



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MARCH 10, 2011

FROM: CONSTRUCTION DIVISION

**SUBJECT: RESOLUTION NO. _____ - AWARD OF CONSTRUCTION CONTRACT
CONTRACTOR: MINAKO AMERICA CORPORATION
DBA MINCO CONSTRUCTION
FIBER OPTIC NETWORK - PHASE ONE AND VINCENT THOMAS
BRIDGE PROJECT
SPECIFICATION NO. 2720**

SUMMARY

This contract will improve the security system along Port of Los Angeles waters in areas of San Pedro and Terminal Island by installing fiber optic conduit and cable to create a redundant system configuration for the Department of Homeland Security. The lowest responsive and responsible bidder is Minako America Corporation dba Minco Construction (Minco Construction), a small business enterprise located in Gardena, CA. The contract amount plus a 20% contingency is \$2,412,600, and the contract duration is 270 calendar days. This project is federally funded under the California Port and Maritime Security Grant Program up to \$2,200,000.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that the bid proposal from the apparent low bidder, S.H.E. Engineering and Construction Group, exceeded the subcontractor work percentage as defined in Section 00022.15.b of the Specification No. 2720, and therefore is non-responsive;
2. Award the referenced contract, for Item Nos. 1 through 10 of the proposal schedule, to Minco Construction in the amount of \$2,010,500 and:
 - a. Authorize a 20% contingency, not included in the contract amount, for a total authorization of \$2,412,600;
 - b. Authorize payment from the Construction Account; and
 - c. Establish the contract time for performance of the work at 270 calendar days from the Notice to Proceed;

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3. Authorize the Executive Director to execute and the Board Secretary to attest to this contract for and on behalf of the Board;
4. In accordance with City Charter 655 (g), delegate and authorize the Executive Director to adjust final bid quantities and accept the construction contract upon its completion; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background – This project consists of communication installations and improvements at several sites within San Pedro and the Terminal Island districts. Work includes, but is not limited to, trenching and backfilling; installation of pull boxes, termination boxes and junction boxes; installation, termination and splicing of fiber optic cables; and installation of underground conduit. Please see Transmittal No. 3 for an aerial site plan showing the limits of the project.

This project has been approved to receive up to \$2,200,000 in federal funding under the Fiscal Year 2008 California Port and Maritime Security Grant Program (CPMSGP). These funds must be spent by June 2012.

Construction Award Process - City of Los Angeles Charter Section 371, Subdivision A – Competitive Bidding sets forth the procedure staff followed to award this contract. For construction contracts such as this one, the City of Los Angeles Harbor Department (Harbor Department) publishes the Notice Inviting Bids in daily newspapers and trade publications circulated in the City of Los Angeles, as well as on the Port of Los Angeles website. The Harbor Department conducts a pre-bid conference and job walk to familiarize the prospective bidders with the jobsite and to answer questions related to the construction contract. Following submittal to the Harbor Department, the bids are publicly opened and the apparent lowest bidder is declared. Bid documents, Small Business Enterprise (SBE) participation, and other required documents are reviewed for compliance with Harbor Department and Federal funding requirements. Once all information is verified and if the lowest bidder is deemed responsive, recommendation for award of the construction contract is made. If the apparent lowest bidder is found non-responsive, the next lowest bidder is reviewed.

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The Notice Inviting Bids concerning Specification No. 2720 was advertised on November 2, 2010, on the Port of Los Angeles website, and in the Los Angeles Times, Los Angeles Watts Times, Dodge Construction "Green Sheet", Hoy, Metropolitan News Company, and Southside Journal.

As authorized by the Executive Director on October 20, 2010, the Chief Harbor Engineer received twelve (12) bids for the subject contract on January 13, 2011. The Analysis of Bids (Transmittal No. 1) lists the companies that submitted bids and their respective bid amounts. The bids received were opened and S.H.E. Engineering and Construction Group (S.H.E.), was declared the apparent lowest bidder. Review of their bid documents discovered that S.H.E.'s subcontracting work was 71.1 percent of the monetary value of the work. This exceeded the allowed subcontracting percentage of 50 percent listed in Section 00022 15.b of the Specification. After consultation with the City Attorney, staff deemed S.H.E.'s bid non-responsive.

A letter dated February 10, 2011, from the International Brotherhood of Electrical Workers (IBEW) Local 11 attorney to the Harbor Department (Transmittal No. 4) raised concerns regarding Minco Construction's qualifications and requested the Harbor Department to disqualify Minco Construction's bid. Staff, in consultation with the City Attorney's Office, has investigated this matter. Minco Construction was also asked to respond to the concerns raised in the IBEW's letter (Transmittal No. 5). Following is a summary of the results of staff's investigation.

Staff, in consultation with the City Attorney's Office, has reviewed the lawsuits indicated in Exhibits 7 thru 19 of IBEW's letter of February 10, 2011, and has concluded that these allegations do not provide sufficient basis to reject Minco Construction's bid. Staff has also reviewed the prevailing wage issues raised in IBEW's letter, and has found that although there have been prevailing wage violations assessed against Minco Construction, some are approximately nine years old, some others are inadvertent contractor error as identified by the Labor Compliance Coordinator for those projects (less than \$200), and the more recent violations have been settled for significantly less amounts than originally assessed. According to Minco Construction and based on staff investigations, staff is not aware of any pending prevailing wage violations against Minco Construction at this time.

Additionally, staff has conducted reference checks on recent past projects performed by Minco Construction for other agencies. In all cases, Minco Construction has successfully completed all the projects and five out of the six agencies contacted were satisfied with Minco Construction's performance. One agency indicated its concerns with the prevailing wage issue that has since been addressed.

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Minco Construction has indicated that they have performed more than 70 public works projects since 2005, and grown from 25 employees to 80 employees. Minco Construction's bonding capacity has increased from \$2,000,000/single and \$3,000,000/cumulative to \$25,000,000/single and \$50,000,000/cumulative.

Based on the above, staff has found that Minco Construction is the lowest responsive responsible bidder at \$2,010,500. Staff recommends addition of a 20% contingency based on a qualitative review of project specific risks, including schedule constraints and potential unforeseen conditions that may arise during construction, resulting in a total project authorization of \$2,412,600. Construction staff has verified Minco Construction's state license and project references. In conformance with Section 10.8.4 of Ordinance No. 143429, certification is hereby made that Minco Construction has executed and filed an Affirmative Action Plan with their bid. A notification letter has been sent to the City Office of Contract Compliance as required in the ordinance.

Minco Construction has provided the required documents regarding the Small Business Development Program. Minco Construction is a SBE and therefore, achieved an SBE participation level of 100% (Transmittal No. 2). The Harbor Department had set a minimum SBE participation level of 12% for this project.

ENVIRONMENTAL ASSESSMENT:

The proposed action is to install fiber optic cable and conduit within the areas of San Pedro and Terminal Island. All work will occur along Harbor Boulevard, the Berth 93 Cruise Terminal, the Vincent Thomas Bridge, and the Yusen Terminal. The proposed action involves the installation of conduit in San Pedro and Terminal Island. As such, the Director of Environmental Management has determined that the project is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (i) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed contract would commit the Harbor Department to expending \$400,000 during the current Fiscal Year 2010/2011 for the construction services discussed herein.

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It is anticipated that the funds for this contract will be expended as follows:

| | |
|------------------------|---------------------|
| Fiscal Year 2010/2011: | \$ 400,000 |
| Fiscal Year 2011/2012: | \$ 2,012,600 |
| <u>Total</u> | <u>\$ 2,412,600</u> |

Funds in the amount of \$400,000, for the current fiscal year, have been budgeted in Capital Improvement Program Budget, Account No. 54510, Center No.1179, and Program No. 640. Upon Board approval, funds for future fiscal years will be requested to be budgeted as part of the annual budget process.

Although Minco Construction is not obligated to perform any work under the contract in any fiscal year in which no appropriation for the contract has been made, the Contractor agrees to resume performance of the work required by the contract on the same terms and conditions for a period of 60 days after the end of the fiscal year if an appropriation is approved within that 60-day period. The Contractor is responsible for maintaining all insurance and bonds during this 60-day period. The time for performance shall be extended during this period until the appropriation is made; however, such extension of time is not compensable.

If, in any subsequent fiscal year, funds are not appropriated for work required by the contract, the contract shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

ECONOMIC BENEFITS:

Spending under this contract with Minco Construction will support approximately 16 direct, plus 14 secondary (indirect and induced), one-year equivalent jobs in the five-county region.

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CITY ATTORNEY:

The Office of the City Attorney reviewed and approved Specification No. 2720 as to form and legality.

TRANSMITTALS:

1. Analysis of Bids
2. Contractor and Subcontractor List
3. Aerial Site Map
4. IBEW Letter of February 10, 2011
5. Minco Construction's response letter dated February 22, 2011



for
SHAUN SHAHRESTANI
Chief Harbor Engineer
Construction Division

FIS Approval:  (initials)



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:


for

GERALDINE KNATZ, Ph.D.
Executive Director

CT:lh/lm
2720BO1
ADP NO. 80326-029