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Agenda Item #8
REPORT #RWSC 2008-08

**REPORT TO REGIONAL WATER SUPPLY COMMISSION
MEETING OF WEDNESDAY, 21 MAY 2008**

SUBJECT SOOKE RIVER ROAD DISINFECTION FACILITY – AWARD OF CONTRACT

PURPOSE

To recommend award of the contract for construction of the Sooke River Road Disinfection Facility (SRRDF).

BACKGROUND

Tenders for construction of the SRRDF project closed on April 16, 2008. A dispute has arisen as to whether or not the low bidder's tender was received by the closing time stated in the contract documents.

At 3:00 pm staff closed the door to the Main Conference Room where tenders were to be publicly opened. Almost immediately there was a knock at the door and the front counter receptionist presented Kinetic Construction's bid (which turned out to be the low bid). Kinetic's bid had been received at the front counter by 3:00 pm, but this was not apparent to those present in the Main Conference Room. It is important to note the tender documents do not specify an exact location where the tenders must be delivered. Letters were subsequently received from both the second bidder (IDL Projects Inc.) and the third bidder (Maple Reinders Inc.) challenging the legitimacy of Kinetic's bid. After discussion of the options available with our lawyers, Staples McDannold Stewart, staff recommend that the tender be awarded to Kinetic Construction Ltd.

A total of five (5) tenders were received and reviewed by the engineering consultant, Associated Engineering Ltd. (**Attachment 1**, April 24, 2008 letter from Associated Engineering). Staff and the consultant recommend that the contract be awarded to the low bidder, Kinetic Construction Ltd., at a price of \$4,662,000 (including GST).

Both IDL Projects Inc. and Maple Reinders Inc. have been advised of this staff recommendation and invited to attend the May 21, 2008 Regional Water Supply Commission meeting when award of this contract will be considered.

Staff note that, although the parcel of land on which the SRRDF will be located is not owned by the CRD at this time, an expropriation process is underway that will see the CRD taking ownership no later than May 26, 2008. If the contract is awarded by the RWSC on May 21, 2008, the CRD has up to 30 days to issue a Notice to Proceed to the contractor. Therefore, the CRD expects to have ownership of the land well in advance of when the contractor will be authorized to start construction.

ALTERNATIVES

1. The contract could be awarded to the second lowest bidder, but there would be an increased cost to do so. Kinetic's legal representative has indicated that Kinetic might challenge such a decision.
2. The tender could be cancelled, with no award. The project would then need to be re-tendered and this would lead to a project delay of at least 2 months. It is unclear what the reaction of bidders would be to such a decision, but it would not be favourable and there may be some long-term damage to the CRD's reputation. Staff have concerns that some of the bidders might choose not to bid a second time.

FINANCIAL IMPLICATIONS

The 2008 Capital Budget includes \$18,406,000 for the construction of a new supply line to Sooke, and \$2,856,000 for construction of the SRRDF. Based on the bids received for Phases 1 and 2, the project as a whole is expected to be within established budgets even though the low bid for the SRRDF is more than expected.

SUMMARY

The low bidder, Kinetic Construction, is known to both staff and the engineering consultant, and has performed similar projects in an acceptable manner in the past.

RECOMMENDATION

That the Regional Water Supply Commission award the contract for construction of the Sooke River Road Disinfection Facility to Kinetic Construction Ltd., at a total tendered price of \$4,662,000 (including GST).

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Concurrence