



Agenda Date: 9/6/2017
Agenda Placement: 7G

Napa Sanitation District Board Agenda Letter

TO: Honorable Board of Directors
FROM: Timothy Healy - General Manager
NS-Technical Services/Engineer
REPORT BY: Andrew Damron, Technical Services Director - 707-258-6000
SUBJECT: Award Construction Contract for the Earthquake Repairs Project (CIP 18727)

RECOMMENDATION

- (1) Reject the bid from Murray Building, Inc. as non-responsive because Murray Building, Inc. does not meet any of the three safety criteria to be eligible to work for NapaSan.
- (2) Award construction contract for the Earthquake Repairs Project (CIP 18727) to the lowest responsive bidder, Ashron Construction and Restoration, Inc. for the bid amount of \$364,945 and authorize the General Manager to execute the Agreement with the Contractor and issue the Notice to Proceed, when appropriate.

EXECUTIVE SUMMARY

On August 29, 2017, NapaSan received three bids for the Earthquake Repairs Project (CIP 18727). The engineer's estimate of probable construction cost for the project was \$360,000. Ashron Construction and Restoration, Inc. is the lowest qualified bidder in the amount of \$364,945.

The contractor has 60 calendar days to substantially complete the project from Notice to Proceed. Notice to Proceed is expected to be issued in September 2017. Construction is expected to be complete in November 2017.

The low bid was submitted by Murray Building, Inc. in the amount of \$330,704. Murray Building, Inc. does not meet any of the three safety criteria and is not eligible to work for NapaSan. A summary of all bids is attached.

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it currently budgeted?	Yes
Where is it budgeted?	The Federal Government (FEMA) and the State (California Office of Emergency Services - Cal OES) will reimburse NapaSan for 93.75% of qualifying project costs. The remaining 6.25% of costs will come from NapaSan funds. The project is budgeted in the 2017/18 Capital Improvement Program.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The project is necessary to repair structural damage to the Soscol Water Recycling Facility caused by the August 24, 2014 South Napa Earthquake.
Is the general fund affected?	Yes
Future fiscal impact:	None.
Consequences if not approved:	The structural damage caused by the earthquake will not be repaired. NapaSan treatment facilities may further degrade over time due to exposure to the elements. In addition, project costs will no longer be reimbursed by the Federal Government or the State if project completion deadlines by FEMA and Cal OES are not met.

Additional Information:

ENVIRONMENTAL IMPACT

On August 5, 2015, the NapaSan Board determined the project is Categorically Exempt under Section 15302 (c) of the California Environmental Quality Act (CEQA).

BACKGROUND AND DISCUSSION

Project Description

The August 24, 2014 "South Napa Earthquake" caused minor structural damage to NapaSan's Soscol Water Recycling Facility that requires repairs. On September 11, 2014 the President of the United States declared the earthquake a major federal disaster, making the repair of qualifying damages eligible for federal reimbursement.

NapaSan staff has worked with FEMA and the California Office of Emergency Services (Cal OES) to identify the damages to the facility that qualify for reimbursement. Damage items that NapaSan staff were readily able to self-perform have been completed and federal reimbursements have been received. The remaining qualifying repairs to structural components of the facility required design by a qualified structural engineer. The damage items include:

- | Concrete crack repairs in the Digester Tower,
- | Replacement of a cracked concrete support for the Digester Tower Bridge,
- | Concrete crack repairs to the treatment plant Operations Building vehicle bay walls,
- | Replacement of filter influent pipeline concrete pipe supports,

NapaSan staff followed federal procurement requirements to request statements of qualifications from structural engineers. Carollo Engineers was determined to be the most qualified firm and entered into a Task Order with NapaSan to evaluate the damages and to design the repairs.

Safety Qualification Background Information

At the NapaSan Board meeting on March 5, 2014, the Board approved the current contractor safety program. For a bidding contractor to qualify to bid on a project, the bidding contractor must satisfy one of the first three items in the following list:

1. The contractor's Experience Modification Rate (EMR) is evaluated first. If the three-year average EMR is equal to or less than 100%, the contractor is eligible to work on District projects; or
2. If the contractor's three-year average EMR is greater than 100%, the contractor's three-year average Recordable Incident Rate (RIR) and Lost Time Incident Rate (LTIR) must both be less than the annually reported value using OSHA 300 Log Data to be eligible to work on NapaSan projects; or
3. If the contractor can only meet either the RIR or LTIR value, the contractor would be required to hire at no additional cost to NapaSan a mutually acceptable safety consultant who will prepare a project specific safety plan, conduct random weekly inspections of the contractor's activities to ensure conformance with the safety plan and prepare and submit a weekly report to NapaSan summarizing the results of each inspection.
4. Contractors that do not meet any of the Program requirements will not be eligible to work for NapaSan.

During bidding of some projects, contractor(s) notify NapaSan Staff that they do not meet EMR, RIR, or LTIR. Staff typically informs the contractor that they may submit a bid but "contractors that do not meet any of the Program requirements will not be eligible to work for NapaSan", as listed in item four above.

Infrequently, the apparent low bidder on a project does not meet any of the Program requirements. In these cases, NapaSan may be tempted to waive the safety requirements for financial benefit. NapaSan legal counsel has advised that waiving the safety requirement would be a violation of public contract law by conferring an unfair advantage to a prospective bidder. In addition, public entities may waive "immaterial" defects, but may not waive material defects in the bid. An argument can be made that the safety requirement, which requires compliance as a prerequisite to being awarded the contract, is in fact a material term.

An experience modification rating (EMR), a lagging indicator, is a value assigned by the Workers' Compensation Insurance Rating Bureau, California (WCIRB) which is expressed as a percentage. This rating compares the loss or claims history of one company to all other companies in the same industry that are similar in size. Generally, an experience modification of less than 100% reflects better-than-average experience, while an experience modification of more than 100% reflects worse-than-average experience.

Lost Time Incident Rate (LTIR) and Recordable Incident Rate (RIR) are also lagging indicators and are measured per 100 employees per year. A recordable incident is when an employee requires medical attention beyond first aid (as defined by Cal OSHA). A lost time incident results in a lost work day beyond the day of the incident. These ratings values are determined for specific industries by the U.S. Bureau of Labor Statistics (BLS) as an average for that particular industry. LTIR and RIR averages from the BLS are selected by staff prior to bidding based on the appropriate industry category for the project.

SUPPORTING DOCUMENTS

A . Bid Results

Napa Sanitation District: Approve

Reviewed By: Timothy Healy