



AGENDA REPORT

Meeting Date: December 5, 2007
Item Number: F-13
To: Honorable Mayor & City Council
From: Ara Maloyan, Deputy City Engineer
Subject: **APPROVAL OF THE AWARD OF A CONTRACT TO THE LOWEST RESPONSIBLE BIDDER, MANUEL BROS., INC., FOR PHASE 2 (SOUTH RING) FIBER OPTIC MUNICIPAL AREA NETWORK RING WITHIN THE CITY OF BEVERLY HILLS, CALIFORNIA IN THE AMOUNT OF \$1,350,000 AND APPROVING THE PLANS AND SPECIFICATIONS THEREFOR; AND**
APPROVE ISSUING A PURCHASE ORDER TO MANUEL BROS., INC. IN THE AMOUNT OF \$1,550,000 FOR THE PROJECT

Attachments:

1. Agreement
2. Categorical Exemption
3. Protest Letter

RECOMMENDATION

Staff recommends the City Council: 1) Award the contract to Manuel Bros., Inc. in the amount of \$1,350,000 to facilitate the installation of Phase 2 of the fiber optic municipal area network ring; 2) Authorize a contingency amount of \$200,000 to make minor changes to the contract as needed; and 3) Approve issuing a purchase order in the amount of \$1,550,000.

INTRODUCTION

This report is a request for City Council approval to award a contract to the lowest responsible bidder for the installation of Phase 2 (South Ring) of the fiber optic municipal area network ring. This project is pursuant to the Telecommunications Master Plan and is being implemented to minimize future construction costs for the installation of conduit and cable runs as part of the City's street lighting and parking structure upgrade project.

DISCUSSION

On November 6, 2007, bids were opened after public advertising. Four bids were received as follows:

Manuel Bros., Inc.	\$ 1,350,000.00
J. Fletcher Creamer & Son, Inc.	\$ 1,489,630.00
Golden State Utility Co.	\$ 1,789,465.00
TekWorks	\$ 1,988,645.75

These amounts were tabulated using unit prices which take precedence over the submitted total bid amounts. All documents submitted by all the bidders were in order, and the apparent low bidder is Manuel Bros. Inc. The Engineer's Estimate was \$1.5 million. Staff recommends that the lowest bid be accepted and awarded.

On November 28, 2007 a bid protest was received from the International Brotherhood of Electrical Workers asserting that Manuel Bros., Inc. cannot be awarded the City's Phase 2 (South Ring) Fiber Optic Municipal Area Network (MAN) Project because it has violated and continues to violate sections 1777.5 and 1777.6 of the Labor Code which regulates the use of apprentices. It is staff's recommendation that the City Council find Manuel Bros., Inc. the lowest responsible bidder in that it is the low bidder, all references have been positive, and it cannot be assumed that violations of the Labor Code on other projects will be repeated with respect to the City's MAN Project. Further, City staff finds, in concurrence with its consultant, Logicalis, and the State Contractor's License Board, that the C-7 (low voltage) license is appropriate because the fiber optic cable and conduit installation is a no-voltage (optical signaling) installation.

FISCAL IMPACT

A contingency allowance in the amount of \$200,000 has been included in the total purchase order amount of \$1,550,000. Any change orders that require expenditures from this allowance shall be made only upon written request in accordance with the Administration Regulation regarding change orders.

Funds for this project are provided as follows:

DEPT	FUND	PROJECT NUMBER	SUB-PROJECT NUMBER	FUNDING SOURCE	AMOUNT
31	41	833	31-41-0833	Information Technology Service	\$ 1,550,000.00


 Scott Miller
 Finance Approval


 David Gustavson
 Approved By

AGREEMENT

THIS AGREEMENT, made and entered into this 5th day of December, 2007, by and between the CITY OF BEVERLY HILLS, a municipal corporation, hereinafter referred to as "City", and

Manuel Bros., Inc.
P.O. Box 995
908 Taylorville Rd., Ste. 104
Grass Valley, CA 95949

hereinafter referred to as "Contractor";

WITNESSETH

In this consideration of their covenants the parties hereto agree as follows:

1. Contractor shall furnish all labor, materials and equipment necessary to perform the following work in the City of Beverly Hills, California, strictly in accordance with the Notice to Bidders, Proposal form, Plans and Specifications for such improvement, Standard Contractual Requirements and inclusive of Addendums, each of which documents are made a part of this Contract as though fully set forth herein:

PHASE 2 (SOUTH RING) FIBER OPTIC MUNICIPAL AREA NETWORK

2. In consideration of such work City agrees to pay Contractor and Contractor agrees to accept the sum of **One Million, Three Hundred Fifty Thousand, and No Cents (\$1,350,00.00)** in the manner provided in subject Plans and Specifications and subject to adjustment provided therein.

3. Concurrently with the execution of this Contract, Contractor shall file with the City the bonds and certificates of insurance specified in said Standard Contractual Requirements.

4. This Contract shall not be assigned without the written permission of the City Council.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

ATTEST:

CITY OF BEVERLY HILLS,
A municipal corporation

BYRON POPE, City Clerk

JIMMY DELSHAD, Mayor

APPROVED AS TO CONTENT:

CONTRACTOR: Manuel Bros., Inc.

RODERICK WOOD, City Manager

KARL KIRKMAN, Risk Manager

DAVID D. GUSTAVSON, Director
Of Public Works & Transportation

APPROVED AS TO FORM:

FUNDS AVAILABLE:

LAURENCE WIENER, City Attorney

SCOTT MILLER, Director of Administrative Services/Chief
Financial Officer

CITY OF BEVERLY HILLS
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

Categorical Exemption

NAME OF PROJECT Phase 2 (South Ring) Fiber Optic Municipal Area Network

LOCATION Various locations, City-wide.

TYPE OF BUSINESS (IF COMMERCIAL) _____

PROJECT DESCRIPTION Install fiber optic infrastructure.

APPLICANT'S NAME City of Beverly Hills PHONE (310) 285-1000

APPLICANT'S ADDRESS 455 North Rexford Drive

CITY Beverly Hills, CA ZIP 90210

IF DIFFERENT, PROVIDE:

AGENT'S NAME _____ PHONE _____

AGENT'S ADDRESS _____

CITY _____ ZIP _____

The undersigned, having received this project for processing, has reviewed it for environmental impact and concluded that the project qualifies for a categorical exemption under the procedures adopted by the City of Beverly Hills and no further environmental assessment is necessary.

Applicable Exemption Class 3(d)

COMMENTS Installation of new fiber optic utility system.

Reviewed by Georgana Mellica Date 26 Nov. 2007

Fee (\$20.80) _____



IBEW
International Brotherhood of
Electrical Workers, AFL-CIO

P.O. Box 2500
297 North Marengo Avenue
Pasadena, CA 91102-2500
PHONE: (626) 243-9700
FAX: (626) 796-8612

November 28, 2007

Tristan D. Malabanan, PE
City of Beverly Hills
345 Foothill Road
Beverly Hills, CA 90210

Re: Fiber Optic Municipal Area Network Ring, (M.A.N.) Phase -2 (South Ring)
Pending award of Contract to Manuel Bros., Inc. (A Quanta Services Co.)

Dear Mr. Malabanan:

Please accept this correspondence of our official protest of Award of Contract to Manuel Bros., Inc., (A Quanta Services Co.), of Grass Valley, CA.

The basis for the protest is in regards to the non-adherence of the California Labor Code, specifically Section 1777.5 and 1777.6 of the labor code concerning the employment of apprentices by the Contractor or any subcontractor.

On several recent projects both completed, partially completed and, pending start-up, with several Public Works Agencies (all stated in their bid package as their *resume*, Caltrans District 7, Los Angeles, City of Los Angeles, City of Pasadena) there are established penalties, ongoing investigations, and stipulations in awards in regards to violations of the Apprenticeship non-compliance, non-responsiveness.)

Additionally, the State of California, Division of Apprenticeship Standards (D.A.S.) has Six (6) cases on record which have been brought to Complaint.

Manuel Bros. Inc. does not possess the proper Contractors License required to perform the work of an Electrical Contractor and does not employ the quantity of "Certified Electricians", or apprentice electricians as required to perform the amount of electrical work on your project. The Conduit work as described in your Bid Items must be installed by Certified Electricians and not laborers or other trade classifications.

The California Code of Regulations identifies the "Scope" of work assigned to the Electrical Trade which ties it to the C-10 Contractors Licensing Criteria, which ties it to the State Law for Certification of Electricians. (see *CCR 832.10*)

Their Contractors Licenses which are an "A" and "C-7" allow Concrete and Steel Construction and not the specialty of Electrical Work. The C-7 license is intended for Building Low Voltage Systems like "Nurse Call", or Muzak, Fire Alarm or Burglar Alarm, not for the Fiber Optic work in regards to "Intelligent Transportation Systems", which your project represents.

With this correspondence we would request that the award be postponed so that City Staff could meet with us in order to review the records which we maintain.

Additionally, we can provide the Federal Documentation in regards to the project 'scope' as well as the State of California Documentation both in regards to "scope", Electrician Certification, Apprenticeship Programs and other important information.

We look forward to the opportunity to do so, expeditiously.

Please contact me at your earliest convenience in regards to this meeting.

I can be reached at 626 255-2706 cell phone or at 626 243-9729.

Thank you in advance to your attention to this matter.

Patrick J. Owens

Patrick J. Owens,
IBEW Local 11
Labor Compliance

cc: Mr. Ara Maloyan, Deputy City Engineer
Mr. David D. Gustavson, Director