

TO: Dean Mealy, Director of Purchasing

VIA: H. Paul Brazil, P.E., Director of Public Works *HPB*

FROM: Patricia Strayer, P.E., Town Engineer *PKS*

RE: Review and Approval of Phase 5 North and South Townwide Overhead to Utility Undergrounding Construction Manager Pre-Construction Services Proposal

DATE: September 30, 2020

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Phase 5 North and South were awarded funding through the Hazard Mitigation Grant Program by the Florida Division of Emergency Management (FDEM) and the Federal Emergency Management Agency (FEMA) in the amount of approximately \$8.5 million. This grant is based on a percentage of the overall construction cost and is reimbursable based on following the Federal Requirements for construction contracts. Working with FDEM Town staff confirmed that the standard Construction Management At Risk contracting that has been used for all previous phases would not meet the required contracting procedures to receive the grant reimbursements. Therefore, the Town advertised for a Construction Manager for Phase 5 North and South which included the expertise of a FEMA Grants Coordinator. The Town received one response to this solicitation. After meeting with the selection committee and the Purchasing staff Burkhardt Construction, Inc. was recommended for award. Subsequently, a scoping meeting was held between Town staff and Burkhardt Construction, Inc.

The RFQ was for services that begin prior to and in preparation of construction documents and extend through the construction of Phase 5. During the initial scoping meeting staff and Burkhardt agreed to break the scope into two separate phases: Pre-construction services and Construction Management Services. The Pre-construction Services will assist the Town up to and through the bidding process to ensure that the project is bid consistent with FDEM and FEMA requirements along with the best construction management practices. On September 22 Burkhardt submitted a proposal for Pre-construction Services. Subsequently, a meeting to finalize negotiations took place September 25. Per staff comments and discussions during the negotiations meeting, Burkhardt submitted a revised proposal September 30.

I have reviewed the attached proposals based on the following criteria:

1. Are the rates consistent with past pre-construction services rates and are they reasonable?
2. Is the overall budgeted hours and cost consistent with the scope of the RFQ and meet the needs of the Town?

The Burkhardt rates are consistent with previous Pre-Construction Services proposal for previous phases. The LaConte Engineering is a subconsultant to Burkhardt providing the FEMA grant expertise. While we do not have previous rates for LaConte, the rates were deemed to be reasonable when compared to comparable engineering rates the Town has paid. The scope provided in the proposal is consistent with what was outlined in the RFQ and Town staff feels comfortable that the scope will meet the needs to ensure the construction documents meet the FDEM and FEMA requirements. While the level of effort proposed is not similar to previous work the Town has done due to the nature of the FEMA grant, the justification for the level of effort was clearly documented and I feel the level of work is justified. It is important to take into consideration that this contract is strictly time and materials, therefore, if the hours are not used the funds are not used. This provides an additional level of comfort with the level of effort provided.

My review of the attached proposals finds that they meet the above mentioned criteria. I recommend approval of the proposals.



Vincent G. Burkhardt  
President

September 22, 2020; Rev. 9/28/2020

Town of Palm Beach  
Public Works Department  
Attn: Mr. Dean Mealy, Purchasing Manager  
951 Old Okeechobee Road, Ste. "A"  
West Palm Beach, FL 33401

**RE: Phase 5 – North / South Townwide Overhead Utility Undergrounding  
Construction Manager Pre-construction Services Proposal**

Dear Mr. Mealy:

Burkhardt Construction, Inc. (BCI), acting as Construction Manager (CM) and assisted by LaConte Engineering is pleased to provide this proposal to the Town of Palm Beach (Owner) for Pre-construction Services for Phase 5 – North / South of the Townwide Overhead Utility Undergrounding in the Town of Palm Beach, Palm Beach County, Florida. This Phase Five, North and South project is approved for funding through the Hazard Mitigation Grant Program (HMGP) DR-4337-278-R, as approved by the Florida Division of Emergency Management (FDEM) and the Federal Emergency Management Agency (FEMA).

The HMGP project is to bury overhead utility infrastructure, consisting of electrical, telephone, and cable communications in the north area of town that consists of properties between Country Club Road south to Southland Road and in the south area of town that consists of properties between South Lake Drive and Hibiscus Avenue, from Peruvian Avenue to Royal Palm Way, and the properties between the Intracoastal Waterway and the Atlantic Ocean, from Royal Palm Way to Seaspray Avenue, in the Town of Palm Beach, Florida, 33480.

The HMGP project scope of work proposes to remove existing utilities poles and overhead lines and place them underground. The TOPB is predominantly served with electric and communications services through a network of overhead wires mounted to an estimated 2,000 wood or concrete poles. There are approximately 37 pole-miles of overhead infrastructure within the Town limits.

The removal of utility poles and overhead lines provides increased survivability for windstorms and improved safety benefits by reducing the potential of hazardous conditions occurring in the event of natural disasters. Severe wind events can cause poles and/or overhead lines to fall and impact property and possibly cause live electric lines to be exposed. Downed electric lines and vegetation overgrowth onto electric lines pose a potential threat of property fire and injury due to electric shock and can restrict ingress and egress of residents and emergency services.

The project shall provide protection against 170 MPH winds or the wind speed protection and impact requirements indicated by the effective Florida Building Code or any other applicable code at the time permits are issued. Activities shall be in strict compliance with Federal, State and Local applicable Rules and Regulations.

The work designed and to be constructed is generally described as traffic control, demolition, grading, earthwork, curb reconstruction, undergrounding of FPL, ATT and Comcast, private service undergrounding, property restoration, landscaping and irrigation along the aforementioned corridor. As the CM, BCI shall function as an agent of the TOPB, shall be paid a fixed fee for services to administer and complete the project per the scope of work approved in the HMGP. Pre-construction services will include:

- Pre-construction Progress Meetings;
- Pre-construction and Construction Phase Scheduling;
- Plan/Specification Review/Edit along with Constructability Review including all FDEM/FEMA language necessary for compliance with the HMGP;
- The development of Final Construction Management Plan for the construction of Phase 5 North and South based on the design and specifications.

Pre-construction services shall be rendered and invoiced in the following format:

**TASK I****PRE-CONSTRUCTION PROGRESS MEETINGS**

The scope includes the CM/LaConte to participate in team progress meetings, attended by the CM, Design Professionals, Owner and others as requested. It is anticipated that these meetings will be held at the Owner's office, Design team's office or location as designated by the Owner.

Estimated 6 meetings required.

BCI/LaConte will provide record of public outreach to FDEM/FEMA to demonstrate compliance with the HMGP. Public meetings and presentations shall be as directed by the Owner and may be requested at 90% or 100% plan completion. BCI/LaConte will assist the Owner in facilitating a meeting with the residents and public to discuss the project. The presentation shall include introduction of the project team, who & how to contact team individuals, discussion of the project sequences, project phasing / schedule, pedestrian/traveling public access during construction and additional details as requested by the Owner.

2 meetings anticipated

**TASK I – TIME & MATERIALS NOT TO EXCEED****\$18,660.00**

**TASK II****PRE-CONSTRUCTION AND CONSTRUCTION PHASE SCHEDULING**

Based on the provided information, CM will develop a master Pre-Construction phase bar chart schedule incorporating design development, permitting, plan review, Final Construction Management proposal preparation, submittal review & approval, long lead item identification & procurement, informational meetings with the adjacent property owners along with construction phase sequencing. LaConte Engineering will provide guidance regarding the HMGP grant procedures and tasks to be incorporated into BCI's development of a master Pre-Construction and Construction Phase schedule.

**TASK II – TIME & MATERIALS NOT TO EXCEED****\$13,840.00****TASK III****PLAN REVIEW/CONSTRUCTABILITY REVIEW**

This scope includes review of the plans as provided by the Design Team. The CM will provide written constructability analyses of the Project, including items to be addressed with the Town Consultants, accessibility, construction methods, assembly, installation, materials handling, expandability, phasing and other construction phase related activities. The review shall report to the Owner any design criteria which may present considerable constructability challenges. This scope also will assist the Design Team in any plan modifications and re-design. LaConte Engineering will review the plans as provided by the Design Team, regarding compliance with the HMGP grant scope, and report any design concerns. LaConte Engineering will also review plan modifications and re-design resulting from the compliance or constructability review.

This scope includes a cost estimate at 60% plan development.

**TASK III – TIME & MATERIALS NOT TO EXCEED****\$18,800.00****TASK IV****FINAL CONSTRUCTION MANAGEMENT PLAN - 90% Plans/Specifications**

BCI will prepare and submit a Final Construction Management Plan proposal to the Owner after completion of the pre-construction services phase of the project. The proposal will be prepared in accordance with the guidelines and delivered in the format specified by the Owner. LaConte Engineering will review the draft proposal to ensure it is in accordance with the HMGP guidelines and provide recommendations for issues of concern.

LaConte Engineering will support the Bidding / Procurement process in review of the Owner's standard documentation and assist in the preparation of additional documentation as may be needed to comply with the HMGP grant requirements. LaConte Engineering will also coordinate with FDEM and FEMA as needed for the following:

- Prepare a quantity survey and schedule of values for purpose of bidding each specific trade
- Provide review and assistance in the development of bid documents that are 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" compliant.
- Provide review and assistance in the competitive bid of the project to qualified Construction Contractor(s), according to the policies and procedures outlined in the TOPB purchasing requirements and the FEMA Grant reimbursement requirements.
- Provide guidance and FDEM coordination in the TOPB procurement process such that:
  - We ensure that any procurement involving funds authorized by the HMGP grant agreement complies with all applicable federal and state laws and regulations, to include 2 C.F.R. 200.318 through 200.326 as well as Appendix II to 2 C.F.R. Part 200 (entitled "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards").
  - As required by 2 C.F.R. 200.318(i), we will support the TOPB to "maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price."
  - Except for procurements by micro-purchases pursuant to 2 C.F.R. 200.320(a) or procurements by small purchase procedures pursuant to 2 C.F.R. 200.320(b), if the TOPB chooses to subcontract any of the work required under the HMGP grant agreement, then we will forward a copy of any solicitation (whether competitive or non-competitive) to FDEM at least fifteen (15) days prior to the publication or communication of the solicitation. The solicitation shall be reviewed by FDEM and comments, if any, will be provided within three (3) business days. Consistent with 2 C.F.R. 200.324, FDEM will review the solicitation for compliance with the procurement standards outlined in 2 C.F.R. 200.318 through 200.326 as well as Appendix II to 2 C.F.R. Part 200. Consistent with 2 C.F.R. 200.318(k), FDEM will not substitute its judgment for that of the TOPB. While the TOPB does not need the approval of FDEM to publish a competitive solicitation, this review may allow FDEM to identify deficiencies in the vendor requirements or in the commodity or service specifications. FDEM's review and comments shall not constitute an approval of the solicitation. Regardless of the FDEM's review, the TOPB remains bound by all applicable laws, regulations, and the HMGP grant agreement terms. If during its review FDEM identifies any deficiencies, then FDEM shall communicate those deficiencies as quickly as possible within the three (3) business day window outlined above. If a competitive solicitation is published after receiving comments from FDEM that the solicitation is deficient, then FDEM may:
    - Terminate the HMGP grant agreement in accordance with the provisions outlined in paragraph (17) above; and,
    - Refuse to reimburse the TOPB for any costs associated with that solicitation.
  - Except for procurements by micro-purchases pursuant to 2 C.F.R. 200.320(a) or procurements by small purchase procedures pursuant to 2 C.F.R. 200.320(b), if the TOPB chooses to subcontract any of the work required under the HMGP grant agreement, then we will forward FDEM a copy of any contemplated

contract prior to contract execution. FDEM shall review the unexecuted contract and provide comments, if any, within three (3) business days. Consistent with 2 C.F.R. 200.324, FDEM will review the unexecuted contract for compliance with the procurement standards outlined in 2 C.F.R. 200.318 through 200.326 as well as Appendix II to 2 C.F.R. Part 200. Consistent with 2 C.F.R. 200.318(k), FDEM will not substitute its judgment for that of the TOPB. While the TOPB does not need FDEM approval to execute a subcontract, this review may allow FDEM to identify deficiencies in the terms and conditions of the subcontract as well as deficiencies in the procurement process that led to the subcontract. FDEM's review and comments shall not constitute an approval of the subcontract. Regardless of FDEM's review, the TOPB remains bound by all applicable laws, regulations, and the HMGP grant agreement terms. If during its review FDEM identifies any deficiencies, then FDEM shall communicate those deficiencies as quickly as possible within the three (3) business day window outlined above. If a subcontract is executed after receiving communication from FDEM that the subcontract is non-compliant, then FDEM may:

- Terminate the HMGP grant agreement in accordance with the provisions outlined in paragraph (17) above; and,
  - Refuse to reimburse the TOPB for any costs associated with that subcontract.
- We will review the subcontract for the Town to ensure that (i) the subcontractor is bound by the terms of the HMGP grant agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold FDEM and TOPB harmless against all claims of whatever nature arising out of the subcontractor's performance of work under the HMGP grant agreement, to the extent allowed and required by law.
  - As required by 2 C.F.R. 200.318(c)(1), We will advise the TOPB to "maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts."
  - As required by 2 C.F.R. 200.319(a), We will advise the TOPB to conduct any procurement under the HMGP grant agreement "in a manner providing full and open competition." Accordingly, we will ensure that the TOPB does not:
    - Place unreasonable requirements on firms for them to qualify to do business.
    - Require unnecessary experience or excessive bonding.
    - Use noncompetitive pricing practices between firms or between affiliated companies.
    - Execute noncompetitive contracts to consultants that are on retainer contracts.
    - Authorize, condone, or ignore organizational conflicts of interest.
    - Specify only a brand name product without allowing vendors to offer an equivalent.
    - Specify a brand name product instead of describing the performance, specifications, or other relevant requirements that pertain to the commodity or service solicited by the procurement.
    - Engage in any arbitrary action during the procurement process; or,

- Allow a vendor to bid on a contract if that bidder was involved with developing or drafting the specifications, requirements, statement of work, invitation to bid, or request for proposals.
- "Except in those cases where applicable Federal statutes expressly mandate or encourage" otherwise as required by 2 C.F.R. 200.319(b), we cannot use a geographic preference when procuring commodities or services under the HMGP grant agreement.
- We will review and advise to assure that any procurement involving invitations to bid (i.e. sealed bids) in accordance with 2 C.F.R. 200.320(c) as well as section 287.057(1)(a), Florida Statutes.
- We will review and advise to assure that any procurement involving requests for proposals (i.e. competitive proposals) in accordance with 2 C.F.R. 200.320(d) as well as section 287.057(1)(b), Florida Statutes.
- For each subcontract, we will provide a written statement to FDEM as to whether that subcontractor is a minority business enterprise, as defined in Section 288.703, Florida Statutes. Additionally, the TOPB shall comply with the requirements of 2 C.F.R. 200.321 ("Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms").

LaConte Engineering will also specifically coordinate with FDEM and FEMA as needed to comply with the HMGP grant requirements and maintain reimbursement eligibility on the following:

- Review, revise, and forward the certifications regarding debarment, suspension, ineligibility, and voluntary exclusion to FDEM, and assist in getting them completed by bidders.
- Review and recommend revisions, as needed, and submit bid tabulations to FDEM.
- Review and provide guidance in the TOPB's contractor selection process, including coordination and meetings, as needed.
- Provide recommendations and forward the notice to proceed and purchase order(s) to FDEM. Provide consultation as needed and submit signed contracts to FDEM for HMGP grant reimbursement record.
- Review and recommendations on costs and increases from the HMGP grant agreement and coordinate with FDEM and FEMA.
- Provide consultation and coordination with FDEM and FEMA on eligibility for possible additional grant funding/increases.
- Attend meetings, participate in phone calls, and email correspondence with FDEM and FEMA to address the TOPB requirements and responsibilities as specified in the HMGP grant agreement and promote project cost reimbursements.

The Final Construction Management proposal will be submitted in a bound format which will include, but not be limited to the following:

- Cover sheet including project title and Owner project number
- Summary sheet of the proposal including subcontractor bids, allowances, contingencies, bonds, insurance, conditions and exclusions. This sheet will also contain contract time, construction start date, date of substantial completion, date of final completion, critical path schedule and proposed work hours
- Schedule of values
- Detailed summary of general conditions
- Allowance list statement amounts and uses
- Proposed subcontractor list
- Subcontractor bid sheets
- Plans, drawings and specifications specific to the proposal
- All supporting documents referenced above from LaConte Engineering

CM's scope of services shall be detailed and subject to a final determination of the project scope and size and careful negotiation and coordination between BCI and the Owner.

**TASK IV – TIME & MATERIALS NOT TO EXCEED**

**\$66,900.00**

**TOTAL PRECONSTRUCTION SERVICES FEE ALL TASKS I THROUGH IV:**

**\$118,200.00**



**BURKHARDT  
CONSTRUCTION, INC.**

All tasks and fees include supplies, presentation materials, equipment, personnel, travel and related costs associated with performing the services described. Acceptance, by the Owner, of a mutually acceptable Management Plan Proposal shall conclude preconstruction services.

We have attached our current hourly rates for your use should additional pre-construction services be requested.

Thank you for the opportunity to submit this pre-construction services proposal. If you have any questions on this proposal, please contact us at (561) 659-1400.

Submitted By:  
Construction Manager

**Burkhardt Construction, Inc.**

Marc R. Kleisley      Title: Vice President

Accepted by:  
Owner

**Town of Palm Beach**

By: \_\_\_\_\_  
Printed Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Upon your acceptance of this letter agreement Burkhardt Construction, Inc. shall begin work immediately. Please return one original for our files.

Hourly Rates For Additional Requested  
Preconstruction Services Rates

<u>Name</u>	<u>Position</u>	<u>Rate</u>
Vincent G. Burkhardt	President	\$300.00
Sharon H. Burkhardt	Secretary/C.P.A.	\$200.00
Dennis E. Haynes	Vice President	\$200.00
Marc R. Kleisley	Vice President/Proj. Principal	\$200.00
Anthony Sabatino	Senior Project Manager	\$150.00
Bill Zammit	Snr. Vertical Project Manager	\$150.00
Adam Rossmell	Project Manager	\$120.00
CJ Rhody	Project Manager	\$120.00
Brandon Rhodes	Project Manager	\$120.00
Kevin Brennen	Asst. Project Manager	\$ 90.00
Ruben Almazan	Const. Field Mgr.	\$100.00
Karl T. Kaminski	Utilities Const. Field Mgr.	\$100.00
Michael Parsons	Utilities Const. Field Mgr.	\$100.00
Lee VanPraag	Utilities Const. Field Mgr.	\$100.00
Hemant Tank	Estimator/Cost Engineer	\$ 75.00
Diane Decker	Resident/Merchant Outreach	\$ 75.00
Sarah B. Hoadley	Accounting Manager/M.B.A.	\$ 90.00
Katy Pantaleon	Accounting	\$ 75.00
Brittany Darville	Admin. Ass't/Clerical	\$ 50.00
<b>LaConte Engineering</b>		
	Consultant / Program Manager	\$150.00
	Project Manager	\$125.00
	Project Specialist	\$110.00
	Administrative Assistant	\$ 55.00

Hourly rates include all necessary supplies, transportation, communication, overhead and profit.