



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 09-06-06

Approved

Ray Winer

Date

9/1/06

**SUBJECT: REJECTION OF BIDS – SAN JOSE/SANTA CLARA WATER
POLLUTION CONTROL PLANT, FY 2005/2006 COMPRESSED AIR
UPGRADE PROJECT**

RECOMMENDATION

Approval to reject all bids for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 1997/1998 Compressed Air Upgrade Project.”

OUTCOME

Approval to reject all bids will allow the commencement of another round of bidding for the award of a construction contract to ensure that this project proceeds with sufficient funding and contingency in order to overhaul the San José/Santa Clara Water Pollution Control Plant’s obsolete compressed air system to one that is more efficient and reliable.

BACKGROUND

This project was intended to provide for the overhaul and upgrade of the San José/Santa Clara Water Pollution Control Plant’s compressed air supply and delivery system. The Plant’s system has over twenty years of service and is becoming costly to maintain and operate when compared to current technologies. This is demonstrated by the electrical costs to provide compressed air throughout the facility, increasing maintenance hours, and the decreased quality and reliability of the entire compressed air system. Industry standards, and technologies associated with compressed air delivery, have evolved over the years rendering the Plant’s existing system outdated. This project includes the design and installation of various components to improve the efficiency and quality of compressed air delivery to various sections of the Plant.

During the initial bidding of this project, in early 2006, two bids were received. The low bidder was rejected when it was determined that the bid amount did not include applicable taxes. The second qualified bidder’s quote was significantly higher than the engineer’s estimate. On April 25, 2006, Council rejected both bids in order to begin the process over in order to receive additional qualified bidders.

In June 2006 the second bid process was completed, two qualified bids were received and the low bid was within the engineers estimate. After the bids were opened, however, it was discovered that staff had inadvertently failed to include in the specifications language that Council approved on May 27, 2003 (Resolution No. 71584) related to remedies for the Contractor's breach of prevailing wage requirements.

ANALYSIS

Bids were opened on June 8, 2006 for the project. The results of the bids are as follows:

<u>Contractor</u>	<u>City</u>	<u>Bid Amount</u>	<u>Variance Over / (Under)</u> <u>City's Internal Estimate</u>	
			<u>Amount</u>	<u>Percent</u>
Environmental Systems Inc.	Santa Clara	\$388,000	\$128,000	+49.2%
Air Perfection, Inc.	Dixon, CA	\$267,807	\$7,807	+3%
Engineer's Estimate		\$260,000		

Of the two bids received, Air Perfection, with a responsive bid of \$267,807 is the low bidder and is 3% above the City's estimate. Environmental Systems, with a bid of \$388,000, is 49.2% higher than the City's estimate.

Although the low bidder would be agreeable to including this language in the final contract, changes to bid specifications after bid opening, or requiring the bidder to accept a change in the specifications as a condition to the award, are not legally permissible. It is therefore necessary to either allow this project to go forward without complying with the Council policy or to reject all bids and re-bid the project.

POLICY ALTERNATIVES

Alternative #1: Award contract to low bidder and approve an exemption by Council of Resolution 71584 for this particular contract.

Pros: Saves significant staff time from having to process another lengthy contract; would prevent further delay of a much needed project; re-bidding with Resolution 71584 included would not substantially enhance City's enforcement capacity with respect to prevailing wages, due to the low percentage (27%) and dollar value (\$59,525) of work in this contract that would be affected by the additional remedies.

Cons: Potential to set unwarranted precedent for a project that is not time critical.

Reason for not recommending: Sets unwarranted precedent.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the criteria listed above. As a common practice, a Notice-to-Contractors inviting qualified firms to submit bids was published by the City Clerk's Office in the *San José Post Record*, and by the City's Project Manager on the ESD Internet website and Public Work's Bidline. This memo has also been posted on the City's website for the September 26, 2006 Council Agenda.

COORDINATION

This project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, Public Works of Equality Assurance, Risk Management, the City Attorney's Office and the City Manager's Budget Office and is scheduled to be heard at the September 14, 2006 Treatment Plant Advisory Committee meeting.

COST SUMMARY/IMPLICATIONS

1. COST OF PROJECT

Project Delivery	\$44,434
Construction	223,373
Contingency	<u>27,000</u>
TOTAL PROJECT COSTS	\$294,807
Prior Year Expenditures	\$0
REMAINING PROJECT COSTS	\$294,807

2. COST ELEMENTS OF CONSTRUCTION CONTRACT

Design	\$32,526
Temporary compressed air plant	11,908
Equipment & Materials	119,414
Labor	59,525
Contingency	<u>27,000</u>
TOTAL CONSTRUCTION CONTRACT	\$223,373

3. SOURCE OF FUNDING: 512 – San José-Santa Clara Treatment Plant Capital Fund.

4. FISCAL IMPACT: Existing funds are available for this project. No additional appropriation action is required.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2006-2007 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
512	4332	Equipment Replacement	038685	\$1,525,000	\$294,807	V-263	N/A

CEQA

CEQA: Exempt, PP05-124.



John Stufflebean
Director, Environmental Services Department

For questions please contact Dale Ihrke, Acting Deputy Director, at (408) 945-5198.