the first of three (3) contract packages that are under the overall TAMT Transit Shed Demolition & Initial Rail Component - TIGER Grant Project.

The scope of the Demolition and Site Improvements of Transit Shed 1 at Tenth Avenue Marine Terminal San Diego, California consists of the demolition of an obsolete and underutilized transit shed located adjacent to three of the terminal's primary vessel berths, disposal and salvage of the transit shed building and components, the excavation, grading and compaction of the areas under the demolished buildings to support new pavement, site utility improvements, and storm water BMP improvements. This work will take place over an approximate 13-month period. The Engineer's Estimate for this contract is \$12M.

The bid advertisement period for this Contract began on May 17th, 2017, with a bidding duration of 42 calendar days. On June 28, 2017, four (4) bids were received ranging in bid amounts from

\$13,131,313.00 to \$15,460,260.65.

The bid specifications require the bidders to submit a total contract bid amount including the base bid plus two (2) additive bid alternates. Each alternate consists of a different type of pavement system to be located in the transit shed footprint of Bays 'A' and 'B'. Subsequent to contract award only one pavement type will be selected; however, the determination of low bidder is determined by adding the base bid amount plus both additive alternate amounts. The structure of this determination is to encourage competitive bid prices for both pavement system types. The bid amounts, including Alternates No. 1 and No. 2 are shown in the table below:

Company	Base Bid	Additive Alternate No. 1	Additive Alternate No. 2	Total Bid Amount*
Quest Civil Constructors, Inc.	\$13,585,053.00	(-\$456,000.00)	\$2,260.00	\$13,131,313.00
CJW Construction	\$12,768,660.00	\$575,950.00	\$807,950.00	\$14,152,560.00
USS Cal Builders, Inc.	\$12,870,700.00	\$863,400.00	\$1,163,900.00	\$14,898,000.00
West-Tech Contracting, Inc.	\$12,912,570.65	\$889,980.00	\$1,657,710.00	\$15,460,260.65

* Amounts used for determination of Low Bidder

On July 10th, 2017, CJW Construction, Inc. (CJW) submitted a bid protest. The bid protest specifically protests an award of the contract to Quest Civil Constructors, Inc. (Quest). The bid protest states that Quest manipulated or ignored the bid instructions, using the deductive amount in Additive Alternate No. 1 as an example.

On July 13th, 2017, West-Tech Contracting, Inc. (West-Tech) submitted a bid protest claiming abnormalities in the other three (3) bids. The bid protest states that the other bidders contain materially unbalanced bids, stating that submitted bids have been front-loaded in an attempt to cause payment well over the value of the actual work performed in the early stage of the Project.

On July 17th, 2017, Quest submitted a response to the bid protest originally submitted by CJW. Quest responded by stating that they did comply with the District's bid instructions and specifications.

On July 18th, 2017, CJW submitted a response to the bid protest submitted by West-Tech stating that West-Tech's protest is nothing more than an effort by the fourth lowest bidder to impose its own estimating practices on CJW. On this same day, Quest also submitted a response to the bid protest submitted by West-Tech. Quest responded by stating their bid was the lowest responsive bid, in accordance with District's Invitation for Bids and Specifications.

On July 21st, 2017, West-Tech submitted a response which addresses the responses from Quest and CJW. West-Tech's response states that CJW's response contradicts CJW's own protest of Quest's bid, and that the bid documents should be clarified in order to avoid inaccuracies in bids.

Staff recommends the District reject all bids for Contract 2017-03 and re-advertise the project with a revised scope that better clarifies the pavement system within the Transit Shed 1 Footprint. The revised scope would include one pavement system type in Bays 'A' & 'B'. In the current Bid documents, two pavement systems were included (Asphalt and Concrete) as optional bid alternates. The revised bid documents will eliminate the bid alternates and require only one surface in Bays 'A' & 'B' footprint area. This change will ensure accuracy of bids and resolve any ambiguity in bids for pavement system types.

General Counsel's Comments:

The Office of the General Counsel has reviewed the Bid Specifications, the four bids, the two protests, all responses and replies to the bid protests and is in concurrence with the staff's recommendation.

Environmental Review:

The proposed Board action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

In addition, the proposed Board action allows for the District to implement its obligations under the Port Act and/or other laws. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, the proposed Board action does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

Equal Opportunity Program:

A 12% SBE goal was established for this contract opportunity.

PREPARED BY:

Mark McIntire
Capital Project Manager II, Engineering-Construction

Attachment(s):

Attachment A: Tabulation of Bids