

TO: James L. App, City Manager
FROM: Meg Williamson, Interim Public Works Director
SUBJECT: Thunderbird Wellfield – Water Transmission Main
DPW 01-13
DATE: June 15, 2004

NEEDS: For the City Council to consider adopting Resolution No. 04-xxx to uphold, in part, the bid protest filed by Arthurs' Contracting, reject the apparent low bid from MGE Underground, Inc. as nonresponsive, reject bids 2 through 9 as nonresponsive, and award the contract for the Thunderbird Waterline Project to the tenth-low bidder, Becka Construction, Inc.

- FACTS:**
1. The Thunderbird Wellfield provides the majority of the City's potable water. The City's Water Master Plan calls for a redundant 16-inch line to be constructed to meet east side water demands.
 2. Plans and Specifications to build the 16-inch line were prepared and sent to plan holders, as well as contractors, who requested copies. The engineer's construction estimate is \$1,414,223
 3. At the bid opening on May 20, 2004, eleven (11) bids were opened ranging from a low of \$849,333 to a high of \$1,677,842.
 4. The City received a Bid Protest from Arthurs' Contracting, Inc. arguing (among other issues) that the bid submitted by the apparent low bidder, MGE Underground, Inc. is not responsive. (See copy of protest, attached). One of the points in Arthurs' protest was that MGE planned to use an alternate piping material – fusible PVC – in place of the specified steel pipe, but did not meet the requirements in the bid documents for using this alternate material. The bid documents require the bidder to notify the City in its bid of its intent to use PVC and to provide specific information showing that the proposed material meets the design requirements within 7 days after the bid opening.
 5. MGE Underground, Inc. provided a response to the Bid Protest (See copy attached). In it, MGE confirmed that it planned to use fusible PVC pipe, but argued that it was not required to notify the City of its material choice in its bid or provide information on the proposed material because the material was an "alternate" rather than a "substitution."
 6. Larry Kraemer at Cannon Associates (the design engineer), reviewed MGE's bid and the bid protest and identified two deficiencies in MGE's bid: 1) failure to provide required notice of intent to use PVC and information on the proposed alternate PVC pipe material; and, 2) failure to provide information regarding experience of the individuals proposed to perform the horizontal directional drilling (HDD) as the bid documents required.
 7. The City reviewed the other bids received, and discovered that the bidders ranked 2-9 (by price) also did not provide the required information regarding their HDD operations.

**ANALYSIS
AND**

CONCLUSION: Low bid is not responsive

After reviewing the bid documents, MGE's bid, the bid protest, MGE's response to the protest, and comments from the engineer, staff and City Attorney's office have concluded that MGE's

bid is not responsive and should be rejected. MGE's bid does not comply with two material requirements of the bid documents.

First, Section 12.02(C)(5) of the Technical Specifications states that the use of fusible C905 PVC pipe will be allowed for the Salinas River Crossing subject to specified requirements. Those requirements include 1) that the bidder "indicate in its bid" that it intends to use PVC pipe, and 2) that, within 7 days of the bid opening, the bidder provide specific information about the quality and suitability of the alternate material and fittings for the engineer's review. The purpose of these requirements is to enable the City to determine –before awarding the bid– whether the bidder is able to provide acceptable alternate materials.

MGE did not meet either of these requirements. Without this information, City staff and the engineer cannot determine whether MGE is proposing to install piping that meets the contract requirements.

Second, Section 12.03(J)(1) specifies experience requirements for the individuals performing the HDD. The superintendent must have at least 10 years of trenchless pipe installation experience and have worked on 10 HDD projects in the last 3 years using the same equipment required for the Paso Robles project. Each machine operator must have at least 5 years of trenchless pipe installation and have worked at least two HDD projects using the equipment required for this project. (see pp. 107-108 of the specifications). The specifications require that bid submittal include "an informational package describing [the driller's] experience, rig data and a description of his approach to the project." The information must be "sufficient to substantiate the [driller's] compliance with the experience requirements of this section."

MGE provided no information on the experience of the individuals who would perform this critical work. The only information in MGE's bid on HDD operations was the name and address of the company, the license number and the company's gross annual receipts for last year. This information is not sufficient for city staff and the engineer to determine whether MGE would have the HDD performed by qualified individuals.

Accordingly, staff recommends that the City Council:

- i) uphold the bid protest filed by Arthurs' Contracting, Inc. to the extent that it contends that MGE's bid is not responsive; and
- ii) reject MGE Underground's bid as nonresponsive.

Other bids are non-responsive

City staff has reviewed other bids received for the Thunderbird Water Transmission project and determined that the bidders who submitted bids ranked 2 – 9, inclusive, also failed to comply with the requirements for providing information regarding HDD operations. As noted above, the bid documents expressly required bidders to provide specific information in the bid documents in order to allow the City and engineer to evaluate the proposed HDD operator.

Accordingly, staff recommends that the City Council reject the bids ranked 2-9 as nonresponsive to the bid documents. See attached bid list for bidders' names.

Responsive bid

City staff and the City Attorney's office have reviewed the bid documents submitted by the bidder in 10th position and determined that this bid meets all of the requirements of the bid documents, including the required information regarding HDD operations. The bid of \$1,531,597 by Becka Construction is within 8% of the engineer's estimate.

Rejection of all bids

The City's permit to perform work within the Salinas River is restrictive and is only allowed from June 15 to October 31. Further, though we can file for an extension, the permit will expire on

December 31, 2004. In addition, the price of steel is rising, and there is a possibility that higher bids will be received should the City re-advertise for new bids.

The City Attorney indicates that re-bid could be accomplished on an accelerated reschedule. On such a schedule, it is estimated that bid award could be considered July 20, 2004, construction start by September 2004, and project completion Spring 2005.

Therefore, due to construction window restraints and the potential of higher bids, staff recommends that the City Council award the contract, if at all, to Becka Construction, Inc. at the bid price of \$1,531,597.

POLICY

REFERENCE: Public Contract Code
Capital Improvement Program
Water Master Plan

FISCAL

IMPACT: A budget in the amount of \$2,500,000 has been adopted for this project under Budget Account No. 220.910.5452.550. There is a balance of \$ 2,346,000 available for construction.

OPTIONS:

- a.** Consider adopting Resolution No. 04-xx:
 - 1. Finding the Bid Protest filed by Arthurs Contracting, Inc. partially valid.
 - 2. Rejecting the bid submitted by MGE Underground as non-responsive.
 - 3. Rejecting bids 2-9.
 - 4. Awarding the project to Becka Construction at the bid price of \$1,531,597.
- b.** Reject all bids and direct staff to re-advertise for bids.
- c.** Amend, modify, or reject the above options.

Attachments (3)

- 1) Resolution
- 2) Bid Summary
- 3) Bid Protest Letters

RESOLUTION NO. 04-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AWARDING A CONSTRUCTION CONTRACT FOR A 16-INCH WATERLINE
FROM THE THUNDERBIRD WELLFIELD

WHEREAS, the Water Master Plan has identified the need to install a redundant 16-inch diameter pipeline from the Thunderbird Wellfield; and

WHEREAS, at the bid opening on May 20, 2004, eleven (11) bids were opened ranging from a low of \$849,333.00 to a high of \$1,677,842.00; and

WHEREAS, Arthurs' Contracting, Inc. filed a Bid Protest against the bid submitted by the apparent low bidder, MGE Underground; and

WHEREAS, staff reviewed MGE's bid and the bid protest, and identified two deficiencies in that bid, namely, failure to provide notice to the City in its bid of its intent to use PVC as an alternate pipe material and failure to provide information regarding experience of the individuals proposed to perform the horizontal directional drilling (HDD) as the bid documents required, and notified MGE; and

WHEREAS, staff reviewed the other bids received and discovered that bidders ranked 2-9 (by price) also did not provide the required information regarding their HDD operations; and

WHEREAS, staff provided notice to bidders ranked 2-9 of their failure to provide the information required; and

WHEREAS, after reviewing the bid documents, MGE's bid, the bid protest, MGE's response to the protest, and comments from the City's design engineer, the City Attorney's office concluded that MGE's bid is not responsive and should be rejected; and

WHEREAS, staff reviewed the other bids received and determined that bids ranked 2-9, inclusive, also failed to comply with the requirements regarding HDD operations and recommends that the bids ranked 2-9 are non-responsive and should be rejected; and

WHEREAS, staff reviewed the bid submitted by the bidder in the 10th position, Becka Construction, and determined that this bid meets all of the requirements of the bid documents, including the required information regarding HDD operations.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That the City Council has determined to uphold the bid protest filed by Arthurs' Contracting, Inc., to the extent that it contends that MGE's bid is not responsive;

SECTION 2. That MGE's bid is not responsive and is therefore rejected.

SECTION 3. That the bids received ranked 2-9 are also non-responsive and should be rejected.

SECTION 4. That the bid submitted by Becka Construction in the amount of \$1,531,597 is the lowest responsive bid the City received.

SECTION 5. That the City award the contract for the Thunderbird Waterline Project to Becka Construction.

SECTION 6. That the City Council authorize the City Manager to execute a contract with Becka Construction for this Project.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 15th day of June 2004 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

**THUNDERBIRD WELLFIELD 16-INCH DIA. WATER TRANSMISSION MAIN
PROJECT NO. DPW 01-13
BID SUMMARY**

ITEM	DESCRIPTION	EST QTY	UNIT	MGE Underground, Inc Paso Robles, CA		Arthurs Contracting, Inc. Atascadero, CA		HMS Construction, Inc. San Marcos, CA		Whitaker Contractors, Inc Santa Margarita, CA			
				UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE		
1	Mobilization, for entire project	1	LS	85,710.00	85,710.00	14,053.00	14,053.00	12,000.00	12,000.00	93,200.00	93,200.00		
2	Traffic Control, for entire project	1	LS	6,818.00	6,818.00	4,500.00	4,500.00	4,500.00	4,500.00	11,400.00	11,400.00		
3	Excavation stabilization, complete and in place	15	CY	86.00	1,290.00	132.00	1,980.00	135.00	2,025.00	255.00	3,825.00		
4	16-inch DIP water main & fittings (pressure Class 350) complete and in place	7,095	LF	67.00	475,365.00	65.10	461,884.50	75.00	532,125.00	72.40	513,678.00		
5	8-inch DOP water main & fittings (pressure Class 350) complete and in place	85	LF	79.00	6,715.00	141.00	11,985.00	175.00	14,875.00	91.20	7,752.00		
6	16-inch in-line butterfly valve assembly, complete and in place	8	EA	3,760.00	30,080.00	3,200.00	25,600.00	5,850.00	46,800.00	3,841.00	30,728.00		
7	12-inch in-line butterfly valve assembly, complete and in place	4	EA	3,145.00	12,580.00	3,250.00	13,000.00	4,500.00	18,000.00	3,181.00	12,724.00		
8	4-inch release/vacuum release assembly, complete and in place	9	EA	4,130.00	37,170.00	4,985.00	44,865.00	7,500.00	67,500.00	3,168.00	28,512.00		
9	Manual drain/blow-off assembly, complete and in place	5	EA	4,196.00	20,980.00	5,875.00	29,375.00	6,400.00	32,000.00	7,010.00	35,050.00		
10	16-inch welded steel water main and fittings with internal/external coatings, complete and in place	791	LF	217.00	171,647.00	495.00	391,545.00	420.00	332,220.00	425.00	336,175.00		
11	8-inch gate valve assembly, complete and in place	1	EA	978.00	978.00	950.00	950.00	2,200.00	2,200.00	822.00	822.00		
TOTAL BID							849,333.00		999,737.50		1,064,245.00		1,073,866.00

**THUNDERBIRD WELLFIELD 16-INCH DIA. WATER TRANSMISSION MAIN
PROJECT NO. DPW 01-13
BID SUMMARY**

ITEM	DESCRIPTION	EST QTY	UNIT	Specialty Construction, Inc San Luis Obispo, CA		W.M. Lyles Company Fresno, CA		R. Burke Corporation San Luis Obispo, CA		Special Service Contractor Paso Robles, CA	
				UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE
1	Mobilization, for entire project	1	LS	37,800.00	37,800.00	31,800.00	31,800.00	60,000.00	60,000.00	60,720.00	60,720.00
2	Traffic Control, for entire project	1	LS	2,560.00	2,560.00	7,300.00	7,300.00	8,900.00	8,900.00	1,385.00	1,385.00
3	Excavation stabilization, complete and in place	15	CY	754.00	11,310.00	81.00	1,215.00	160.00	2,400.00	375.00	5,625.00
4	16-inch DIP water main & fittings (pressure Class 350) complete and in place	7,095	LF	70.00	496,650.00	73.00	517,935.00	75.00	532,125.00	90.00	638,550.00
5	8-inch DOP water main & fittings (pressure Class 350) complete and in place	85	LF	98.00	8,330.00	250.00	21,250.00	100.00	8,500.00	80.00	6,800.00
6	16-inch in-line butterfly valve assembly, complete and in place	8	EA	4,300.00	34,400.00	5,600.00	44,800.00	3,100.00	24,800.00	7,270.00	58,160.00
7	12-inch in-line butterfly valve assembly, complete and in place	4	EA	4,200.00	16,800.00	3,400.00	13,600.00	2,600.00	10,400.00	8,000.00	32,000.00
8	4-inch release/vacuum release assembly, complete and in place	9	EA	5,700.00	51,300.00	9,600.00	86,400.00	6,500.00	58,500.00	7,500.00	67,500.00
9	Manual drain/blow-off assembly, complete and in place	5	EA	7,100.00	35,500.00	10,200.00	51,000.00	4,200.00	21,000.00	10,225.00	51,125.00
10	16-inch welded steel water main and fittings with internal/external coatings, complete and in place	791	LF	503.00	397,873.00	420.00	332,220.00	650.00	514,150.00	595.00	470,645.00
11	8-inch gate valve assembly, complete and in place	1	EA	3,300.00	3,300.00	2,000.00	2,000.00	1,200.00	1,200.00	3,355.00	3,355.00
TOTAL BID					1,095,823.00		1,109,520.00		1,241,975.00		1,395,865.00

**THUNDERBIRD WELLFIELD 16-INCH DIA. WATER TRANSMISSION MAIN
PROJECT NO. DPW 01-13
BID SUMMARY**

ITEM	DESCRIPTION	EST QTY	UNIT	HPS Mechanical, Inc. Bakersfield, CA		BECKA Construction, Inc. Bakersfield, CA		Villa Electric, Inc. Lemoore, CA			
				UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE	UNIT PRICE	EXT PRICE		
1	Mobilization, for entire project	1	LS	3,204.00	3,204.00	104,862.00	104,862.00	51,000.00	51,000.00		
2	Traffic Control, for entire project	1	LS	2,378.00	2,378.00	9,600.00	9,600.00	12,000.00	12,000.00		
3	Excavation stabilization, complete and in place	15	CY	160.00	2,400.00	1,570.00	23,550.00	300.00	4,500.00		
4	16-inch DIP water main & fittings (pressure Class 350) complete and in place	7,095	LF	115.80	821,601.00	110.00	780,450.00	135.00	957,825.00		
5	8-inch DOP water main & fittings (pressure Class 350) complete and in place	85	LF	111.00	9,435.00	145.00	12,325.00	98.00	8,330.00		
6	16-inch in-line butterfly valve assembly, complete and in place	8	EA	5,637.00	45,096.00	9,500.00	76,000.00	4,200.00	33,600.00		
7	12-inch in-line butterfly valve assembly, complete and in place	4	EA	4,516.00	18,064.00	13,950.00	55,800.00	3,800.00	15,200.00		
8	4-inch release/vacuum release assembly, complete and in place	9	EA	7,641.00	68,769.00	11,500.00	103,500.00	6,000.00	54,000.00		
9	Manual drain/blow-off assembly, complete and in place	5	EA	9,520.00	47,600.00	11,107.00	55,535.00	4,100.00	20,500.00		
10	16-inch welded steel water main and fittings with internal/external coatings, complete and in place	791	LF	547.00	432,677.00	387.00	306,117.00	657.00	519,687.00		
11	8-inch gate valve assembly, complete and in place	1	EA	1,520.00	1,520.00	3,858.00	3,858.00	1,200.00	1,200.00		
TOTAL BID							1,452,744.00		1,531,597.00		1,677,842.00

P.O. BOX 4189
PASO ROBLES, CA 93447



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MGE UNDERGROUND, INCORPORATED

LIC.# A-765025

May 26, 2004

City of Paso Robles
Ditas Esperanza / James L. App
1000 Spring Street
Paso Robles, CA 93446

RE: Thunderbird Wellfield, 16 inch Transmission Main, DPW Project No. 01-13, Response to Bid Protest

Dear Ditas and James,

We submit this letter in response to the Bid Protest filed by Arthurs Contracting on May 25, 2004. We will address and dispel the issues in the order listed on the protest.

1. **Experience of bidder:** This entire statement is simply incorrect. We would argue that the sewer project completed for the City of Paso Robles which we listed, is even more intricate than this project, with increased depths, and that added challenges of active city streets, sewer bypasses, etc.

Furthermore, (as city water works staff can attest) one of the contracts (Wine Country RV Park) listed under the "references" category, involved our company installing **16" ductile iron class 350 pipe** along Airport Road, to serve the new RV Park.

2. **List of Subcontractors:** Our proposed subcontractors are clearly listed on page 10. The percentage of work for Valley Trenching was simply placed on the wrong line. Also, Valley Trenching's business address was not completely filled in, however the city in which they conduct their business was listed, thereby fully clarifying who we intended on using. Both of these issues are minor irregularities, which under public contract code, the city has the right to waive.

Mr. Arthurs claims that a "cost of work" was to be listed along with subcontractors, this is simply incorrect. Nowhere in the contract documents does the city request "cost of work" for subcontractors.

By adding the two subcontractor's percentages, (clearly listed under percentage of work) it should be very clear that subcontractors are to complete 11.9% of the work, leaving MGE 88.1% of the work to complete, well over the required 60%.

3. **Completing and signing forms:** This Statement is incorrect. Page 12 was absolutely submitted for our subcontractors and suppliers.
4. **Alternative to Steel Pipe:** Mr. Arthurs suggests that the use of fusible C905 pipe is a substitution. This is incorrect. The use of this material is actually specified as an Alternative to Steel Pipe, in which case there is no requirement for the contractor to make indication in it's bid.
Groeniger, Inc., who was listed as a supplier, will supply the fusible PCV for this project.
5. **Underground Solutions, inc.:** MGE Underground will complete the fusion work with it's own forces. We have made arrangements with Underground Solutions, inc., to be instructed by their technician and to be licensed under the guidelines of their patent on the process. Information on this licensing is available on the website referenced in the Special Provisions. No subcontractor listing applies.

MGE Underground has an established reputation with the City of Paso Robles through both completed and ongoing projects. We expect and hope that the "experience" concerns outlined by Mr. Arthurs are not a concern to the City. The other concerns should be easily dismissed as minor irregularities, and the contract should be awarded to MGE Underground. In any case, if the City finds MGE Underground non-responsive, pursuant to Superior Court decision Cal App 3d 1331, 1343, "a bidder is entitled to submit additional materials concerning the issue of responsiveness".

We look forward to working with you on this project.

Sincerely,



Michael Joe Goldstein
President, MGE Underground