



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: APRIL 20, 2011

FROM: CONSTRUCTION DIVISION

**SUBJECT: RESOLUTION NO. _____ - AWARD OF CONSTRUCTION CONTRACT
CONTRACTOR: KDC, INC. DBA DYNALECTRIC
MISCELLANEOUS ELECTRICAL PROJECTS
SPECIFICATION NO. 2719**

SUMMARY:

This contract consists of electrical modifications, repairs, and improvements within three container terminals (Berths 214-215 Yusen Terminals Inc., Berth 304 APL Terminals, and Berths 401-405 APM Terminals) at the Port of Los Angeles (Port). At Berths 214-215, one additional Alternative Maritime Power (AMP) box will be constructed to accommodate specific vessels. At Berth 304, the existing switchgear conflicts with tenant's berthing operations and will be relocated. At Berths 401-405, the existing wiring inside the 120-foot high mast light poles have been damaged due to high winds and will be replaced. The lowest responsive and responsible bidder is KDC, Inc. dba Dynalectric (Dynalectric), located in Los Alamitos, CA 90270. The contract amount plus a 20% contingency is \$4,064,400, and the contract duration is 365 calendar days.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that in accordance with the City Charter Section 1022, work under the subject Contract can be performed more feasibly by an independent contractor rather than by City employees;
2. Authorize the Executive Director to execute and the Board Secretary to attest to this contract for and on behalf of the Board of Harbor Commissioners;
3. Award the above mentioned contract for Item Nos. 1 through 13 of the proposal schedule to Dynalectric in the amount of \$3,387,000; that a 20% contingency not included in the original contract amount be applied for a total authorization of \$4,064,400; and authorize payment from the City of Los Angeles Harbor Department Construction Account. The contract time for performance of the work will be 365 calendar days from the Notice to Proceed;

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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 electrical modifications, repairs, and improvements at three container terminals within the Port of Los Angeles in the San Pedro and the Terminal Island districts. Work includes, but is not limited to, selective site demolition; repair and improvements to high mast pole interior wiring, and floodlight re-aiming; excavation and construction of two new electrical substations, including trenching for backfilling; installation of chain link fences, gates and guard posts; site lighting; asphalt concrete paving; construction of concrete foundations; and installation of electrical switchgear, underground conduit, cables, and an Alternative Maritime Power (AMP) outlet, including retrofit work required to accommodate the AMP installation. Please see Transmittal No. 3 for an aerial site plan showing the various project locations and the accompanying maps for a close-up view of each job location.

This is a relatively large construction contract requiring specific experience and equipment to perform the work. This contract is also temporary in nature. As such, it is not feasible for the City to hire employees and purchase equipment to perform the work under this contract.

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 Program (SBEP) 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. 2719 was advertised on January 18, 2011, on the Port of Los Angeles website, and in the Daily Breeze, Chinese Daily News, Dodge Construction News "Green Sheet", Hoy, and Metropolitan News Company.

As authorized by the Executive Director on January 18, 2011, the Chief Harbor Engineer received 10 bids for the subject contract on February 24, 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 Dynalectric was declared the apparent lowest bidder.

Technion Contractors Inc. (TCI), the third lowest bidder, submitted a bid protest requesting that bid submissions from Dynalectric and Doty Brothers be declared as non-responsive. TCI requested that the contract should be awarded to them based on the following issues:

1. The two apparent lowest bidders per the bid results, Dynalectric and Doty Brothers, did not include the subcontractor/supplier/manufacturer in the bid form who will provide and perform the work per Bid Item No. 6 - Start up Commissioning and Training per Section 26 08 02 of the specifications, and retrofitting the existing Square D switchgears.
2. The related scope of work is approximately 15% of the total scope and bid proposal. The contract requires listing subcontractors if the value of their work is more than ½ of 1% of the contractors' combined total bid.

Staff, in consultation with the Office of the City Attorney, has reviewed the protest, and concluded that it has no merit. The start up, commissioning, and training is required by the Specification to be performed by the equipment manufacturer (to protect the manufacturer's warranty by having this work performed by the manufacturer's own personnel). Equipment providers and material-men are not required to be listed in bids. Therefore, bids that do not list provider of equipment and start up, commissioning, and training professional services are still responsive to the request for bids.

Based on reference checks by staff on recent past projects performed by Dynalectric for other agencies, staff has found that Dynalectric is the lowest responsive responsible bidder at \$3,387,000. 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 (utility conflicts, working around tenant's operations impacting the work progress and/or requiring overtime work, etc.), and design and scope changes to accommodate field conditions and/or tenant's

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needs, resulting in a total project authorization of \$4,064,400. Construction staff has verified Dynalectric's state license and project references. In conformance with Section 10.8.4 of Ordinance No. 143429, certification is hereby made that Dynalectric 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.

Dynalectric has provided the required documents regarding the SBEP. Dynalectric is not a Small Business Enterprise (SBE), but their three subcontractors combined to achieve a SBE participation level of 28.2% (Transmittal No. 2). The Harbor Department had set a minimum SBE participation level of 11% for this project.

This contract is consistent with State of California Prevailing Wage provisions.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a contract award with Dynalectric for electrical modifications, repairs, and improvements into three container terminals (Berths 214-215, Berth 304, and Berths 401-405). The projects at the three terminals have been previously assessed and were determined exempt from the requirements of the California Environmental Quality Act (CEQA) as follows:

- a. Under ADP No. 040806-142, the Director of Environmental Management has previously determined that the Berths 214-215 Alternative Maritime Power (AMP) Retrofit project is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III, Class 3(4) of the Los Angeles City CEQA Guidelines.
- b. Under ADP No. 071018-201, the Director of Environmental Management has previously determined that the Berth 304 Substation No. 2 Reconstruction project is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1 (24) of the Los Angeles City CEQA Guidelines.
- c. Under ADP No. 091009-121, the Director of Environmental Management has previously determined that the Berths 401-405 Electrical Modifications project is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1 (2) of the Los Angeles City CEQA Guidelines.

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The Director of Environmental Management has determined that the proposed action involving a contract award for which the underlying activities have been previously assessed is considered exempt from CEQA in accordance with Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

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

FY 2011/2012:	\$ 3,387,000
FY 2012/2013:	\$ 677,400
Total	\$ 4,064,400

Upon Board approval, funds for future fiscal years will be requested to be budgeted as part of the annual budget process. The Engineer's construction cost estimate is \$3,518,150.

Although Dynalectric 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 will support approximately 27 direct plus 23 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. 2719 as to form and legality on February 4, 2011.

TRANSMITTALS:

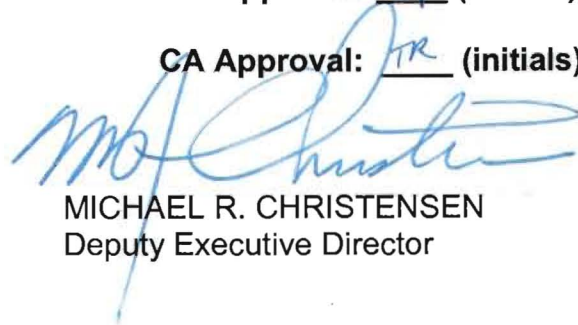
1. Analysis of Bids
2. Contractor and Subcontractor List
3. Aerial Site Map and Project Site Maps

FIS Approval: WP (initials)

CA Approval: JK (initials)



SHAUN SHAHRESTANI
Chief Harbor Engineer
Construction Division



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

PTN:lh
2719B01

ADP No. 040806-142 [Berths 214-215 Alternative Maritime Power (AMP) Retrofit]
ADP No. 071018-201 [Berth 304 Substation No. 2 Reconstruction]
ADP No. 091009-121 [Berths 401-405 Electrical Modifications]