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VIA ELECTRONIC CORRESPONDENCE

November 4, 2022

CCN: 64574
File No: 8.DC.20.52

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Tom Mariani
Washington, D.C. 20044-7611
RE: DOJ No. 90-5-1-1-4022/1
Tom.Mariani@usdoj.gov

Chief, Clean Water Enforcement Branch
Water Protection Division
Attn: Brad Ammons
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Ammons.Brad@epa.gov

Rachael Amy Kamons
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
Rachael.Kamons@usdoj.gov

Florida Department of Environmental Protection
Southeast District – West Palm Beach
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
Attn: Compliance/Enforcement Section
Jason.Andreotta@dep.state.fl.us

**RE: Consent Decree (Case: No. 1:12-cv-24400-FAM),
Reference DOJ Case No. 90-5-1-1-4022/1,
Section XI, Paragraph 52 – Delay,
Section XVII, Paragraph 77 – Notices,
Force Majeure Notification for Consent Decree Appendix D-2, Capital Improvement
Projects CD 3.3 Oxygenation Trains, and CD 3.4 Oxygen Production at the NDWWTP**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on October 21, 2022, Miami-Dade County (County) electronically notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a Force Majeure Delay impacting CD Appendix D Capital Improvement Projects (CIP) CD 3.3 Oxygenation Trains and CD 3.4 Oxygen Production at the North District Wastewater Treatment Plant (NDWWTP).

In accordance with Section XI, Paragraph 52, this letter shall provide the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the

delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; County's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; a statement as to whether, in the opinion of the County, such event may cause or contribute to an endangerment to public health or the environment, and documentation to support the force majeure claim.

Background

The Consent Decree project description for CD 3.3 Oxygenation Trains entails the rehabilitation of aeration tanks and the ancillary structural, mechanical and electrical elements; and CD 3.4 Oxygen Production includes the rehabilitation of the oxygen production plant including structural, mechanical and electrical systems. Both projects are located at the NDWWTP and were programmed to be implemented under a single contract using the Design-Build delivery method. The project, as advertised for bid, included the following: construction of two (2) new oxygen facilities; construction of three (3) new electrical buildings, each serving the oxygen production facility; and the structural rehabilitation of the six (6) existing oxygen treatment trains.

Explanation and description of the reasons for the delay

CD 3.3 and 3.4 projects experienced a force majeure delay during the County's competitive procurement process. The two (2) responsive bidders elected to formally withdraw their bids during the final stages of contract negotiations. The originally quoted prices did not reasonably account for the current market volatility, exorbitant increases in material and labor costs, and shortage/scarcity of products due to global market disruptions. Both opted to decline further negotiations with the County and formally withdrew their bids from consideration. This action by the contractors forced the County to terminate the procurement on October 19, 2022 after months of progressive discussions.

Refer to the Attachment which is a Memorandum issued by the Miami-Dade Water and Sewer Department's Director describing the procurement process and the events that led to the final bid rejection for the North District Wastewater Treatment Plant Oxygen Trains and Production Facility-Project No. DB20-WASD-02.

Anticipated duration of the delay

The County must reassess the bid package before re-advertising the project. The County will provide an update on the duration of the anticipated Force Majeure delays in Spring of 2023.

Action taken or to be taken to prevent or minimize the delay

The County actively engaged with bidders and exhausted every legal opportunity to negotiate the terms and conditions of the agreement in accordance with the County's procurement practices to minimize the extent of the delay. Several options were considered including phasing critical elements/disciplines of the work for construction by WASD in-house forces and/or other specialty contractors; County procuring certain long lead equipment (electrical equipment/stainless steel

and copper based products) with associated warranties for future construction/installation by others; and working with the local municipal Building Department to acquire building permits within 9 months.

Schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay

The County will take the following steps to mitigate the delay or the effect of the delay:

1. Conduct outreach/trade workshops with construction industry so all are aware of the eminent project and prepared to submit timely bids when advertised. Outreach will promote fast-tracking of procurement.
2. Make provisions for accelerated work, extended work hours, and incentives for early completion of the construction work.

Rational for attributing such delay to a force majeure event

As defined in CD Section XI, Paragraph 51, a force majeure is defined as any event arising from causes beyond the control of Miami-Dade, of any entity controlled by Miami-Dade, or of Miami-Dade's consultants and contractors that delays or prevents the performance of any obligation under this Consent Decree despite Miami-Dade's best efforts to fulfill the obligation. The requirement that Miami-Dade exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible.

The late-stage withdrawal of bids by two (2) responsive bidders due to market volatility, exorbitant construction price increases, and labor inflation over the course of one (1) year rendered them both unable to construct the project at the quoted price. The actions by the contractors were beyond the control of the County, could not have been reasonably anticipated, and occurred at a time where there was a confluence of market events which contributed to global disruptions. The County therefore attributes these events to Force Majeure.

Cause or contribution to an endangerment to public health, welfare, or the environment

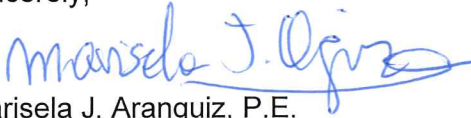
The NDWWTP oxygen plant, oxygen tanks, and ancillary equipment is functional, and plant operations can be safely maintained without any risk of overflow, loss of treatment capacity, or endangerment to the public. The delays in implementing CD 3.3 and CD 3.4, are mitigated through on-going service and equipment repair contracts of the existing equipment. There is no indication that the delays to CD 3.3 and CD 3.4 present an immediate endangerment to public health, welfare, or the environment.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or

persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Should you have any questions regarding this matter, please call me at (786) 552-8894.

Sincerely,



Marisela J. Aranguiz, P.E.
Deputy Director
Miami-Dade Water and Sewer Department

Attachments: Miami-Dade WASD Memorandum to Request the Rejection of all Proposals for Design-Build Services for the Construction of the North District Wastewater Treatment Plant Oxygen Trains and Production Facility-Project No. DB20-WASD-02

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Madame Mayor Daniella Levine-Cava
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Paul Schwartz
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Memorandum



Date:

To: Honorable Daniella Levine Cava
County Mayor

From: Roy E. Coley, Director
Miami Dade Water and Sewer Department

A handwritten signature in blue ink, appearing to read "Roy E. Coley".

Subject: Request to Reject all Proposals for Design-Build Services for the Construction of the North District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility - Project No. DB20-WASD-02

EXECUTIVE SUMMARY:

The purpose of this item is to gain approval to Reject All Proposals for Project No. DB20-WASD-02 for design-build services for the construction of the North District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility Consent Decree Projects 3.03 and 3.04. The reason for the rejection of all proposals is because the Negotiation Committee was unable to successfully complete negotiations with Kiewit Water Facilities Florida Co., or PCL Construction, Inc. both design-builders who submitted a price proposal. But due to construction price increases both design-builders were unable move forward with their submitted price proposal.

RECOMMENDATION:

This Request to Reject all Proposals for Design-Build Services for the Construction of the North District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility ("Project") is recommended for approval pursuant to the Miami-Dade Water and Sewer Department's (WASD) Consent Decree and Capital Improvement Programs Acceleration Ordinance Section 2-8.2.12 of the Miami-Dade County Code, Chapter 287.055, Florida Statutes, and Administrative Order 3-39. This item was prepared by the Miami-Dade Water and Sewer Department (WASD).

REASON FOR REJECTION:

The County was unable to reach a satisfactory agreement with either of the two design-builders that submitted a price proposal (Kiewit Water Facilities Florida Co., and PCL Construction, Inc.) Both design-builders requested an increase to their bid price proposals in order to move forward with negotiations. Because of the evaluation process as advertised in the Request for Design-Build Services and County regulations, the Negotiation Committee was unable to recommend a higher bid price than originally submitted by either design-builder. Therefore, it is in the best interest of the County to reject all proposals and re-advertise the Project in the near future.

On October 22, 2020, a Request for Design-Build Services (RDBS) was issued under full and open competition. On December 1, 2020, the Internal Services Department (ISD) received two (2) proposals, through the online portal BidSync, in response to this solicitation from the following design-builders: 1) Kiewit Water Facilities Florida Co., and 2) PCL Construction, Inc. See attached as Exhibit "A" "List of Respondents". Since less than three (3) proposals were received, the ISD Architecture & Engineering (A&E) unit conducted an analysis of market availability which was approved by the ISD Sr. A&E Consultant Selection Coordinator on December 17, 2020. The analysis recommended that the proposals received should be considered and evaluated through the A&E process. See attached Exhibit "B" "Analysis of Market Availability."

RECEIVED BY CLERK
Circuit & County Courts
Miami-Dade County, Florida
FILED FOR RECORD
4:08:05 PM, 10/19/2022
CLERK OF THE BOARD

On March 4, 2021, the Competitive Selection Committee (CSC) held the “Step 1 Evaluation of Qualifications” meeting for this Project and reviewed and ranked the qualifications of the two (2) proposals. The CSC voted to short-list both Design-Builders to submit a technical and price proposal, as required by the RDBS, for “Step 2 Technical and Price Proposal” evaluation. See Exhibit “C” “Step 1 Tabulation Sheet”. On March 8, 2021, the Design Criteria Package (DCP) was made available to the shortlisted design-builders.

	Firm Local Preference (LP)	Total Qualitative Points	Qualitative Rank	Final Ranking
1	Kiewit Water Facilities Florida Co. (LP)	438	1	1
2	PCL Construction, Inc. (LP)	419	2	2

On June 23, 2021, ISD received two (2) technical and price proposals through the online portal BidSync. During the Step 2 evaluation meeting held on July 26, 2021, the CSC evaluated both proposals and ranked them as follows. See attached Exhibit “D” “Step 2 Tabulation Sheet.” The CSC motioned to recommend in the order of ranking the following design-builders for negotiations:

	Firm Local Preference (LP)	Total Qualitative Points	Alternate or Base Price Proposal	Adjusted Bid	Final Ranking
1	Kiewit Water Facilities Florida Co. (LP)	457	\$110,670,000.00	242,166	1
2	PCL Construction, Inc. (LP)	432	\$105,011,225.00	243,082	2

The Negotiation Committee was approved by the County Mayor’s designee on October 25, 2021. See attached Exhibit “E.”

On March 4, 2022, the Negotiation Committee held the first of six (6) negotiations meetings with Kiewit Water Facilities Florida Co. (Kiewit). On June 28, 2022, the Negotiation Committee concluded and terminated negotiations with Kiewit because of an impasse and motioned to begin negotiations with PCL.

On July 19, 2022, the Negotiation Committee held the first and only negotiation meeting with PCL construction, Inc. (PCL). On August 10, 2022, PCL informed ISD that due price escalation they were no longer able to pursue the project.

SCOPE:

The Design-Builder shall provide all resources and professional services to perform the planning, engineering design, permitting, construction, furnishing of all materials, fabrication/installation, labor, and equipment necessary for the construction of all civil/site, process mechanical, architectural, structural, electrical, instrumentation, plumbing, heating, ventilation and air conditioning, fire protection, and all other necessary components to facilitate successful design, construction, and commissioning of the new Oxygen Production Facility located at the North

District Wastewater Treatment Plant, 2575 NE 156 Street, North Miami Beach, FL 33160. This Project is located in District 4, Commissioner Sally A. Heyman.

FISCAL IMPACT / FUNDING SOURCE:

There is no fiscal impact to the County with the rejection of bids.

TRACK RECORD/MONITOR:

Marisela Aranguiz, P.E., Deputy Director, WASD.

SBD ASSIGNED CONTRACT MEASURES:

TYPE	GOAL	COMMENT
SBE-Architectural/Engineering	15.20%	Implementing Order 3-32
SBE-Goods and Services	1.00%	Implementing Order 3-41
SBE-Construction	5.143%	Implementing Order 3-22

BACKGROUND:

Miami-Dade County has entered into a Consent Decree (United States District Court for the Southern District of Florida, Case No. 1:12-cv-24400-FAM) with the United States, Environmental Protection Agency, the State of Florida, and Florida Department of Environmental Protection to remediate its aging wastewater infrastructure. This Project is intended to satisfy the requirements identified in the Consent Decree as CD Project 3.03 and 3.04.



ROY COLEY ON BEHALF
COUNTY MAYOR DANIELLA LEVINE CAVA

10/19/22

DATE



EXHIBIT "A"

MIAMI DADE COUNTY
INTERNAL SERVICES DEPARTMENT

LIST OF RESPONDENTS

Project Name: Design-Build Services for the Construction of the District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility

Project No.: DB20-WASD-02

Measures: 15.20% SBE/AE, 5.143% SBE/CON, 1.00% SBE/G&S

No. of Agreements: 1

Contract Type: DESIGN BUILD

Submittal Date: 12/01/2020

Team No.: 1

Prime Local Preference: Yes

Prime Name: KIEWIT WATER FACILITIES FLORIDA CO.

FEIN No.: 831927102

Trade Name:

Sub-Consultants Name	Trade Name	Subs FEIN No.
a. HAZEN AND SAWYER PC	HAZEN AND SAWYER	132904652
b. GCES ENGINEERING SERVICES LLC		461012695
c. J BONFILL & ASSOCIATES INC		650133546
d. HADONNE CORP		651089850
e. ESI CONSULTING ENGINEERS INC		202052682
f. EBS ENGINEERING INC		650492113
g. VITAL ENGINEERING INC		650386897
h. DWG ASSOCIATES, INC		030439000
i. LOVELAND ELECTRIC II, LLC		811139882
j. REVERE CONTROL SYSTEMS, INC.		630794615

Team No.: 2

Prime Local Preference: Yes

Prime Name: PCL CONSTRUCTION INC

FEIN No.: 203598843

Trade Name:

Sub-Consultants Name	Trade Name	Subs FEIN No.
a. WADE TRIM INC		592417170
b. HP CONSULTANTS INC		270014034
c. CHEROKEE ENTERPRISES INC		650891158
d. ARCHITECTS INTERNATIONAL INC		592032355
e. LEITER PEREZ & ASSOCIATES INC		592746730
f. CDM SMITH INC		042473650
g. HBC ENGINEERING COMPANY		223936061
h. GAMBOA ENGINEERS LLC		454509337
i. SOLUTIONWERKS INC		233047834
j. EDWARD DUGGER + ASSOCIATES, P.A.		510450778
k. AMERICAN ELECTRIC OF MIAMI INC		591584838
l. I&C CONSULTING ENGINEERS CORP		472722308
m. SUNSHINE STATE AIR CONDITIONING INC		650404002

EXHIBIT "B"

ANALYSIS OF MARKET AVAILABILITY

ISD Project No.:	DB20-WASD-02
ISD Project Name:	Design Build Services for the Construction of the North District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility
Department:	Water and Sewer Department
Submittal Date:	December 1, 2020
Submittals Received:	Two (2)
Procurement Officer:	Julie Whiteside
Prepared on:	December 3, 2020

BACKGROUND:

Internal Services Department Project No. DB20-WASD-02, Design Build Services for the Construction of the North District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility, was advertised on behalf of the Miami-Dade Water and Sewer Department (WASD) on October 22, 2020. This solicitation was advertised to contract a design builder to provide all resources and professional services to perform the planning, engineering design, permitting, construction, furnishing of all materials, fabrication/installation, labor, and equipment necessary for the construction of all civil/site, process mechanical, architectural, structural, electrical, instrumentation, plumbing, heating, ventilation and air conditioning (HVAC), fire protection, and all other necessary components to facilitate successful design, construction, and commissioning of the new Oxygen Production Facility located at the North District Wastewater Treatment Plant (NDWWTP), 2575 NE 156 Street, North Miami Beach, FL 33160.

The Request for Design Build Services for this solicitation included the following Technical Certification requirements:

- 6.03 Water and Sanitary Sewer Systems – Water and Sanitary Sewage Treatment Plants (Lead AE)**
- 11.00 General Structural Engineering (Lead AE)**
- 12.00 General Mechanical Engineering (Lead AE)**
- 13.00 General Electrical Engineering (Lead AE)**
- 16.00 General Civil Engineering (Lead AE)**
- 17.00 Engineering Construction Management (Lead AE)**
- 9.02 Soils, Foundations and Materials Testing – Geotechnical and Materials Engineering Services
- 10.05 Environmental Engineering – Contamination and Assessment Monitoring
- 14.00 Architecture
- 15.01 Surveying and Mapping – Land Surveying

The Request for Design Build Services included preference that the design builder's demonstrate the following experience and qualifications:

The proposed Design-Builder should demonstrate its Project team experience by presenting the qualifications and capabilities of each Design-Build Team member firm, for projects completed within the last fifteen (15) years from the date of this solicitation, including projects that may be at least fifty percent

(50%) complete prior to the required submission date of this Request for Design-Build Services Step 1 solicitation, that demonstrate related minimum preferred project experience as indicated below. The Design-Build Team qualifications includes the experience of each firm (whether a prime, JV partner, or major subconsultant/subcontractor) that will provide a significant portion of the project requirements in any of the categories presented in the scope of work. For this Experience and Qualifications section, the Design-Builder refers to any of these committed firms who will provide work within the Design-Build Team. The Design-Build entity (prime, JV, LLC) will be the responsible party for all work performed by the Design-Build Team. The Competitive Selection Committee (CSC) may negatively evaluate proposals from teams they determine who may not have fully met the preferred experience and qualification(s) as stated below.

1. Design-Builder Experience:

- a) The Design-Builder should demonstrate that it has performed and/or managed as a Prime Contractor or Design-Builder in a lead/prime role, or in a Joint Venture (JV) or other contractual relationship (e.g., limited liability corporation (LLC)) for the construction of at least two (2) large wastewater infrastructure improvement, expansion projects, valued at not less than \$50 million each. At least one project shall have been delivered using design-build or other collaborative delivery method. The other project may have been delivered using a design-bid-build or traditional delivery method.

2. The Lead Designer Experience on the Design-Build Team:

- a) The Lead Designer on the Design-Build Team should have designed at least one (1) high purity oxygen (e.g., Cryogenic and Vacuum Pressure Swing Adsorption or VPSA) wastewater treatment process project with a rated capacity of not less than fifty (50) million gallons per day (mgd) of comparable complexity. Provide a description of the project(s), relevance and benefits of approach/delivery, value, timing, reference contact information (name, title/role, address, email, phone number), and proposed key personnel participation (if applicable).

3. Design-Build Team Experience:

- a) The Design-Build Team should demonstrate successful completion of at least one (1) project involving each of the main project elements of the scope of services (identified in Section 1.3 of this RDBS). One or more experience project(s) may be necessary to demonstrate experience in all of the project elements. These projects may also have been presented in one or more of the subsequent experience requests (items b-e below). Include an overview table of projects that identifies which project(s) meet each project element and the requested project experience from items b-e below. Provide a description of the project(s) that address project elements not included in b-e (those will be addressed within those sections), relevance and benefits of approach/delivery, value, timing, and key personnel participation (if applicable).
- b) The Design-Build Team should have constructed at least one (1) high purity oxygen (cryogenic or VPSA) wastewater treatment process project with a rated capacity of not less than 50 tons per day (tpd). Provide a description of the project(s), relevance and benefits of approach/delivery, value, timing, reference contact information (name, title/role, address, email, phone number), and proposed key personnel participation (if applicable).
- c) The Design-Build Team should have successfully completed a minimum of three (3) projects demonstrating experience with medium voltage power supply systems, including transformers and switchgear. Provide a description of the project(s), relevance and benefits

of approach/delivery, value, timing, reference contact information (name, title/role, address, email, phone number), and proposed key personnel participation (if applicable).

- d) The Design-Build Team should demonstrate the following project experience and past performance in their submittal for evaluation by the CSC:
- i. Listed projects are of similar or greater size and level of complexity.
 - ii. Experience in a significant role on a design-build project, especially in a similar role as proposed for this Project.
 - iii. At least one (1) of the listed projects of the proposed Design-Builder entity was designed and constructed through design-build project delivery.
 - iv. Listed projects demonstrate experience in construction within active operational sites without interruption of services.
 - v. Projects demonstrate Design-Build Team firms, subcontractors, and subconsultants working together on similar design-build projects.
 - vi. References substantiating abilities in meeting cost, schedule, and quality objectives on previous projects and in maintaining a positive client relationship.

4. Industry Experience of Design-Build Team Key and Support Personnel:

- a) The qualifications and industry experience referenced in this section should be met by qualified individuals of the Design-Build Team. The experience should be demonstrated by direct or substantial involvement of the individual(s) in a capacity that is equivalent to or exceeds the stated minimum preferred requirement. Provide biographical highlights of each Key and Support Personnel in a brief paragraph summarizing experience and expertise that supports effective participation in the proposed role and demonstrations their ability to meet the established qualifications. Include years of experience, example project tasks (what did the person do on the project), reference contact for projects (project owner organization, contact name, title/role, address, phone number, email), indicate work performed on Reference Projects.
- b) Illustrate the communication and reporting structure of the Design-Build Team personnel using a graphic organization chart, with names, roles, and company.
- c) All proposed Key Personnel should have a minimum of fifteen (15) years total industry experience of which seven (7) years should be in a similarly responsible position. Key Personnel positions include but are not limited to the following. Design-Build Team members may list other Key Personnel along with a justification for the role being Key to the project and delivery success.
- Design-Build Project Manager
 - Lead Designer – Design Manager
 - Lead Contractor – Construction Manager
 - Startup and Commissioning Manager
- d) All Support Personnel should have a minimum of ten (10) years of total industry experience of which four (4) years should be in a similarly responsible position. Support Personnel positions include but are not limited to the following. Design-Build Team members may list other Support Personnel along with a justification for the role being Supportive to the project and delivery success.
- Lead Treatment Process Engineer
 - Lead Mechanical Engineer

- Lead Electrical Engineer
 - Construction Superintendent
 - Lead Structural Engineer
 - Maintenance of Plant Operations (MOPO) Manager
 - Permitting/Compliance Manager
 - Design-Builder Quality Assurance/Quality Control (QA/QC) Manager
 - Design-Builder Safety Manager
 - Project Lead Estimator
 - Project Lead Scheduler
- e) Key Personnel and Support Personnel must demonstrate experience with the type of work to be performed and effectively connected to the scope of work provided in Section 1.3 of this RDBS.
- i. Proposers should identify, in their submittal those State of Florida licensed Professional Engineers who will sign and seal construction plans and specifications.
 - ii. Key / Support Personnel resumes should indicate the individuals' current firm association, their professional qualifications, a minimum of one client reference with contact (email, phone number – please verify veracity of contact information), and their role and duration on each project for which they are being credited the experience.

The expertise must be met by a qualified individual(s) of the Design-Builder, Lead A/E, and/or its sub-consultant(s). The experience must be demonstrated by direct or substantial involvement of the individual(s) in a supervisory capacity at the Project Manager level or above. The determination of the individual's qualifications and compliance with the experience and qualifications shall be at the sole discretion of the County. The Competitive Selection Committee may negatively evaluate proposals from firms they determine have failed to meet the above experience and qualification(s).

The Miami-Dade County Small Business Development (SBD) assigned a 15.20% SBE - A/E goal (Design portion only), a 5.143% SBE - Construction goal (Construction portion only), and a 1.00% - SBE-Goods Goal.

Two (2) proposals were received in BidSync by the December 1, 2020 Step 1 submittal deadline.

Pursuant to Section 2.6 of the Request for Design Build Services, "in the event that the County receives fewer than three (3) proposals, the County may proceed with the number of proposal(s) received which are determined to be responsive and responsible, provided that the County has conducted an analysis of market availability for subject services and determined in its sole discretion that there is no further market availability or immediate interest to provide subject services. Furthermore, in the event that the County receives fewer than three proposals, the County in its sole discretion may extend the Step 1 Submittal Deadline."

ANALYSIS OF MARKET AVAILABILITY:

The Architectural and Engineering (A&E) Unit conducted analysis of the market availability that shows over 27 firms were registered with the county and technically satisfied to perform the requested work as a Lead A/E Consultant.

The BidSync report shows that 943 firms received the invitation, and 187 of those firms successfully downloaded the solicitation for review. Additionally, during the project briefing meeting held on October 29, 2020, to which 49 firms' representatives attended, no one raised any issues or concerns regarding any apparent project participation restrictions or limitations. The general expectation at that time was the

due to the specialized nature of the project, a limited number of firms will consider competing for selection for this project.

RECOMMENDATION:

This is a consent decree project, and WASD has expressed its need of promptly selecting a design builder to have this contract in place. Furthermore, the formal advertisement period for this project was over a month, from October 22, 2020 to December 1, 2020.

Based upon the above facts, and WASD's need for these specialized services, it is recommended that the proposals received should be considered and evaluated through the A&E process.

Julie Whiteside
Procurement Contracting Officer III
Internal Services Department

Date

Paul W. Vukobratovic 12/17/2020

STEP 1 TABULATION SHEET
MARCH 4, 2021

WATER AND SEWER DEPARTMENT (WASD)
DESIGN-BUILD SERVICES FOR THE CONSTRUCTION OF THE
NORTH DISTRICT WASTEWATER TREATMENT PLANT OXYGEN
TRAINS AND OXYGEN PRODUCTION FACILITY
ISD PROJECT NO. DB20-WASD-02

1	NAME OF FIRM(S)	COMPETITIVE SELECTION COMMITTEE						SUB-TOTAL	Average	Low Disparity	High Disparity	Total Qualitative Points	Qualitative Rank	FINAL RANK
		Huren (Jeff) An, WASD	James Ferguson, WASD	Jose Luis Rodriguez, MDAD	Ivette Newland, DTPW	Jackie Llano, RER								
1	Kiewit Water Facilities Florida Co. (LOCAL) 1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points) 2A - Knowledge and Past Experience of Similar Type Projects (Max. 25 points) 3A - Past Performance of the Firms (Max. 20 points) 4A - Amount of Work Awarded and Paid by the County (Max. 5 points) Sub-Total	48 23 18 5 94	48 23 17 4 92	47 21 18 4 90	45 20 15 3 83	40 20 15 4 79	228 107 83 20	46 21 17 4	31 14 11 3	61 28 22 5	438	1	1	
Tie Breakers for Total Qual= Sub-Total Points for 1A, 2A, 3A, 4A														
2	PCL Construction Inc. (LOCAL) 1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points) 2A - Knowledge and Past Experience of Similar Type Projects (Max. 25 points) 3A - Past Performance of the Firms (Max. 20 points) 4A - Amount of Work Awarded and Paid by the County (Max. 5 points) Sub-Total	48 23 18 3 92	46 22 17 3 88	46 20 16 3 85	40 20 15 2 77	40 22 13 2 77	220 107 79 13	44 21 16 3	29 14 11 2	59 28 21 3	419	2	2	
Tie Breakers for Total Qual= Sub-Total Points for 1A, 2A, 3A, 4A														

Julie Whiteside, ISD Non-Voting Chairperson

RECEIVED BY CLERK
Circuit & County Courts
Miami-Dade County, Florida
FILED FOR RECORD

11:50 am, 10/25/2021

CLERK OF THE BOARD

Memorandum



Date: October 6 2021
To: Roy Coley, Director
Water and Sewer Department
Through: Namita Uppal, C.P.M., Chief Procurement Officer
Internal Services Department
From: Julie Whiteside, Procurement Contracting Officer 3
Chairperson, Competitive Selection Committee
Subject: NEGOTIATION AUTHORIZATION
Water and Sewer Department
Design-Build Services for the Construction of the North District Wastewater
Treatment Plant Oxygen Trains and Oxygen Production Facility
ISD Project No. DB20-WASD-02

Namita Uppal
Digitally signed by Namita Uppal
DN: cn=Namita Uppal, o=Miami Dade County, ou=Chief Procurement Officer, email=uppaln@miamidade.gov, c=US
Date: 2021.10.06 16:25:01 -04'00'

Julie Whiteside

The Competitive Selection Committee has completed the evaluation of the proposals submitted in response to the referenced Internal Services Department solicitation and consistent with the guidelines published in the Request for Design-Build Services.

ISD Project No.: DB20-WASD-02

Project Title: Design-Build Services for the Construction of the North District Wastewater Treatment Plant Oxygen Trains and Oxygen Production Facility

Scope of Services Summary: The Design-Builder shall provide all resources and professional services to perform the planning, engineering design, permitting, construction, furnishing of all materials, fabrication/installation, labor, and equipment necessary for the construction of all civil/site, process mechanical, architectural, structural, electrical, instrumentation, plumbing, heating, ventilation and air conditioning (HVAC), fire protection, and all other necessary components to facilitate successful design, construction, and commissioning of the new Oxygen Production Facility located at the North District Wastewater Treatment Plant (NDWWTP), 2575 NE 156 Street, North Miami Beach, FL 33160.

Participation Restrictions: Pursuant to Florida Statutes 287.055, "A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package." The Design Criteria Professional, Brown and Caldwell and the following subconsultants are not eligible to render Design-Build services for this solicitation: Avino and Associates Inc; BND Engineers Inc.; Geosol Inc; and T.Y. Lin International Group. In addition, the Prime Consultant, AECOM Technical Services, Inc, from Project No. E13-WASD-01R, Professional Services Agreement Program and Construction Management Services Related to the Wastewater System Priority Projects and the following subconsultants: 300 Engineering Group, PA; Parsons Transportation Group, Inc.; Gannett Fleming, Inc.; and Robayna and Associations, Inc., are not eligible to render design-build services for this solicitation

Experience and Qualifications: Please refer to the attached Experience and Qualifications.

Estimated Cost of Contract: The estimated design-build project cost is \$101,528,494.00, inclusive of contingencies and allowances.

Estimated Term of Contract: 1,320 Calendar Days

Small Business Development Goal/Measure: The Internal Services Department's Small Business Development Division established a 15.20% Small Business Enterprise – Architectural & Engineering Goal, 5.143% Small Business Enterprise - Construction Goal, and 1.00% Small Business Enterprise – Goods & Services Goal are applicable to this solicitation.

Advertisement Date: October 22, 2020

Step 1 Proposal(s) Received: Two (2) proposals were received through BidSync on December 1, 2020.

Analysis of Market Availability: Because fewer than three (3) firms submitted proposals in response to the solicitation, and in accordance with the requirements of the Request for Design Build Services, market research was performed. On December 3, 2020, the final recommendation of the market research was to proceed with the evaluation of the two (2) proposals.

Proposer(s): Please refer to the attached List of Respondents.

Step 1 Small Business Development Compliance Review: Both proposals were deemed in compliance. Please see the attached Memorandum dated February 12, 2021.

Selection Process: The Design-Build solicitation process involves a two-step selection process, Step 1 – Evaluation of Qualifications and Step 2 – Evaluation of Technical and Price Proposals. Step 1 is the evaluation of the design-build team's qualifications based on their proposal. Step 2 is the evaluation of competitive technical and price proposals for short-listed firms deemed responsive and responsible at Step 1.

Step 1 Evaluation: On March 4, 2021, the Competitive Selection Committee evaluated the experience and qualifications, then scored and ranked the proposals from the two (2) responsive proposers. In accordance with the Step 1 evaluation criteria outlined in the solicitation document, the Competitive Selection Committee voted to advance both proposers to submit technical and price proposals for the Step 2 evaluation process.

Step 1 Results: Please see the attached Step 1 Tabulation Sheet.

Step 2 Proposals: Two (2) technical and price proposals were received through BidSync on June 7, 2021.

Step 2 Evaluation: On July 26, 2021, the Competitive Selection Committee evaluated the two (2) proposers, PCL Construction Inc. and Kiewit Water Facilities Florida Co., based upon the established Step 2 evaluation criteria. After the Competitive Selection Committee scored the technical proposals, price proposals and bid bond envelopes were opened, and the bid prices were read into the record. The final ranking was determined by dividing the bid price by the qualitative score to yield an adjusted bid. The qualitative scores, bid prices, adjusted bids and final rankings are noted below:

Design-Builder	Qualitative Score	Bid Price	Adjusted Bid	Final Ranking
Kiewit Water Facilities Florida Co.	457	\$110,670,000	242,166	1
PCL Construction Inc.	432	\$105,011,225	243,082	2

Step 2 Results: Please see the attached Step 2 Tabulation Sheet.

Request for Appointment of Negotiation Committee: Pursuant to Section 2-10.4 (6) of the Code of Miami-Dade County, the Internal Services Department hereby requests the County Mayor or his designee approve the following Negotiation Committee, for the purpose of negotiating one (1) Design-Build Contract for this solicitation with the top ranked firm:

- Julie Whiteside, Procurement Contracting Officer 3, Non-Voting Chairperson, Internal Services Department
- An (Jeff) Huren, Engineer 2, Water and Sewer Department
- James Ferguson, Senior Program Manager, Water and Sewer Department
- Jacquelyn Llano, Senior Professional Engineer, Parks, Recreation and Open Spaces Department

Request for Authorization to Enter Negotiations: Pursuant to Section 2-10.4 (6) of the Code of Miami-Dade County, it is hereby requested that the County Mayor or his designee approve the selection of the following Design-Builder for the purpose of negotiating one (1) Design-Build Contract, as recommended by the Competitive Selection Committee:

SELECTION FOR DESIGN-BUILD NEGOTIATION

Kiewit Water Facilities Florida Co.

The following firm will serve as alternate:

PCL Construction Inc.

Pursuant to the Cone of Silence legislation included in the Conflict of Interest and Code of Ethics Ordinance, and Section 2-11.1 of the County Code, the County Mayor or his designee will report to the Board of County Commissioners any of the following instances:

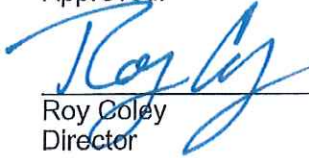
- When negotiations do not commence, or other affirmative action is not taken, within 30 days of the Competitive Selection Committee's recommendation.
- When the County Mayor or his designee's recommendation to award or reject is not made within 90 days from the date of the Competitive Selection Committee's recommendation.

If approved, the Negotiation Committee is to proceed with contract negotiations in accordance with Section 2-10.4(6) of the Code of Miami-Dade County, and submit the signed contract to be presented to the Board of County Commissioners for final approval no later than 60 days from the date of the memorandum. Should negotiations fail with the recommended firm, approval is requested to initiate negotiations with the alternate firm.

If a satisfactory agreement cannot be reached within the 60-day period, a report is required to

be prepared fully explaining all problems resulting from the negotiations. If negotiations are proceeding within a reasonable timeframe, then negotiations are to continue and the report is to be submitted upon completion. The final contract and report should be sent to the Internal Services Department, Architectural and Engineering Unit.

Approved:



Roy Coley
Director

10-25-21

Date

Attachments:

1. Experience and Qualifications
2. Analysis of Market Availability
3. List of Respondents
4. Small Business Development Utilization and Assurance Review Memorandum
5. Step 1 Tabulation Report
6. Step 2 Tabulation Report

c: Competitive Selection Committee
Clerk of the Board of County Commissioners