



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1314-136

File ID: K-1314-136

Type: Contract

Status: Consent Item

Version: 1

Reference: Item No. 16

In Control: City Council

Department: Utilities Department

Cost: \$48,822,550.00

File Created: 04/07/2014

File Name: Award Bid and Approve Contract and Bonds

Final Action:

Title: CONSIDERATION OF AWARDING OF BID NO. 1314-57, THE NORMAN UTILITIES AUTHORITY APPROVAL OF CONTRACT NO. K-1314-136 WITH ARCHER WESTERN CONSTRUCTION, L.L.C., IN THE AMOUNT OF \$48,822,550; PERFORMANCE BOND NO. B-1314-96, STATUTORY BOND NO. B-1314-97, AND MAINTENANCE BOND NO. MB-1314-87 FOR THE WATER RECLAMATION FACILITY PHASE 2 IMPROVEMENTS, AND BUDGET APPROPRIATIONS FROM THE WASTEWATER FUND BALANCE, SEWER EXCISE TAX FUND BALANCE, AND SEWER SALES TAX FUND BALANCE.

Notes: ACTION NEEDED: Acting as the Norman Utilities Authority, motion to accept or reject all bids meeting specifications; and, if accepted, award the bid in the amount of \$48,822,550 to Archer Western Construction, L.L.C., as the lowest and best bidder meeting specifications; approve Contract No. K-1314-136 and the performance, statutory, and maintenance bonds; authorize execution of the contract, bonds, and the Norman Utilities Authority as part of the contract to pay subcontractors for equipment and supplies for the Water Reclamation Facility Phase 2 Improvements; direct the filing of the bonds; and appropriate \$14,800,603 from the Wastewater Fund Balance (032-0000-253.00-00); \$14,183,607 from the Sewer Excise Tax Fund Balance (322-0000-253.00-00); and \$5,767,922 from the Sewer Sales Tax Fund Balance (323-0000-253.00-00).

ACTION TAKEN: _____

Agenda Date: 04/22/2014

Agenda Number: 16

Attachments: Figure 1, Proposed Improvements, Phase 2 WRF
Bid Tab 2014-03-27, Garver Letter.pdf, Garver Cost
Estimate 2014-03-27, Attachment 1, OWRB Budget
2014-04-08, Bid Proposal - Archer Western
2014-03-27, Attachment 2, Construction Budget,
Contract K-1314-136, Performance Bond, Payment
Bond, Maintenance Bond

Project Manager: Mark Daniels, Utilities Engineer

Entered by: mark.daniels@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File K-1314-136

Body

BACKGROUND: The Wastewater Master Plan (WWMP), adopted by the Norman Utilities Authority (NUA) in 2001, recommended that facilities treating an average daily design flow (ADF) of 21.5 million gallons per day (MGD) would ultimately be needed to serve the area approved for urban development under the 2025 Land Use and Transportation Plan. The WWMP recommended expansion of the South Water Reclamation Facility (WRF) from 12 to 17 MGD and construction of a new North WRF with an ultimate ADF of 4.5 MGD.

In 2001, the voters approved establishment and funding of three new wastewater funding sources to address existing and future wastewater system needs. The existing Water Reclamation Fund 032 (WRF) was supplemented by the Sewer Maintenance Fund 321 (SMF), the Sewer Excise Tax Fund 322 (SET), and the Sewer Sales Tax Fund 323 (SST). Revenues are generated by customer service charges (sewer rates or user fees; WRF), by the \$5 per month sewer maintenance rate (SMF) for collection system rehabilitation, by a temporary 5-year 1/2 percent sales tax (SST) to fund existing and obligated wastewater system needs (authorized and collected from 2001-2006) and an sewer excise tax (SET) to fund future wastewater system needs resulting from new development.

NUA approval of Resolution R-0506-151 directed that the sewage treatment capacity expansion mandated in the WWMP would occur first at the South WRF. NUA approval of Resolution R-0708-78 authorized new sewer system development in the northern (Little River) sewage basin, through construction of the northern interceptor system, and the rehabilitation and expansion of Lift Station D. The decision to rehabilitate and expand Lift Station D to a maximum pumping capacity of 6 MGD, and complete downstream Bishop Creek interceptor improvements provided additional time before the North WRF would be critically needed.

More recently, NUA determined that the North WRF would be designed and constructed in the future when the capacity of the recently expanded Lift Station D was consumed. The voters approved a rate increase in October 2013 increasing the monthly base rate from \$3.90 to \$5.00 and increasing the commodity rate from \$1.60 to \$2.70 per thousand gallons of wastewater generated. Major portions of the increased rates were to be dedicated to the expansion to and improvement of the South WRF. The revenues from the rate increase are forwarded into the Wastewater Fund (WRF, 032).

Regulatory Requirements:

Our Oklahoma Pollutant Discharge Elimination System (OPDES) permit for the South WRF, issued July 1, 2010 by Oklahoma Department of Environmental Quality (DEQ), required construction of new disinfection facilities to attain compliance with final discharge limits by July 1, 2013. Concurrent with issuance of the OPDES permit, staff informed DEQ that this schedule was not achievable; since that time staff has forwarded suggested revisions to the compliance schedule. At this time, proposed Consent Order 13-077 prepared by staff and DEQ reflects the following schedule for remaining tasks:

- Begin construction of disinfection facilities by July 1, 2014;
- Complete construction of disinfection facilities by January 1, 2016;
- Attain compliance with final limits for Fecal Coliform by July 1, 2016.
- Complete construction of all facilities by January 1, 2017;
- Attain compliance with final limits for Total Suspended Solids by July 1, 2017.

Engineering Services:

Request for Proposal (RFP) 1011-36 for the WRF Phase 2 Improvements was forwarded to design firms in September 2010 and the review committee selected Garver, L.L.C. (Garver) of Norman, Oklahoma teamed with Carollo Engineers to design the improvements. On March 8, 2011, the NUA approved Contract K-1011-148 authorizing Garver to proceed with the Engineering Report (ER) and Surveying Phases at a cost of \$397,800. The findings of the ER were presented to the NUA at Study Session on November 8, 2011. The ER was finalized and submitted to the DEQ on November 18, 2011.

On June 12, 2012, the NUA approved Amendment No. 1 to Contract K-1011-148 which authorized Garver to

proceed with the Final Design and Bidding phases of the WRF Phase 2 Improvements. The fee for this work was \$3,687,000. The design process moved forward and the plans and specifications for the improvements were submitted to the DEQ on August 1, 2013, approximately one month after DEQ approval of the ER on June 27, 2013. The DEQ approved the plans and specifications on November 26, 2013.

Under separate action, the NUA will consider Amendment No. 2 to Contract K-1011-148 authorizing Garver to proceed with the construction phase services including construction administration, full-time construction observation, preparation of operation and maintenance manuals, equipment start-up and staff training, and implementation of the supervisory control and data acquisition (SCADA) system.

Proposed Improvements:

The ER recommended and the approved plans and specifications reflect adding disinfection and odor control technologies at the WRF and expanding the average daily design flow from 12 to 17 MGD. A number of maintenance issues were also identified and will be corrected. The WRF Phase 2 Improvements are illustrated on Figure 1 and will include the following:

1. Influent screening improvements and flow metering;
2. Rehabilitation of four primary clarifiers;
3. Three new aeration basins with aeration system replacement in three existing basins;
4. Two new secondary clarifiers;
5. A new Return Activated Sludge/Waste Activated Sludge (RAS/WAS) pump station;
6. A new ultra violet light (UV) disinfection process;
7. A new effluent aeration structure with diffusers;
8. A new 66-inch outfall line and discharge structure at the Canadian River;
9. A new sludge blending tank and two new WAS thickening centrifuges;
10. Conversion of an existing secondary digester to a primary digester with mixing;
11. New odor control facilities for the headworks, the primary clarifiers and sludge processes; and
12. Associated yard piping, standby power, electrical and instrumentation facilities.

Funding:

The funding shares for the WRF Phase 2 South Improvements (WW0065) were approved by the NUA with adoption of the fiscal year 2013-2014 budget. The Fiscal Year Ending June 30, 2014 (FYE14) funding pro-rata share was based on the type of improvement and its associated design capacity. Maintenance improvements are funded by the WRF as it serves existing needs; improvements increasing capacity from 12 to 13.9 million gallons per day (MGD) are obligated improvements typically funded by the SST; improvements increasing the design flow beyond 13.9 MGD are expansion related and funded by the SET. Based on the proposed improvements, the NUA-approved funding was 40.7% from the Sewer Excise Tax (SET) and 59.3% from the Water Reclamation Fund (WRF). However, the NUA has also directed that any remaining Sewer Sales Tax (SST) funding be expended on the project.

The project funding will be augmented by a Clean Water State Revolving Fund (CWSRF) loan from the Oklahoma Water Resources Board (OWRB). The Norman Phase 2 WRF improvements are included on the FYE2014 OWRB priority list for up to \$50,300,000. Future revenues from the Wastewater Fund and the Sewer Excise Tax Fund will be dedicated to pay back the CWSRF loan amount. On February 11, 2014, the NUA approved Resolution R-1314-89 authorizing staff to prepare documents necessary for submission of a loan application to OWRB. The loan application was submitted to OWRB in February 2014 and separate resolutions related to the CWSRF loan will be considered by the NUA and City Council.

As a part of the OWRB funding process, an Environmental Information Document (EID) was prepared and submitted to the OWRB for approval. A public hearing was held January 21, 2014 to discuss the potential environmental impacts of the project and the alternatives to it. The hearing was called to encourage public participation in the planning, review and decision-making relative to the proposed Phase 2 WRF improvements. Public notice of the hearing was made in The Norman Transcript, on December 20, 2013. On February 11, 2014, the NUA adopted the EID and public participation documentation. On March 14, 2014, the OWRB issued the draft "Finding of No Significant Impact" (FONSI); a 30-day opportunity for public comment began with the

issuance of the FONSI. The FONSI is expected to be finalized at the end of the comment period on around on April 13, 2014.

DISCUSSION: On December 6 and December 12, 2013, the NUA published an advertisement in The Norman Transcript and in several trade publications requesting Qualification Statements from prime contractors interested in submitting bids for the WRF construction project. Five prime contractors attended the pre-qualification meeting and all five were pre-qualified on January 28, 2014. The bidding documents were made available to pre-qualified contractors on January 30, 2014. The pre-bid meeting was held on February 20, 2014 with the pre-qualified contractors and many suppliers and subcontractors in attendance.

Bids for the WRF Phase 2 Improvements were received from three pre-qualified contractors on March 27, 2014. As shown on the bid tabulation, Archer Western Construction, LLC of Irving, Texas (Archer Western) was the low bidder at \$48,822,550. The other bids ranged from \$49,978,000 to \$54,462,183 with an average bid of approximately \$51.1 million. The second low bidder was Garney Companies, Inc. of Kansas City, MO with a bid of \$49,978,000 or approximately 2.37% higher than the low bidder. Garver, the design engineer, estimated the construction cost to be \$57,412,000.

Garver and staff evaluated the qualifications of Archer Western and the other four pre-qualified contractors early in the bidding process. The pre-qualification package and the bid proposal submitted by Archer Western are attached. Garver and staff recommend award to Archer Western Construction, LLC in the amount of \$48,822,550. The letter from Garver recommending award to Archer Western is also attached.

Now that the bid has been received, the project costs have been revised and provided to the OWRB as shown in Attachment 1. The total estimated cost of \$61,094,520 includes the following categories:

- Construction totaling \$51,263,680 including the bid amount plus a 5% contingency as per OWRB requirements;
- Engineering Services totaling \$9,420,500 including \$4,108,600 already attributed to Garver;
- Fees and Expenses totaling \$410,340.

It is expected that the OWRB will fund the overall project costs less a certain amount of NUA funding currently on hand. During the voter education process, the NUA indicated that approximately \$5,700,000 remaining in SST and approximately \$7,000,000 in SET would be utilized to reduce the CWSRF loan amount. As shown on Attachment 1, local funds are estimated to be approximately \$10.8 million. It is expected that the OWRB will consider the NUA loan application at its monthly meeting on April 15, 2014. As also shown on Attachment 1, the loan proceeds of \$50,300,000 are expected to fund the majority of the construction of the project.

The FYE14 construction budget includes \$9,733,489 in the WRF and \$6,680,711 in the SET fund. Additionally, as noted in the SST Capital Fund Summary, the SST ending fund balance of approximately \$5,700,000 was reserved to meet current needs in accordance with the budget. Attachment 2 details construction expenses to date; the proposed construction bid amount plus the 5% contingency required by the OWRB; the current construction budget; and the necessary appropriation to fund the construction costs shown. As indicated, it is necessary to appropriate a total of \$34,752,132 to supplement the existing unencumbered construction totaling \$16,511,548. The following appropriations are required:

- \$14,800,603 from the Water Reclamation Fund Balance (account 032-0000-253.00-00) into WRF Construction (account 032-9048-432.61-01; project WW0065);
- \$14,183,607 from the SET Fund Balance (account 322-0000-253.00-00) into SET WRF Construction (account 322-9048-432.61-01; project WW0065); and
- \$5,767,922, or the finally-available amount, from the SST Fund Balance (account 323-0000-253.00-00) into SST WRF Construction (account 032-9048-432.61-01; project WW0065).

These appropriations would increase the FYE14 construction budget to \$51,263,680 including \$24,534,092 in the WRF, \$20,864,318 in the SET fund and \$5,865,270 in the SST Fund (the SST amount will vary slightly as interest income continues to accrue on the available sales tax funding until the funds are paid out). This funding is adequate to fund the proposed construction contract and a 5% contingency.

The City of Norman is exempt from the payment of sales or use taxes. Pursuant to Title 68 O.S., Section 1356 (10) and as allowed by Oklahoma Tax Commission Rules Part 27 Trust Authority 710:65-13-140, direct vendors to the NUA are also exempt from those taxes. A bidder and his subcontractors may exclude from their bid sales taxes on appropriate equipment, materials, and supplies that will not have to be paid while acting on behalf of the NUA. To minimize project costs, the NUA will make payment directly to vendors of the contractor who are supplying equipment and materials for incorporation into the project.

The OWRB must concur in the award and approve the bidding documents in order to finalize the CWSRF loan. Thus, this award is contingent upon OWRB authorization to award and execute construction contracts. The contractor must document their efforts to utilize Disadvantaged Business Enterprise (DBE), including Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE), prior to contract approval by the OWRB.

Staff expects the project to proceed on the following schedule :

- Award Bid and Authorize Chairman to sign Contract and Bonds - April 22, 2014
- Obtain OWRB Approval of Award and Contract - May 13, 2014
- Issue Notice to Proceed - May 14, 2014
- Start Construction - June 2, 2014
- Complete Construction (900 days) - November 18, 2016

RECOMMENDATION 1: Recommend the NUA accept the bids received in response to Project Bid No. 1314-57 and award the bid to Archer Western Construction, LLC of Irving, Texas in the amount of \$48,822,550, contingent upon OWRB approval.

RECOMMENDATION 2: Recommend the NUA authorize appropriation of \$14,800,603 from the Water Reclamation Fund Balance, \$14,183,607 from the Sewer Excise Tax Fund Balance and \$5,767,922 from the Sewer Sales Tax Fund Balance as detailed above.

RECOMMENDATION 3: Recommend the NUA authorize the Chairman to sign Contract No. K-1314-136 in the amount of \$48,822,550 with Archer Western Construction, LLC, contingent upon OWRB approval.

RECOMMENDATION 4: Recommend the NUA approve Performance Bond No. B-1314-96, Statutory Bond No. B-1314-97, and Maintenance Bond No. MB-1314-87; all bonds being in the amount of the construction contract.

RECOMMENDATION 5: Recommend the NUA allow the Utilities Director to approve the purchase of equipment and materials directly from vendors at prices agreed to by Archer Western Construction, LLC.