

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 13, 2018

TO: Mayor and Town Council

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Accept Withdrawal of the Construction Management At Risk (CMAR) Bids and Contract to Whiting-Turner Contracting Company for the Town-Wide Utility Undergrounding Phase 2 South

DATE: August 29, 2018

STAFF RECOMMENDATION

Town staff recommends that Town Council accept the withdrawal of the Construction Manager at Risk (CMAR) bids and contract with Whiting-Turner Contracting Company for the Town-Wide Utility Undergrounding Phase 2 South.

In addition, staff recommends that Town Council terminate the contract with Whiting-Turner Contracting Company for the CMAR contract and resolicit services proposals for a combined Town-Wide Undergrounding Phase 2 and 3 South.

GENERAL INFORMATION

Town Council approved the selection of Whiting-Turner Contracting Company (WT) as the CMAR for the Town-Wide Utility Undergrounding Phase 2 South (Phase 2 South) at the February 13, 2018 meeting. Phase 2 South of the undergrounding is from Sloan's Curve north to Via Vizcaya. The scope entails undergrounding of all overhead utilities, Comcast, AT&T, and Florida Power and Light (FPL). Phase 2 was scheduled to begin construction in October 2018. The withdrawal of the GMP will delay this phase of the project.

WT solicited bids for the work defined in the Construction Documents between July 1, 2018 and August 10, 2018, receiving bids from three (3) bidders. WT submitted a draft Guaranteed Maximum Price (GMP) to Town staff on August 22, 2018. Town staff worked with Kimley-Horn and Associates to review the draft GMP. The Purchasing Division, with the assistance from appropriate technical staff, began negotiations regarding the GMP. After a series of negotiation sessions, a final GMP for this project was submitted by WT on August 24, 2018. At that time, the GMP was more than \$2 million over the adjusted master plan engineer's estimate. WT was asked to revise the GMP to reduce the total price. WT submitted a revised GMP on August 28, 2018. WT was unable to successfully reduce the total GMP to a fee that Town staff was comfortable recommending for approval. At the conclusion of this final negotiations WT agreed to withdraw the bids for Phase 2 South. Additionally, it is important to note that WT upwardly adjusted line item costs to account for perceived risks they identified by working with the apparent low bidders for the various bid packages that were advertised. Staff is recommending that we accept the withdrawal of the GMP and discontinue the contract for Phase 2 South with WT due to WT.

As a result of withdrawal of the GMP, staff is recommending several actions as follows:

1. Purchasing and Public Works will conduct an industry workshop for Construction Manager at Risk firms in an effort to expand the pool of applicants.
2. Immediately after the workshop, issue a Request for Qualifications for CMAR for Phases 2 South and 3 South with the option to do additional phases.
3. Combine Phase 2 South and 3 South into one larger phase - this will keep the overall project on schedule and will test the premise that a larger phase will increase the number of bidders who ultimately submit a bid proposal.

Staff recognizes that there is no guarantee that the cost for Phase 2 South will be less than what was proposed by WT in the GMP that is recommended for withdrawal. Staff also acknowledges that prices increased beyond the inflation rate included in the Master Plan and there is no guarantee prices will come down in the future. Staff recommends that the above actions be taken in an effort to ameliorate these increases, attempting to manage the cost of the comprehensive undergrounding program.

FUNDING/FISCAL IMPACT

At this time there is no funding impacts, but we do not know what the delay in Phase 2 South construction schedule impacts to project cost will be.

PURCHASING REVIEW

The Purchasing Division served as the lead during negotiation sessions. The Purchasing Division has reviewed this item and supports the above recommendations.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed and approved for legal form and sufficiency.

cc: Jane Le Clainche, Director of Finance
Eric Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Dean Mealy, Purchasing Manager
Steven Stern, Undergrounding Project Manager