



HUMBOLDT BAY MUNICIPAL WATER DISTRICT

828 Seventh Street • Eureka, California 95501-1114

PO Box 95 • Eureka, California 95502-0095

Office 707-443-5018 Essex 707-822-2918

Fax 707-443-5731 707-822-8245

EMAIL OFFICE@HBMWD.COM

Website: www.hbmwd.com

BOARD OF DIRECTORS

NEAL LATT, PRESIDENT

MICHELLE FULLER, VICE-PRESIDENT

J. BRUCE RUPP, SECRETARY-TREASURER

DAVID LINDBERG, ASSISTANT SECRETARY-TREASURER

SHERI WOO, DIRECTOR

GENERAL MANAGER

JOHN FRIEDENBACH

June 12, 2024

via email only to jfarr@resourcedevelopmentco.com

Jeff Farr

President

Resource Development Company

1050 Linda Way

Sparks, NV 89431

RE: Korblex and Samoa Reservoirs Seismic Retrofit Project

Dear Mr. Farr:

The Humboldt Bay Municipal Water District (the "District") received Resource Development Company's ("RDC") written bid protest dated June 7, 2024, regarding the Korblex and Samoa Reservoirs Seismic Retrofit Project (the "Project"). Pursuant to Project Bid Addendum #4, a copy of the protest letter was transmitted to the apparent low-bidder, Paso Robles Tank, Inc. ("PRT"), among others. Enclosed with this letter is PRT's response for your review.

The purpose of this letter is to provide you notice of the following:

1. The District's Board of Directors will consider awarding this Project at its regular meeting on June 13, 2024. Please visit the following link to obtain a copy of the agenda and packet, which includes information about the protest and the project. Link: <https://www.hbmwd.com/2024-06-13-board-of-directors-meeting>. You are welcome to attend the meeting in person or via the Zoom link on the front page on the agenda. The Project item is time set for 11:00 AM.

This is **not** set for a public hearing or other quasi-judicial hearing regarding the protest. Because the protest is based on the responsiveness of the bid, the protest will be decided by the Board on the written submissions and the face of the bid response. Accordingly, while you may provide comments during the public comment portion, you will not be given an opportunity to testify, offer witnesses, or cross-examine any other person.

2. District Staff, after consultation with the Project team and counsel, intends to recommend that the Board reject the bid protest, waive any minor irregularity in PRT's bid, and award the Project to PRT notwithstanding the protest. Our rationale follows.

As we read RDC's protest, you contend that PRT's bid is not responsive to the bid instructions on the basis that the other bidders were unable to provide written certification from a subcontractor capable of applying a Phosphate Ceramic Conversion Coating System, which type of coating was listed as an additive alternative to the base bid. Although you acknowledge that you had not yet reviewed the other bid submissions, you base the protest on your finding that, during your bid preparation, no companies other than Eoncoat were able to apply a Phosphate Ceramic Conversion Coating System. You accordingly conclude that "it is RDC's belief that the other bidders were not capable of finding an alternative equal coating or have certification from Eoncoat."

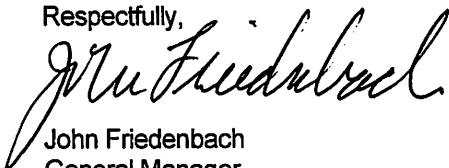
As you acknowledge in your letter, your protest is on the basis that the other bidders were not responsive to the bid instructions. We do not read your protest as claiming that PST (or any other bidder) is not competent to perform the work or is otherwise an irresponsible bidder.

Pursuant to the bid instructions, the District reserves the right to waive informalities or minor defects or reject any and all bids. A determination of responsiveness boils down to a binary analysis: whether or not the bidder complied with the bidding instructions. If the District determines that a bid deviates from the bidding instructions, a secondary binary analysis applies: whether or not the deviation is material or immaterial. If it is material, the bid will be rejected. If the deviation is not material, the District has the option to waive the deviation and accept the bid. (*MCM Construction, Inc. v. City and County of San Francisco* (1998) 66 Cal.App.4th 359, 374.) A defect is material if it affects "the amount of the bid or gives a bidder an advantage or benefit not allowed other bidders." (*Konica Business Machines U.S.A., Inc. v. Regents of University of California* (1988) 206 Cal.App.3d 449.)

Upon review of the bids, the protest, and PRT's response, District staff intends to recommend to the Board that the protest be rejected, that the Board waive any minor irregularity in the bid response, and award the project to PRT as the apparent low bidder. While PRT did not provide a written certification from Eoncoat, the District is satisfied that PRT's coating subcontractor, whose credentials were provided, is able to fully perform the required coating in the manner required by the Project specifications. PRT's response to the protest further provides adequate assurance that the specifications will be met and that no unfair advantage was obtained by not providing a written certification from Eoncoat.

Thank you for your attention to this correspondence and your interest in our project. If you have any questions or concerns, please email me at friedenbach@hbmwd.com.

Respectfully,



John Friedenbach
General Manager

CC: Shane Wombles (via email)
Mark Benzinger (via email)



PASO ROBLES TANK, INC.

"A wholly-owned subsidiary of Associated Construction and Engineering, Inc."

Date: 06-11-2024

Subject: Response to RDC Korblex and Samoa Reservoirs Seismic Retrofit Bid Protest

SIQ: 0017246

Response to 06-07-2024 Protest

Humboldt Bay MWD,

In response to the protest submitted by Resource Development Company (RDC) we want to reiterate that Paso Robles Tank, Inc.'s (PRT) subcontractor Simpson Sandblasting (SS) is qualified to apply all coatings systems called out for in the project documents. RDC is not the only company that reached out to Eoncoat during the bid process. Simpson also had conversations with them to get pricing and speak with a representative about certifications. While on the phone with Eoncoat, PRT's subcontractor confirmed that the Phosphate Ceramic Coating System called out for is very similar to products they've used in the past for various applications. The similarities include using plural pumps, operating at equivalent pressures, having a cementitious base and applying direct to substrate with no primer. Even though PRT's subcontractor already has ample experience with equivalent systems, they still made arrangements with Eoncoat to come to their shop prior to any fieldwork to certify them as a company/ individual applicators. In addition, an Eoncoat representative will be onsite during critical stages of field coatings.

Lastly, the protest submitted by RDC is based on an informality or minor defect as it has nothing to do with the financial portion of this project. Therefore, the district can always reference the information to Bidders 1-1 paragraph that states "The owner may waive any informalities or minor defects". In no way could the premise of RDC's protest be considered a material advantage/ disadvantage.

The Owner may waive any informalities or minor defects or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid within three (3) months after the actual date of the opening thereof. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the Bidder.

Respectfully submitted,

Shane P. Wombles

Shane Wombles
Paso Robles Tank Inc.
Sales and Estimating
951-550-9612

3883 Wentworth Drive, Hemet CA 92545 Cell: 951-550-9612 Office: 951-925-5022 Fax: 951-925-6822

**Shane P.
Wombles**

Digitally signed by Shane P. Wombles
DN: OU=President, O="Paso Robles Tank, Inc.", CN=Shane P. Wombles,
E=swombles@pasoroblestank.com
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.12 09:39:13-07'00'
Foxit PDF Editor Version: 11.2.10

PRT SIQ#:001XXXX

Page 1 of 1