

CITY COUNCIL AGENDA TOPIC

Motion to (1) reject the bid of KLB Construction as nonresponsive; (2) reject the bid of Laser Underground & Earthworks as not responsible; (3) reject the bid protest submitted by KLB Construction; and (4) award Bid No. 26017 for the Kelsey Creek Culvert and Lake Hills Blvd. Water/Sewer Replacement project to Pivetta Brothers, as the lowest responsive and responsible bidder, in an amount not to exceed \$10,650,579.30, plus all applicable taxes (CIP Plan Nos. S-66, S-24, D-94, W-16).

Lucy Liu, Director
Dave Baisch, Assistant Director of Engineering
Utilities Department

EXECUTIVE SUMMARY**ACTION**

This motion will reject the bids submitted by KLB Construction and Laser Underground & Earthworks, as well as the protest submitted by KLB Construction, and award Bid No. 26017 to Pivetta Brothers, for the Kelsey Creek Culvert and Lake Hills Blvd. Water/Sewer Replacement project.

RECOMMENDATION

Move to (1) reject the bid of KLB Construction as nonresponsive; (2) reject the bid of Laser Underground & Earthworks as not responsible; (3) reject the protest submitted by KLB Construction; and (4) award Bid No. 26017 for the Kelsey Creek Culvert and Lake Hills Blvd. Water/Sewer Replacement project to Pivetta Brothers.

BACKGROUND/ANALYSIS

The Kelsey Creek Culvert and Lake Hills Blvd. Water/Sewer Replacement Project is intended to be a comprehensive solution to address three different infrastructure problems near where Kelsey Creek crosses Lake Hills Boulevard.

1. The purpose of the Kelsey Creek Culvert (D-94) project is to restore Upper Kelsey Creek and address flood risk, by replacing the existing culverts under Lake Hills Blvd, with a fish-passable culvert. Existing Kelsey Creek Culverts are undersized, unstable and deteriorating, causing an increased risk of flooding in the immediate area. The existing culverts are also subject to vertical movement due to the soft peat soils that are prevalent in the area.
2. The sewer main (S-66) that borders the southwest side of the Federal Little League baseball field was installed in 1955 and discharges into the sewer main on the northeast side of the field. The existing sewer main is constructed of asbestos cement and has inadequate slopes, Utilities currently jets the line once a month to flush out the sediment buildup. Frequent jetting can erode the pipe and reduce its useful life.

- The replacement of the exposed Federal Little League Ballfield water main (W-16) and exposed sewer main (S-24) in the vicinity of the Federal Little League parking lot on the northeast side of the baseball field at 15035 Lake Hills Blvd is also necessary. In August 2020, the water main had a joint separation failure requiring Utilities staff to perform emergency repairs and ultimately discontinue use of the existing main. These water and sewer mains are both pile supported because of the peat soils. Soil settlement around the mains has resulted in the mains being exposed with zero bury depth in some locations. Both existing pipelines cross Kelsey Creek. The water main replacement will extend from 151st to 154th Ave SE to consolidate/minimize neighborhood impacts and allow for earthquake-resistant water main to be used.

The city received 5 bids for this project. Bids were opened on February 5 and are as follows.

Contractor	Bid (excluding taxes)
<i>KLB Construction</i>	\$10,019,145.60
<i>Laser Underground & Earthworks</i>	\$10,203,505.81
<i>Pivetta Brothers</i>	\$10,650,579.30
<i>Granite Construction</i>	\$12,540,724.95
<i>Active Construction</i>	\$13,095,162.56
Engineer's Estimate	\$12,164,287.15

Following the bid opening, the city received a protest from the second lowest bidder, Laser Underground & Earthworks, regarding the bid submitted by KLB Construction. After reviewing the protest and all materials received, Utilities determined the protest had merit. The bid submitted by KLB Construction was not completed in accordance with contract requirements – *i.e.* it failed to include the documentation needed to demonstrate the signing officer's authority to bind the company – which rendered the bid non-responsive under the city's solicitation instructions/requirements. Given the explicit instruction that advised interested bidders that the failure to provide the requisite documentation at the time of bid submission would render the bid non-responsive, the city cannot waive the failure as mere irregularity or informality. Staff recommends the city reject the bid submitted by KLB Construction as non-responsive.

The city also received a bid protest from KLB Construction, challenging the documentation Laser Underground & Earthworks provided in support of its bid – *i.e.* the information provided in support its officer signing the bid materials was out of date given it identified officers that are no longer with the company. After reviewing the protest and all materials received, Utilities determined the protest was without merit. While the documentation provided in support of Laser Underground and Earthworks officer may have been dated, it nonetheless demonstrated the person who actually signed the bid documents had the requisite authority to execute the same. Staff recommends that the city reject the bid protest submitted by KLB Construction.

Nevertheless, after reviewing the qualifications of the proposed superintendent and foreman that Laser Underground & Earthworks' advised would manage the project, staff subsequently determined that the foreman did not meet the requisite experience outlined in the supplemental bidder criteria. Specifically, the foreman lacked the requisite experience installing pre-cast box culverts and stream relocations,

which are essential criteria to deliver the complicated public work consistent with applicable timelines, requirements, and budgets. As such, the bid submitted by Laser Underground & Earthworks is not responsible. Staff recommends the city reject the bid submitted by Laser Underground & Earthworks as non-responsible.

After considering the bids discussed above, Utilities performed a review of the bid submitted by Pivetta Brothers. The bid from Pivetta Brothers is approximately \$1,513,707.85 or 12% under the Engineer's estimate. Staff performed an in-depth analysis of the bid as compared to the Engineer's estimate and have found Pivetta Brothers bid to be responsive and responsible.

To the best of staff's knowledge, all factors that normally contribute to construction expenses have been accounted for in the plans, specifications and Engineer's estimate. It is our experience that construction projects of this type usually result in some amount of field changes. Such claims are rigorously reviewed and only those that are clearly necessary to accomplish the intent of the contract, but have not been provided for, will be paid. Staff recommends the city award Bid No. 26017 to Pivetta Brothers.

After the Utilities Department provided its notice of intent to award the Bid No. 26017 to Pivetta Brothers, the city received a bid protest from Active Construction, alleging various deficiencies with the bids submitted by Laser Underground & Earthworks, Pivetta Brothers, and Granite Construction. This bid protest was submitted more than a month after the bid opening and is untimely under RCW 39.04.105 and cannot be considered. Nevertheless, after reviewing the protest and materials provided, the city has determined the protest is without merit. Staff has advised Active Construction of its conclusions, and Active Construction has withdrawn its protest.

In sum, staff recommends that the city award Bid No. 26017 to Pivetta Brothers.

POLICY & FISCAL IMPACTS

Policy Impact

Utilities Department policies: To invest resources as necessary to construct, maintain and renew sewer and water system infrastructure and equipment so that Utility customers are provided with consistent, reliable service.

Utilities Department practice: Rehabilitate or replace deteriorated elements of the wastewater system. CIP Plan Nos. S-66 and S-24 have been designated to do this. Retain existing open surface water systems in a natural state and restore conditions that have become degraded. CIP Plan No. D-94 has been designated to do this. Replace small diameter asbestos cement water main installed in the late 1940's through 1960's to reduce the possibility of water main breaks as well as other small diameter water pipes of varying materials determined by city staff to be at high risk of failure. CIP Plan No. W-16 has been designated to do this.

Bellevue City Code 4.28.040 requires the city to competitively bid public works in accordance with city codes and state law. Council approval is required to award or reject any bid where the cost exceeds \$350,000.

Fiscal Impact

Awarding this bid commits the city to payment of \$10,650,579.30, plus all applicable taxes. This contract is funded through the Sewer System Pipeline Replacement (CIP Plan No. S-66), Sewer System Pipeline Major Repairs (CIP Plan No. S-24), Flood Control (CIP Plan No. D-94) and Water Main Replacement Programs (CIP Plan No. W-16). Sufficient funds to fund this contract are in the 2025-2030 Utilities Capital Improvement Program (CIP) Budget. In addition, partial funding will be from a King County Flood Control District Grant.

OPTIONS

1. Move to (1) reject the bid of KLB Construction as nonresponsive; (2) reject the bid of Laser Underground & Earthworks as not responsible; (3) reject the bid protest submitted by KLB Construction; and (4) award Bid No. 26017 for the Kelsey Creek Culvert and Lake Hills Blvd. Water/Sewer Replacement project to Pivetta Brothers, as the lowest responsive and responsible bidder, in an amount not to exceed \$10,650,579.30, plus all applicable taxes (CIP Plan Nos. S-66, S-24, D-94, W-16).
2. Reject all bids and provide alternative direction to staff.

ATTACHMENTS

- A. Vicinity Map

AVAILABLE IN COUNCIL LIBRARY

N/A