City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: June 1, 2010

SUBJECT: Hearing Regarding Aztec Contractors Appeal of the Rejection of Its Bid Protest on SCADA System Design and Implementation Project – CIP No. 06-09

Report in Brief

On April 22, 2010, City staff received and opened bids for the SCADA System Design and Implementation Project – CIP No. 06-09 ("Project"). The apparent low bidder for the Project was Auburn Constructors ("Auburn") with a bid price of $1,142,300. Following the bid opening, the second low bidder, Aztec Contractor's ("Aztec"), with a bid price of $1,355,000, submitted a bid protest, alleging that Auburn should be deemed non-responsive because Auburn failed to acknowledge Bid Addendum No. 3 as part of its bid submission and failed to submit a signed Disadvantaged Business Enterprise (DBE) form. City staff concluded that these irregularities were minor, obtained from Auburn the documents Auburn initially omitted, and rejected Aztec's bid protest in writing on or about May 10, 2010. Aztec then submitted an appeal and request for hearing pursuant to the bid documents on or about May 14, 2010.

Staff recommends that the City Council conduct a hearing on Aztec's appeal and, pending the outcome of the City Council's consideration of the appeal, provide further direction to staff.

Background

Pursuant to Section B-14 of the Invitation to Bidders for the Project, a party submitting a bid protest who disagrees with the decision of City staff may submit an appeal and request a hearing before the City Council. Aztec's May 14, 2010, appeal of City staff's rejection of Aztec's bid protest requested this hearing before the City Council. The hearing provides Aztec with the opportunity to address this matter further and present any and all additional facts Aztec would like the City Council to consider prior to consideration of the award of the Project contract. After Aztec has the opportunity to present its appeal, City staff may then rebut Aztec's presentation as necessary/appropriate.

City staff's rejection letter and Aztec's appeal are attached hereto for the City Council's review.

Discussion

City staff has reviewed Aztec's initial bid protest, its appeal, and the relevant facts and circumstances surrounding the Project bid. Based on this review, City staff remains convinced that Aztec's bid protest is without merit, and that to the extent there may have been deviations or irregularities in Auburn's bid and/or the bid process, the City may waive such deviations as minor/immaterial irregularities under California law. Staff recommends this course of action based on the following facts.

1. Pursuant to applicable law and the bid documents (Notice of Inviting Bids Section A-8), the City has the authority to waive any irregularities or immaterial deviations in the bid process or the bids that do not affect the bid price or otherwise provide a bidder with a competitive advantage.

2. Addendum No. 3 contains no information that goes to price or would otherwise materially impact a bid price. In fact, all the items in Addendum No. 3 are clarifications related to minor administrative/informational changes only. Aztec's appeal does not provide any new evidence demonstrating that Addendum No. 3 had any substantive impact on price.

3. Addendum No. 3 issued by the City contained a minor clerical error that mistakenly indicated that that the addendum was Addendum No. 2.

4. The apparent low bidder has confirmed that its bid is complete and includes all required work on the Project, including but not limited to, all work in the bid documents and all addenda.

5. Aztec's bid also contained irregularities in that Aztec failed to submit all of the required Experience Modification Rating (EMR) information/documentation, omitting the information for 2009. Although Aztec's appeal alleges that it did comply with this requirement and that its subcontractor was to provide this information, a review of this bid requirement indicates that the ***bidder*** was responsible for submission of ***all*** required information including the EMR data. (Emphasis Added.) Alleging that a subcontractor failed to provide the required submission does not relieve Aztec from the duty of submitting all required information and documentation.

Accordingly, to the extent that there was an irregularity in the bid process due to the City's clerical error or Auburn's bidder's failure to acknowledge Addendum No. 3 in its bid documents, and/or any other irregularity in Auburn's bid, the above facts demonstrate that these irregularities or deviations are immaterial in nature and may be waived by the City. Therefore, City staff continues to recommend that the City Council reject Aztec's bid protest and proceed with award of the Project contract to Auburn, or else reject all bids.

Fiscal Impact

It is difficult to estimate the fiscal impact of granting Aztec's appeal. The City would have the options of awarding the contract to Aztec at an additional cost of approximately $213,000 (waiving Aztec's own bid irregularity), awarding the contract to the next-lowest bidder, Western Contractors, at an additional cost of approximately $336,000 above the Auburn bid price, or rejecting all bids and re-bidding the project. There is no way to know what bid prices the City might receive if the project is rebid.

Public Contact

Posting of the City Council agenda.

Recommendation for Action

Staff recommends that the City Council conduct a hearing on Aztec's appeal and, pending the outcome of the City Council's consideration of the appeal, provide further direction to staff.

Prepared by: Andrew J. Morris
City Attorney

_____
Mark G. Deven
City Manager

Attachments: City's rejection letter
Aztec's formal bid protest

City of Woodland
Community Development Department – Engineering Division
300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

E. Frank Duarte
Aztec Consultants
2021 Omega Road, Suite 200
San Ramon, CA 94583-1542

Re: SCADA System Design and Implementation Project, CIP No. 06-09 Formal Bid Protest

Dear Mr. Duarte:

The purpose of this letter is to provide the City of Woodland's (the "City") response to Aztec Consultants' ("Aztec") bid protest dated April 28, 2010 regarding the project referenced above (the "Project"). Based on the protest, the City understands that Aztec believes that the apparent low bidder on the Project should be deemed non-responsive because the low bidder failed to properly complete its bid documents by failing to acknowledge the Bid Addendum No. 3.

Accordingly, City staff reviewed Aztec's protest, the relevant bid documents, and the circumstances surrounding the bid and believes Aztec's protest is without merit for the following reasons:

1. The City has the authority to waive any irregularities or immaterial deviations in the bid process or the bids that do not affect the bid price or otherwise provide a bidder with a competitive advantage. (Ref: Notice of Inviting Bids Section A-8)

2. Addendum No. 3 contains no information that goes to price or would otherwise materially impact a bid price. In fact, all the items in Addendum No. 3 are clarifications related to minor administrative/informational changes only.

3. Addendum No. 3 issued by the City contained a minor clerical error that mistakenly indicated that that the addendum was Addendum No. 2.

4. The apparent low bidder has confirmed that its bid is complete and includes all required work on the Project, including but not limited to, all work in the bid documents and all addenda.

City of Woodland
Community Development Department – Engineering Division
300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

5. For all of these reasons, to the extent that there was an irregularity in the bid process due to the City's clerical error or the low bidder's failure to acknowledge Addendum No. 3 and/or any other irregularity in the low bid, the above facts demonstrate that these irregularities or deviations are immaterial in nature and may be waived by the City.

In addition to the above facts, City staff also believes that waiver of these deviations is consistent with its general policy of treating all bidders fairly and in good faith by waiving such minor/immaterial deviations when they do not provide an impermissible competitive advantage or otherwise affect a bid price. This is important to note given that City staff also determined that Aztec did not fully complete all required items within its bid, including but not limited to, providing information related to its EMR (Experience Modification Rating), which the City had to request after the bid opening. If Aztec had been the low bidder, City staff would likely have treated Aztec the same, and been willing to waive the deviations in Aztec's bid as immaterial as well.

Based on the City's review of all of the above-described circumstances, the City staff believes that Aztec's bid protest is without merit. Accordingly, City staff will proceed with its recommendation that the City Council, at its May 18, 2010 meeting, award the Project contract to the apparent low bidder, or else reject all bids. The City thanks Aztec for its bid and appreciates its desire to be awarded City work.

Sincerely,

Brent Meyer, PE,
City Engineer

GARY A. BERTICEVICH
Attorney at Law
22693 Hesperian Boulevard, Suite 170
Hayward, California 94541

Telephone: (510) 784-7300 Facsimile: (510) 670-0278 cvgaryb@aol.com

May 14, 2010

Meeting of City of Woodland City Council: May 18, 2010 at 6:00 p.m.

Re: SCADA System Design and Implementation Project, CIP No. 06-09
APPEAL of City Staff/Council Recommendation

ATTACHMENTS (21 total pages)

Letter of Appeal	To: City Engineer and City Council
Exhibit A	Notice Inviting Bids (pages I-6, I-10)
Exhibit B	Addendum # 3, CIP No. 06-09
Exhibit C	Formal Bid Protest of Aztec Consultants, April 28, 2010
Exhibit D	Response to Formal Bid Protest of Aztec Consultants, by City Engineer

RECIPIENTS

Name	Fascimile	E-Mail
Brent Meyer, PE	530-661-5844	brent.meyer@cityofwoodland.org
Akin Okupe, MBA, PE	530-661-1290	Akin.Okupe@cityofwoodland.org
Douglas Baxter, MBA, PE	530-661-1290	douglas.baxter@cityofwoodland.org
City Council	530-661-5813	marlin.davies@cityofwoodland.org Art.pimentel@cityofwoodland.org Jeff.monroe@cityofwoodland.org William marble@cityofwoodland org Martie.dote@cityofwoodland.org
Aztec Consultants	925-837-1652	efduarte@azteccm.com, eduarte@azteccm.com

GARY A. BERTICEVICH
Attorney at Law
22693 Hesperian Boulevard, Suite 170
Hayward, California 94541

Telephone: (510) 784-7300 Facsimile: (510) 670-0278 cvgaryb@aol.com

May 14, 2010

City Council
Brent Meyer, PE, City Engineer
City of Woodland
Community Development Department – Engineering Division
300 First Street
Woodland, CA 95695

Re: SCADA System Design and Implementation Project, CIP No. 06-09
APPEAL of City Staff/Council Recommendation
Date of City Council Meeting: May 18, 2010

Dear Council Members and Mr. Baxter:

This office has been retained by Aztec Consultants to represent it in its formal protest of the award of the above-referenced project to a non-responsive bidder, Auburn Constructors. Pursuant to Section B-14 of the Invitation to Bidders, Aztec appeals the recommendation of City staff that the City Council award the Project contract to the apparent low bidder. We disagree with the City's positions taken in response to the formal protest.

Summary

It is undisputed that the low bid was non-responsive. The City of Woodland notified all bidders that any bid that did not acknowledge receipt and examination of all addendums and clarifications would be rejected and disqualified. This is clearly stated in the specifications and on the face of the Addendum Acknowledgment sheet provided to all bidding prime contractors. The low bidder, Auburn Constructors, failed to acknowledge Addendum # 3. The City imposed upon itself the mandatory obligation to reject and disqualify every bid that did not acknowledge all addendums and clarifications. This self-imposed obligation of the City can not be waived. If the low bidder is awarded the contract, despite its non-responsive bid, it will have received an unfair advantage that the other bidders did not receive – it can back out of the contract without penalty, and challenge the City if the contract is imposed upon it. It is immaterial that the low bidder might not try to avoid the contract; under the law it matters only that it can. Additionally, Addendum # 3 does affect the contract price. Because the City was required to reject the non-responsive bid, the City may not deny the contract to the lowest <u>responsive</u> bidder, Aztec Consultants.

Applicable Law

The California Supreme Court stated the general rule that bidding requirements must be strictly adhered to in order to avoid the potential for abuse in the competitive bidding process. (*Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 176.) Strict adherence to bidding requirements is applied even where it is certain there has been no corruption or adverse effect upon the bidding process, and the deviations would save the public entity money. (*Id.*) (quoting *Konica Business Machines U.S.A., Inc. v Regents of University of California* (1988) 206 Cal.App.3d 449, 459). A bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected bid price or given a bidder an advantage or benefit not allowed other bidders or, in other words, if the variance is consequential. (*Konica*, 206 Cal.App.3d at 454.) However, to permit the public entity to allow deviations from precise specifications in its public call for bids leaves bidders in the unfair position of having to guess what will satisfy the public entity's needs. (*Id.*, at 457.)

The Low Bid Was Non-Responsive

Section A-8 of the Notice Inviting Bids provides, in part: "The award shall be made to the lowest responsive, responsible bidder whose Bid complies with the specified requirements." (Underline added) (Exh. A, pg. I-6).

The bid of apparent low bidder (Auburn Constructors) was non-responsive and must be rejected. Auburn Constructors failed to comply with the terms of Addendum #3, which provides, in part:

"BIDDER SHALL ACKNOWLEDGE RECEIPT AND EXAMINATION OF THIS ADDENDUM BY ATTACHING A SIGNED COPY OF THIS COVER SHEET TO THE SEALED BID PROPOSAL. FAILURE TO DO SO SHALL RESULT IN THE DISQUALIFICATION OF YOUR BID." (Underline in original) (Exh. B).

Addendum # 3 advised all bidders that the City "SHALL" disqualify any bid that did not acknowledge that addendum. The City must adhere to its own requirement and disqualify Auburn's bid.

The City Made Acknowledgement Of Receipt And Examination Of Addendum No. 3 A Mandatory, Material Part Of The Bid

The City contends that Addendum # 3 is immaterial and contains only clarifications. On the contrary, Section B-5 of the Instructions to Bidders provides, in part:

"Bids shall include all addenda or clarifications issued during the bidding period acknowledged by the bidder's signature thereon. Failure to so include or acknowledge an addendum or clarification will result in the bid being rejected as not responsive." (Underline added) (Exh. A, pg. I-10).

The City's Instructions notified all bidders that failure to acknowledge any addendum or clarification, including Addendum # 3, "will result in a bid being rejected. . . ." The City must comply with its own requirements and reject the low, non-responsive bid.

City May Not Waive An Irregularity It Made Material To The Bid, Even If The Irregularity Did Not Affect Bid Price, Because Auburn Constructors Received An Unfair Advantage

The City cites Section A-8 of the Notice Inviting Bids, providing in part: "The City reserves the right to waive any informalities or irregularities in the bids."

Contrary to Section A-8, the City does not have an unfettered right to waive any informality or irregularity. Even if the irregularity does not affect the bid price, the award of the contract must be overturned if it provided the low bidder an unfair advantage. An unfair advantage results when a contractor, by virtue of providing a non-responsive bid, could have "backed out" of the contract (by seeking relief under Public Contracts Code section 5103), an advantage not available to the other bidders.

In *Valley Crest Landscape, Inc. v. City Council* (1996) 41 Cal.App.4th 1432, the City's bid request required the bidder to show that it would perform at least 50 percent of the work itself, and to set forth the percentage of the work to be performed by each subcontractor. The lowest bidder's (North Bay's) bid improperly indicated 83 percent of the work would be done by subcontractors. After the bids were opened, the second lowest bidder (Valley Crest) objected to the North Bay's bid as non-responsive. When the City pointed out the irregularity to North Bay, North Bay claimed error and submitted new subcontractor percentages totaling 44.65 percent. The City awarded North Bay the contract over the objection of Valley Crest. The trial court denied Valley Crest's petition for a writ of mandate to set aside the contract awarded to North Bay.

The court of appeal reversed the trial court's decision: "We conclude North Bay could not change its bid, the City could not award North Bay the contract, and the contract is void." (*Id.*, 41 Cal.App.4th at 1435.)

> "<u>North Bay had an unfair advantage because it could have withdrawn its bid</u>. . . . [The incorrect subcontractor percentages] makes the bid materially different and is a mistake in filling out the bid. As such, under Public Contract Code section 5103, North Bay could have sought relief by giving the City notice of the mistake. . . . That North Bay did not seek relief is of no moment. The key point is that such relief was available. Thus, <u>North Bay had a benefit not available to the other bidders; it could have backed out. Its mistake, therefore, could not be corrected by waiving an 'irregularity'.</u>" (*Id.* at 1442) (underline added).

Likewise, Auburn Constructors could back out of the contract because its bid is non-responsive. (It makes no difference whether or not Auburn actually tries to back out.) In contrast, Aztec Consultants can not backed out of the contract if the City awards it the contract. Auburn Constructors therefore received an unfair advantage.

The Mandatory Language Of Addendum # 3 And The Bid Instructions Require The City To Reject The Non-Responsive Bid

The City has no discretion to waive the failure to acknowledge receipt and examination of Addendum # 3. Addendum # 3 unequivocally provides that failure to acknowledge its receipt and examination **"shall"** result in disqualification of the bid. The Bid Instructions, Section B-5, also provides that failure to acknowledge all addendums and clarifications **"will"** result in the bid being rejected.

This case, therefore, is **not** like *Menefee v. County of Fresno* (1985) 163 Cal.App.3d 1175, in which the court upheld the County's discretion to award a contract to the lowest bidder, even though it was missing a signature required by the County.

However, there the court noted in that case: "[T]here is no express statement that an unsigned bid will be rejected. Further, this mandatory language controls the bidder, not the board of supervisors. It requires a bidder to sign his bid, but does not control the board's discretion to waive the requirement." (*Id.* at 1180.)

Unlike the County in *Menefee*, the City of Woodland expressly required of itself the duty to reject and disqualify every bid that failed to acknowledge all addendums and clarifications. This controls the City's discretion. The City may not waive specifications it made mandatory so precisely.

Addendum # 3 Does Affect Price

The City incorrectly concludes that Addendum # 3 does not affect price. Actually, it affects price in at least two ways. First, it changes the requirement that Tesco-manufactured power panels be used at certain wells, to Tesco panels "or approved equal". Second, it allows an informal video camera inspection of pump and column assemblies, rather than an inspection using a professional videographer, which was implied. These two changes had the effect of potentially lowering the contract price, which the low bidder failed to acknowledge.

Other Issues Raised By City

The City contends that Addendum # 3 does not contain provisions affecting bid price, and it contains only clarifications. As shown above, the award gave the low bidder an unfair advantage, and the City demanded that all "clarifications" be acknowledged, or

else the non-responsive bid would be disqualified. Also, Addendum # 3 does affect bid price.

The City contends that it may waive the foregoing mandatory requirements it placed on itself, because it mistakenly made a typographical error on Addendum # 3, indicating it was Addendum # 2. This clerical error does not negate the requirement that all addendums and clarifications be acknowledged by the bidder.

The City contends that because the low bidder, after the fact, stood by its bid should allow the City to waive the acknowledgement requirement. That is not the test. Instead, Auburn Constructors could have been relieved of its bid based on the City's own mandate that Auburn's bid would be rejected. To allow the low bidder to alter its bid in a material way, to the unfair detriment of other bidders, contravenes the purposes of fairness in the competitive bidding process

Finally, the City also contends that Aztec's bid was non-responsive because it did not contain information related to its EMR (Experience Modification Rating) The City is incorrect. Under the Bidding Requirements (Page II-11) the electrical subcontractor, not the prime contractor, is required to submit its EMR, and Aztec included its electrical subcontrator's EMR sheet as required with their Bid Proposal. Aztec fully complied

Conclusion

Aztec Consultants requests that the City reject the bid of Auburn Constructors, and award the contract to Aztec. Alternatively, if the City does not award the contract to Aztec, then Aztec requests that all bids be rejected, and that the City reissue an invitation to bid the subject project.

Very truly yours,

Gary A. Berticevich

GAB/hs

Recipients and attachments
listed on cover sheet.

A-8 AWARD

The award shall be made to the lowest responsive, responsible bidder whose Bid complies with the specified requirements. The lowest bid shall be determined **based on base bid alone.** The award of Contract will be made by the City Council. The Contractor shall execute the Contract within ten (10) work days after receipt of the Contract from the City.

The City reserves the right to waive any informalities or irregularities in the bids. The City reserves the right to reject any and all bids.

A-9 DISQUALIFICATION OF BIDDERS

If there is reason to believe that collusion exists among any bidders, none of the bids of the participants in such collusion will be considered and the City may likewise elect to reject all bids received.

A-10 BONDS

Prior to the performance of any work hereunder, the successful bidder shall be required to furnish both a payment bond in an amount equal to one hundred percent (100%) of the Contract price and a faithful performance bond in an amount equal to one hundred percent (100%) of the Contract price. All bonds are to be secured from a surety company acceptable to the City and that meets all of the State of California bonding requirements, as defined in Code of Civil Procedure section 995.120, and is authorized by the State of California, and all documents required by Code of Civil Procedure section 995 660, to the extent required by law.

A-11 DISADVANTGED BUSINESS ENTERPRISE

The City of Woodland advises potential bidders that the project is funded in part with Water 2025 grant funds from the US Bureau of Reclamation therefore federal Disadvantaged Business Enterprise (DBE) regulations apply to this project. (Reference 40 Code of Federal Regulations Part 33 – Participation by Disadvantaged Business Enterprises in U.S. Environmental Protection Agency Programs).

The contractor shall take steps to ensure compliance with this provision, such steps shall include but not limited to the following:

1. Placing qualified small and minority businesses and women's business enterprise on solicitation list;

2. Assuring that small and minority businesses, and women enterprises are solicited whenever there are potential sources;

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

EXHIBIT A

the case may be, for which it proposes to supply the labor, materials, supplies or machinery, and perform the work required by the plans and specifications. If the bid is made by an individual, it shall be signed by the individual and the individual's full name and address shall be given. If the bid is made by a partnership, it shall be signed with the co-partnership name by a member of the partnership, who shall also sign its own name, and the name and address of each member of such partnership shall be given. If the bid is made by a corporation the name of the corporation shall be given and it shall be signed by its duly authorized officer or officers attested by the corporate seal, the name and titles of all officers of the corporation shall be given, and the address of the corporation and the state in which incorporated shall be stated.

(b) Bids will be considered only from persons licensed as required in Section E-10 of the Supplemental Conditions, and under applicable provisions of the Contractors License Law (Business and Professions Code § 7000 *et seq.*) and rules and regulations adopted pursuant thereto; and each bidder shall insert its type of contractor's license, license number, and other requested information in the place provided in the bid. No oral, telephonic or telegraphic bid or modification of a bid will be considered.

B-5 SUBMISSION OF BIDS

All bids must be submitted not later than the time prescribed, at the place and in the manner set forth in the Notice Inviting Bids. Bids must be made on the prescribed bid forms. A complete bid requires submission of fully completed bid, bid security, and any addenda. Each bid must be submitted in a sealed envelope, so marked as to indicate its contents without being opened, and addressed in conformance with the instructions in the Notice Inviting Bids. The bidder is wholly responsible to see that its bid is submitted at the time and place named for the opening of bids.

Bids shall include all addenda or clarifications issued during the bidding period acknowledged by the bidder's signature thereon. Failure to so include or acknowledge an addendum or clarification will result in the bid being rejected as not responsive.

Bids shall be opened at the time and place specified in the Notice Inviting Bids, unless changed by addendum.

B-6 PREPARATION OF THE BID

Blank spaces in the bid shall be properly completed. The language and form of the bid must not be changed and no additions shall be made to the items mentioned therein. Unauthorized conditions, limitations or provisions attached to a bid will render the bid nonconforming and may cause its rejection. If erasures, interlineations or other changes appear on the form, each erasure, interlineation or change must be initialed by the person signing the bid. Alternative bids will not be considered unless specifically provided for in the bid. No bid received after the time fixed, or received at any place other than the place stated in the Notice

City of Woodland

Public Works Department – Utility Engineering Division
655 N. Pioneer Ave. Woodland, CA 95776 (530) 661-5962 (530) 661-1290 Fax

No Change in Bid Opening Date Bids To Be Opened On: April 22, 2010 @ 2.00 p.m.	CITY OF WOODLAND Contract Documents For SCADA System Design and Implementation CIP No. 06-09	Sign & Attach Cover Sheet Addendum #2 to Bid

ADDENDUM NO. 3
Issued April 19, 2010

This addendum (see pages listed in the table below) shall hereby be made a part of the contract documents to the same extent as though it was originally included This addendum consists of changes to the following items:

Section or Plan Sheet Title	Pages/Sheets
Section 17330	Part 2, 2 01G-2
Questions and Answers	

BIDDER SHALL ACKNOWLEDGE RECEIPT AND EXAMINATION OF THIS ADDENDUM BY ATTACHING A SIGNED COPY OF THIS COVER SHEET TO THE SEALED BID PROPOSAL. FAILURE TO DO SO SHALL RESULT IN THE DISQUALIFICATION OF YOUR BID.

Approved by:

Doug Baxter, P E.
Principal Civil Engineer

Prepared by:

Akin Okupe, P.E.
Project Manager

Receipt and examination of Addendum No 3 is hereby acknowledged:

By: _____

Title: _____

Date: _____

EXHIBIT B

City of Woodland
Public Works Department – Utility Engineering Division
655 N Pioneer Ave Woodland, CA 95776 (530) 661-5962 (530) 661-1290 Fax

Contract Documents For
SCADA System Design and Implementation
CIP No. 06-09

ADDENDUM NO. 3
Issued April 19, 2010

The Contract Documents are hereby clarified, corrected and changed as indicated below

Part/Section	Description of Change	Pages
Part VI Section 17330 (Programmable Logical Controller) Part 2 (Products), 2 01 G Sub-section 2	Section 17330 2 01 G-2 reads: 2. "Provide Tesco power panel for Well No. 1, 4, and 11. The unit shall be rated for 1400 VA, 950 watt inverter with 6 batteries standard to provide at least 2-hour service as well as 6-8 hours of selected flash The unit shall include dry contact for "low battery" for connection to SCADA The backup power shall be a stand alone unit with an NEMA 3R enclosure. Provide Tesco 1400xl BBS, no equal." Please remove " no equal" at the end of the sentence and replace with "or approved equal"	VI-115

General Questions

1. Question: Addendum 2, page 4, requires heat tracer for outdoor runs of instrumentation tubing

   Answer: We do not expect any taps to exceed 12 inches The two nitrates analyzers at Well #1 and Well 13 could have a longer tap The heat trace shall be connected to the same 120 vac serving the analyzer No conduit number is necessary

2. Question: Addendum 2, page 4, requires the contractor to conduct a video inspection of each well before installing the level transmitter in them. Is the intent to have a pump and column assembly pulled in order to video a well? There is a possibility of using a small camera to video a portion of the well with the pump and column assembly in place

Answer: All we are trying to achieve is to prevent the possibility of any obstacle hindering the installation of the level transmitter, in this regard, the use of a small camera should be sufficient, we would not like to pull the well

3. Question: I'm sure I'm overlooking the conduit schedule for the added work in addendum #2. Could you please point out where I could find it?

Answer: No updated conduit schedule is necessary

4 Question: Additional drawings have been provided for well 4 in addendum 2, do we include this work as part of the SCADA Project?

Answer: The drawings provided in addendum 2 are for informational purposes only, they are not part of the SCADA installation work

SCADA System Design and Implementation Planholders List

Project Information

Project Name : SCADA System Design and Ir
Project : BROW_SCADA System Desig
Project Type : Public

Project Hosted By :
City of Woodland
300 First Street
Woodland California USA 95695
530-661-5961

Recipient	Address				Phone (W)	Fax	Email
Company Name	Auburn Constructors Inc.						
Andy Granner	730 West Stadium Lanena	Sacramento	California	95834	916-924-0344	916-924-1800	agranner@aubrunconstructors.com
Company Name	Aztec Constructors						
Michelle Aurand	2021 Omega Rd., Ste. 200	San Ramon	California	94583	925-837-1050	925-837-1652	maurand@azteccm.com
Company Name	Central Sierra Electric						
Yvonne Hobbs	11049 Hwy 88	Jackson	California	95642	209-223-3363	209-223-3391	yvonne@centralsierra.net
Company Name	Construction Bidboard Inc						
Plan Room	4420 Hotel Circle Court Suite 215	San Diego	California	92108	1-800-479-5314	619-688-0585	planroom@ebidboard.com
Company Name	El Dorado Builders Exchange						
Planroom Cameron Park	3430 Robin Lane, Suite 7	Cameron Park	California	95682	530-672-2955	530-672-2985	planroom@goodbuilders.org
Customer ID 48999 Planroom							
Company Name	F.W. Dodge / Mcgraw Hill Builders Exchange						
Planroom Sacramento	4020 Lennane DriveSuite 104	Sacramento	California	95834-1987	916-419-2287	916-419-7299	dodge_reocsw@mcgraw-hill.com
Company Name	HSQ Technology						
Asha Singh	26227 Research Rd	Hayward	California	94545	510-259-1334		bids@hsq.com
Company Name	IC Engineering						
Amy Service	6111 Bollinger Canyon Rd., #570	San Ramon	California	94583	925-790-0780	925-790-0788	amys@ic-engineering.com
Company Name	Manuel Bros., Inc.						
Joe Meidl	10016 Pioneer Blvd., Ste. 102	Santa Fe Springs	California	90670	916-947-2755	562-949-0201	jpmeidl@manuelbros.com
Company Name	MCC Control Systems						
Rosanne Duncan	859 Cotting Court, Ste. G	Vacaville	California	95688	707-449-0341	707-449-6333	rduncan@mccwater.com
Company Name	Placer County Builders' Exchange						
Planroom Roseville	10656 Industrial Blvd. Ste 160Ste 160	Roseville	California	95675	916-771-7229	916-771-0556	planroom@placerbx.com
Company Name	Ranger Pipelines, Inc.						
Daire O'Rourke	1790 Yosemite Avenue	San Francisco	California	94124	415-822-3700	415-822-3703	lisa@rangerpipelines.com
Company Name	Sacramento Builders Exchanges						

SCADA System Design and Implementation Planholders List

Recipient	Address				Phone (W)	Fax	Email
Company Name	**Sacramento Builders Exchanges**						
Planroom Sacramento	1331 T Street	Sacramento	California	95814	916 442-8991	916 446-3117	jobdata@sbxchange.net
Company Name	**T.S.I. (Tech Systems Inc.)**						
Ron Adams	1510 Roseberry Court	Dixon	California	95620	707-678-4444	707-678-8393	rona@tsicontrols.com
Company Name	**TELSTAR**						
Tak Koo	4017 Vista Park Ct.	Sacramento	California	95834	916-646-1999	916-646-1096	tkoo@telstarinc.com
Company Name	**Tesco Controls, Inc.**						
Renee Thomas	3409 52nd Avenue	Sacramento	California	95823	916-395-8800	916-429-2817	rthomas@tescocontrols.com
Trade(s)	99999 CSI Not Defined						
Company Name	**Valentine Corporation**						
Valorie McCauley	111 Pelican Way	San Rafael	California	94901	415-453-3732	415-457-5820	vmccauley@valentinecorp.com
Company Name	**Western Water Constructors, Inc.**						
Trish Gallagher	707 Aviation Blvd.	Santa Rosa	California	95407	707-540-9640	707-540-9641	trish.gallagher@westernwater.com
Trade(s)	99999 CSI Not Defined						

End of Report

AZTEC CONSULTANTS

General Contractors
Design – Build
Construction Management

TEL (925) 837-1050
Fax (925) 837-1652

April 28, 2010

Principal Civil Engineer – Doug Baxter, P.E.
CITY OF WOODLAND
Public Works Dept – Utility Engineering Division
655 N. Pioneer Ave.
Woodland, CA 95766

RE: SCADA System Design and Implementation CIP No. 06-09
FORMAL BID PROTEST

Dear Sir :

As you are aware, the apparent low bidder for this project - Auburn Constructors failed to turn in a complete and proper bid proposal as required in the specifications. It is our understanding that Auburn failed to provide the required Addendum # 3 signed Acknowledgment bid form. This form clearly states the following: **" Bidder shall acknowledge receipt and examination of this Addendum by <u>Attaching a signed copy of this cover sheet</u> to the sealed bid proposal"**

We are not really sure if this protest letter is required, as you may already be in the process of declaring the Auburn Constructors bid non-responsive, but in accordance with section B-14 page I-13 (Filing of Protests) we felt that we did not want to lose the chance of providing a protest letter by the stipulated five (5) business days.

As a publicly funded Entity, the City of Woodland is obligated to follow the provisions of the Public Contract Code when evaluating bid proposals for any construction project. Under this process, there should be no deviation from the list of documents required to be submitted by the bidding contractor in the bid proposal package.

Our bid runner Ms. Michelle Aurand, as well as the person who opened the bids, noted the deficiency:

We trust you will reject their bid as non-responsive and award the contract to our firm.

Very truly yours,

E. Frank Duarte

E. Frank Duarte
President

2021 Omega Road, Suite 200, San Ramon, CA 94583-1542
CA Contractors License (A & B) #659133

EXHIBIT C

City of Woodland

Public Works Department – Utility Engineering Division
655 N. Pioneer Ave. Woodland, CA 95776 (530) 661-5962 (530) 661-1290 Fax

No Change in Bid Opening Date Bids To Be Opened On: April 22, 2010 @ 2.00 p.m.	CITY OF WOODLAND Contract Documents For SCADA System Design and Implementation CIP No. 06-09	Sign & Attach Cover Sheet Addendum #2 to Bid

ADDENDUM NO. 3
Issued April 19, 2010

This addendum (see pages listed in the table below) shall hereby be made a part of the contract documents to the same extent as though it was originally included. This addendum consists of changes to the following items:

Section or Plan Sheet Title	Pages/Sheets
Section 17330	Part 2, 2 01G-2
Questions and Answers	

BIDDER SHALL ACKNOWLEDGE RECEIPT AND EXAMINATION OF THIS ADDENDUM BY ATTACHING A SIGNED COPY OF THIS COVER SHEET TO THE SEALED BID PROPOSAL. FAILURE TO DO SO SHALL RESULT IN THE DISQUALIFICATION OF YOUR BID.

Approved by:

Doug Baxter, P.E.
Principal Civil Engineer

Prepared by:

Akin Okupe, P.E.
Project Manager

Receipt and examination of Addendum No 3 is hereby acknowledged:

By: _____

Title: _____

Date: _____

City of Woodland
Public Works Department – Utility Engineering Division
655 N Pioneer Ave Woodland, CA 95776 (530) 661-5962 (530) 661-1290 Fax

Contract Documents For
SCADA System Design and Implementation
CIP No. 06-09

ADDENDUM NO. 3
Issued April 19, 2010

The Contract Documents are hereby clarified, corrected and changed as indicated below.

Part/Section	Description of Change	Pages
Part VI Section 17330 (Programmable Logical Controller) Part 2 (Products), 2 01 G Sub-section 2	Section 17330 2 01 G-2 reads: 2. "Provide Tesco power panel for Well No 1, 4, and 11. The unit shall be rated for 1400 VA, 950 watt inverter with 6 batteries standard to provide at least 2-hour service as well as 6-8 hours of selected flash. The unit shall include dry contact for "low battery" for connection to SCADA The backup power shall be a stand alone unit with an NEMA 3R enclosure. Provide Tesco 1400xl BBS, no equal." Please remove " no equal" at the end of the sentence and replace with "or approved equal"	VI-115

General Questions

1. Question: Addendum 2, page 4, requires heat tracer for outdoor runs of instrumentation tubing.

   Answer: We do not expect any taps to exceed 12 inches The two nitrates analyzers at Well #1 and Well 13 could have a longer tap The heat trace shall be connected to the same 120 vac serving the analyzer No conduit number is necessary

2. Question: Addendum 2, page 4, requires the contractor to conduct a video inspection of each well before installing the level transmitter in them. Is the intent to have a pump and column assembly pulled in order to video a well? There is a possibility of using a small camera to video a portion of the well with the pump and column assembly in place

Answer: All we are trying to achieve is to prevent the possibility of any obstacle hindering the installation of the level transmitter, in this regard, the use of a small camera should be sufficient, we would not like to pull the well

3. Question: I'm sure I'm overlooking the conduit schedule for the added work in addendum #2. Could you please point out where I could find it?

Answer: No updated conduit schedule is necessary

4 Question: Additional drawings have been provided for well 4 in addendum 2, do we include this work as part of the SCADA Project?

Answer: The drawings provided in addendum 2 are for informational purposes only, they are not part of the SCADA installation work

AZTEC CONSULTANTS

General Contractors
Design-Build
Construction Managers

FAXED 4/28 6:45 pm

FACSIMILE TRANSMITTAL SHEET

TO: DOUG BAXTER	FROM: E. ITZAK DUARTE
COMPANY: CITY OF WOODLAND	DATE: 4/28/10
FAX NUMBER: (530) 661-1290	PAGES INCLUDING COVER: 5
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE: BID PROTEST - CIP No 06-09	YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ TO FOLLOW BY MAIL

NOTES/COMMENTS:

SEE ATTACHED!

2021 Omega Road, Suite 200, San Ramon, California 94583-1542
PHONE: (925) 837-1050 FAX: (925) 837-1652

Confirmation Report - Memory Send

Page : 001
Date & Time: 26-04-2010 06:56pm
Line 1 : 9258375139
Line 2 : 9258375139
Machine ID : Aztec Consultants

Job number	:	761
Date	:	26-04 06:55pm
To	:	☎15306611290
Number of pages	:	005
Start time	:	26-04 06:55pm
End time	:	26-04 06:56pm
Pages sent	:	005
Status	:	OK

Job number : 761 *** SEND SUCCESSFUL ***