

**COUNCIL ACTION FORM**

**SUBJECT: POWER PLANT PRECIPITATOR WIRE REPLACEMENT PROJECT**

**BACKGROUND:**

This project is for the replacement of electrode wires in the front two fields in both #81 and #82 precipitator levels of the Power Plant's Unit 8 precipitator. The precipitator creates a field of electric charge that collects the particulate matter (fly ash) from the flue gas as it passes through the device. The electrode wires in a precipitator are a consumable item and need to be replaced periodically to maintain the collection efficiency of the precipitator.

This project was planned to be completed during a maintenance shutdown scheduled for April and May. Under the specifications, the contractor will perform an inspection of the precipitator at the beginning of the shutdown, supply 2,578 wires (50 of which will go directly into inventory), and install the wires.

The Engineer's estimate of the cost of this project was \$65,000. Funding is available from the approved FY2009/10 Electric Production operating budget, which contains \$90,000 for wire replacement.

On November 17, 2009, the bid document was issued to eight vendors for bids. The bid was also advertised on the Current Bid Opportunities section of the Purchasing webpage. On December 9, 2009, three bids were received as follows:

Environmental Maintenance Services, Johnson City, TN	\$62,906.80
PCI, Inc., Lenexa, KS	\$99,344.00
Neundorfer, Willoughby, OH	\$180,228.84

Electric Services staff reviewed the bids, and concluded that the apparent low bid submitted by Environmental Maintenance Services (EMS) is acceptable.

On December 11, 2009, EMS was notified that it was being recommended to be awarded a contract for this project. This project was originally scheduled to go to City Council for report of bids and award of contract on December 22, 2009. This was delayed until January 12, 2010, to allow EMS additional time to return the signed contract, performance bond, and insurance certificate. On January 5, 2010, a second delay was approved at the company's request, and City Council action was postponed to January 26, 2010. EMS indicated that its rationale for this second delay was due to wanting the actual award date closer to the actual project start date because of the performance bond.

On January 21, 2010, EMS requested a third delay (which was granted), only to have the company request a fourth delay on February 5, which was also granted. These final two delays were due to the same reason given for the second one.

At this point, staff contacted EMS and gave it an ultimatum to have the signed contract, performance bond and insurance back to staff by February 19, 2010, or this project would need to be awarded to the second lowest bidder. EMS was notified that no further extensions have been or will be approved. EMS responded to staff by telephone, and through the attached letter, that the delay was due to the company being unable to obtain a performance bond for this project. Any work valued at over \$25,000 is required to have a performance bond to secure its successful completion. Additionally, all bidders were required to submit a bid bond with their quotation in order to guarantee that a contract would be completed if awarded. EMS did not submit a bid bond, but submitted its bid security in the form of a company check.

Based on the Engineer's estimate of \$65,000, this project was handled as a competitive quotation, and not a formal sealed bid, so it does not have the same requirements of reporting to City Council as the larger public improvement projects over \$100,000 do. Under the *Iowa Code* for public improvement projects of \$100,000 or more, the *Code* states that the "officer shall report the results of the bidding with the officer's recommendations to the next regular meeting of the governmental entity's governing body or at a special meeting called for that purpose."

The second low proposal of \$99,344 is dangerously close to the \$100,000 formal bid threshold. Per *Iowa Code*, any public improvement bid with an overall project cost of \$100,000 or more must be bid as a formal sealed bid. Any change order affecting the amount of the second low bid could risk the overall project cost exceeding the \$100,000 threshold. Staff is not confident that this project can avoid any change orders. As a result, staff recommends that all bids be rejected, and that a formal process of sealed bids be undertaken.

Staff is in the process of obtaining certified plans and specifications from an engineer, which is also a requirement of *Iowa Code* for public improvement projects estimated to cost \$100,000 or more. Once these are received, staff will rebid this work through the issuance of a formal competitive sealed bid. City Council should note that it will need to approve the plans and specifications for this project the next time it is bid before staff can issue bid documents. The project has now been rescheduled to be completed during the fall maintenance shutdown.

#### **ALTERNATIVES:**

- 1a. Reject all bids received.
- b. Direct staff to rebid this project through the issuance of a formal competitive sealed bid.

- 2a. Reject all bids received and collect the 5% bid security amount from EMS for declining to accept the contract.
- b. Direct staff to rebid this project through the issuance of a formal competitive sealed bid.
3. Award the contract to the apparent second low bidder in the amount of \$99,344.
4. Reject all bids and delay the replacement of the wires in the precipitator.

**MANAGER'S RECOMMENDED ACTION:**

The eventual replacement of wires in the precipitators is necessary to insure their reliable operation and to help prevent any equipment failures which could lead to extensive downtime and increased costs. However, in conducting this replacement the City must also make every effort to comply with state formal bidding requirements when it appears they may be in effect. Staff has determined that sufficient life remains in the existing wires to delay their replacement until the fall plant outage in order to allow for a formal bid process which appears to be necessary. Should the process lead to a bid over the available funds, staff will identify budget changes to provide the needed funds.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, rejecting all bids received and directing staff to rebid this project through issuance of a formal sealed bid. Staff feels that it is not advisable to collect the 5% bid security in this instance (included in Alternative 2) as the contractor is not refusing to honor the terms of a contract which had been previously agreed upon, but is unable to secure the required performance bond at this time.