

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 11

Date: February 24, 2010

TO: Honorable Mayor and Members of the City Council
FROM: Lori Vereker, Director of Utilities
SUBJECT: Bid Award (Re-bid): Replacement of Lift Station No. 4

RECOMMENDATION:

It is requested that Council determine the apparent low bid by Shaw Equipment Rentals Incorporated of \$918,857.00 to be the lowest responsive and responsible bid and adopt Resolution No. 2010-20 authorizing the Mayor and City Clerk to execute an agreement with Shaw Equipment Rentals Incorporated in the amount of \$918,857.00 for "Replacement of Lift Station No. 4" (the "Project").

FISCAL ANALYSIS:

This Project is funded within the 2008/09 Wastewater Capital Budget. The Engineer's estimate of construction cost is \$1,500,000.00.

PREVIOUS ACTION:

On November 18, 2009, Council adopted Resolution 2009-164 which rejected all bids and authorized staff to re-advertise the project.

BACKGROUND:

On December 17, 2009, at the re-bid opening, the following bids were received:

- | | | |
|-----|---|----------------|
| 1) | Shaw Equipment Rentals Inc, San Marcos | \$918,857.00 |
| 2) | Canyon Springs Enterprises, Palm Springs | \$980,000.00 |
| 3) | Pacific Coast Infrastructure Inc, Yorba Linda | \$1,014,500.00 |
| 4) | Clear Solutions Environeering, Yuma | \$1,038,093.23 |
| 5) | Tamang Electric Inc, Chino | \$1,067,720.00 |
| 6) | NEWest Construction Company, San Diego | \$1,073,600.00 |
| 7) | Metro Builders & Engineers Ltd, Newport Beach | \$1,089,000.00 |
| 8) | Murrieta Development Co Inc, Temecula | \$1,093,451.00 |
| 9) | MMC Inc, La Palma | \$1,115,101.00 |
| 10) | HPS Mechanical Inc, Bakersfield | \$1,120,540.00 |
| 11) | Pascal & Ludwig, Ontario | \$1,136,000.00 |

12) Environmental Construction, Woodland Hills \$1,260,596.00

A bid protest was received from the second low bidder, Canyon Springs Enterprises, regarding the prior experience requirement of the low bidder, Shaw Equipment Rentals Incorporated.

The Project bid's prior experience requirement allows a bidding contractor to demonstrate its ability to complete a project of similar complexity on a critical facility by listing appropriate finished projects as references.

Staff believes that Shaw has substantially complied with the bid's prior experience requirement as a result of the similarities between Shaw's past projects with the City and the current LS No. 4 Project. These similarities include:

- Shaw performed a trunk sewer excavation at the Police and Fire Facility which was both deep and in ground water requiring de-watering procedures. The new LS No. 4 excavation is also deep and in ground water and will require similar de-watering.
- The Police and Fire Facility required live sewage bypassing to tie in the new bypass line. To tie-in in the new LS No. 4 facility will also require bypassing the existing sewer flows to prevent a spill.
- Shaw's Chemical Tank Replacement Project involved the installation of fiberglass tanks. LS No. 4 also requires the installation of a fiberglass tank.
- Shaw's Second Washwater Tank Project at the Water Plant required a new 36" inch steel pipeline to be tied into the existing pipeline with only twelve hours of time allowed before the Escondido water supply was impacted. The new LS No. 4 will need to be tied into the existing pressure sewer line (force main) in a very short period of time otherwise the sewage collection system will be impacted and a spill may occur.
- Shaw worked on a project entitled "Parkhill Boosted Zone" for the City four years ago that required working on a pump station. The LS No. 4 project requires working on a pump station as well.
- The Parkhill Project required extensive rock excavation which Shaw completed using their own equipment. LS No. 4 will also require rock removal as part of the deep excavation.

Due to the above-listed similarities, staff found that the separate details of Shaw's experience rose to the required level for the critical component parts of the Lift Station No. 4 Project. Staff therefore concludes that Shaw has adequately fulfilled the bid's prior experience requirement. Considering that

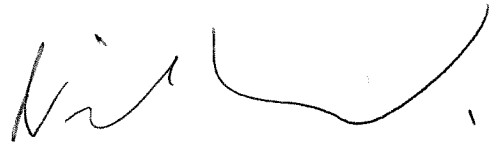
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Bid Award LS No. 4
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Shaw's bid is \$61,143.00 less than the next bidder, staff recommends the award of this contract to Shaw Equipment Rentals Incorporated.

Respectfully submitted,



Lori Vereker
Director of Utilities



Neil Greenwood
Utilities Construction Project Manager

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RESOLUTION NO. 2010-20

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE, ON BEHALF OF THE
CITY, A PUBLIC IMPROVEMENT
AGREEMENT WITH SHAW EQUIPMENT
RENTALS INC. FOR THE REPLACEMENT
OF LIFT STATION NUMBER FOUR
PROJECT

WHEREAS, the Escondido City Council authorized an invitation for bids for the Replacement of Lift Station No. 4 (the "Project") including detailed plans and specifications; and

WHEREAS, the City of Escondido opened the sealed bids for the Project on December 17, 2009; and

WHEREAS, Shaw Equipment Rentals Inc. submitted a bid in the amount of \$918,857; and

WHEREAS, staff determined that Shaw Equipment Rentals Inc. adequately fulfilled the bid's prior experience requirement and determined Shaw Equipment Rentals Inc. to be the lowest responsive and responsible bidder; and

WHEREAS, the Director of Utilities has recommended the award of the bid to Shaw Equipment Rentals Inc. for the Project; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said bid for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the City Council accepts the recommendation of the Utilities Director and finds Shaw Equipment Rentals Inc. to be the lowest responsive and responsible bidder.

3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement ("Agreement") with Shaw Equipment Rentals Inc. A copy of the Agreement is attached as Exhibit "A" and is incorporated by this reference.

PUBLIC IMPROVEMENT AGREEMENT

This "Agreement", dated the _____ day of _____, 2010, in the County of SAN DIEGO, State of California, is by and between **THE CITY OF ESCONDIDO** (hereinafter referred to as "CITY"), and Shaw Equipment Rentals Incorporated (hereinafter referred to as "CONTRACTOR").

The CITY and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. The complete contract includes all of the Project Documents described in the General Conditions, which are incorporated by reference. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.
2. CONTRACTOR shall perform, within the time set forth in Paragraph 4 of this Agreement, everything required and reasonably inferred to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services as described in the complete contract and required for construction of

REPLACEMENT OF LIFT STATION NO. 4

All of said work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications and all provisions of the complete contract as hereinabove defined. The CONTRACTOR shall be liable to the CITY for any damages and resulting costs, including consultants' costs, arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project documents. Such protest shall not be effective unless reduced to writing and filed with the CITY within **three (3) working days** of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project documents.

3. CITY shall pay to the CONTRACTOR, as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the Project documents, the sum of nine hundred and eighteen thousand, eight hundred and fifty-seven Dollars (\$918,857.00).
4. The work shall be commenced on or before the twenty-first (21st) day after receiving the CITY'S Notice to Proceed and shall be completed within **one hundred eighty (180) working days** from the date specified in the Notice to Proceed.
5. Time is of the essence. If the work is not completed in accordance with Paragraph 4 above, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage(s), in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to CITY as fixed and liquidated damages, and not as a penalty, the sum(s) indicated in the LIQUIDATED DAMAGES SCHEDULE below for each calendar day of delay until work is completed and accepted. This amount shall be deducted from any payments due

- (b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs on or off City property.
- (c) Any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. 2001-01), and updates or renewals, of the California Regional Water Quality Control Board Region 9, San Diego, which the CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction, reconstruction, maintenance, and/or repair of the work under this Agreement.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suit, or other proceedings that may be brought or instituted against the CITY, its governing board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the CITY, its governing board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

- 8. CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this contract, and shall require all subcontractors, if any, of every tier, to take out and maintain:
 - (a) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less than **\$3,000,000 per occurrence**.
 - (b) Course of Construction / Builder's Risk Insurance. See Article 5.2 of General Conditions.
 - (c) Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to the above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:
 - (1) Automotive and truck where operated in amounts as above
 - (2) Material hoist where used in amounts as above
 - (d) Workers' Compensation Insurance.
 - (e) Each insurance policy required above must be acceptable to the City Attorney, as follows:
 - (1) Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation and the Errors and Omissions policies.
 - (2) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.

- (3) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
- (f) In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within 14 days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.
- 9. This Agreement is subject to California Public Contract Code Section 22300, which permits the substitution of securities for any monies withheld by the City under this Agreement, and permits the CONTRACTOR to have all payments of earned retentions by the City paid to an escrow agent at the expense of the CONTRACTOR.
- 10. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.
- 11. The complete contract as set forth in Paragraph 1 of this Agreement constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Escondido City Council.
- 12. CONTRACTOR shall comply with those provisions of the Labor Code requiring payment of prevailing wages, keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions, and shall file the required workers' compensation certificate before commencing work.
- 13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents included in the definition set forth in the General Conditions made a part hereof.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of CITY by its officers thereunto authorized and by CONTRACTOR, the date and year first above written.

CITY OF ESCONDIDO
a municipal corporation
201 North Broadway
Escondido, CA 92025

By: _____
Marsha Whalen, City Clerk

By: _____
Lori Holt Pfeiler, Mayor

CONTRACTOR

By: _____
Signature

By: _____
Signature*

Print Name

Print Name

Title

Title

(Second signature required only for
corporation)

By: _____
Signature**

Print Name

Title

(CORPORATE SEAL OF CONTRACTOR, if
corporation)

Contractor's License No.

Tax ID/Social Security No.

*If CONTRACTOR is a corporation, the first signature must be by one of the following officers of the corporation: Chairman of the Board, President, or any Vice President.

**If CONTRACTOR is a corporation, the second signature must be by a different person from the first signature and must be by one of the following officers of the corporation: Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.