



**Construction Contract
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 37
AGENDA DATE: Thu 12/16/2004
PAGE: 1 of 2**

SUBJECT: Authorize execution of a construction contract with SOUTHLAND CONTRACTING, INC., Fort Worth, TX, for the Austin Clean Water Program: Little Walnut Creek at Quail Creek in the amount of \$5,870,150 plus a \$587,015 contingency, for a total contract amount not to exceed \$6,457,165.

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$6,457,165 is included in the Fiscal Year 2004-2005 Capital Budget of the Austin Water Utility.

FISCAL NOTE: A fiscal note is attached.

REQUESTING Public Works
DEPARTMENT:for Austin Water Utility;

**DIRECTOR'S
AUTHORIZATION:** Sondra Creighton

FOR MORE INFORMATION CONTACT: Doug Slauson, P.E., 479-1649; Anne Scharlach, P.E., 479-1648; Gopal Guthikonda, P.E., 972-1557 Laura Bohl 974-7064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: One responsive bidder.

MBE / WBE: 23.84% MBE and 9.35% WBE subcontractor participation.

This construction contract will provide for wastewater improvements within a residential area in north Austin generally bounded on the east by North Lamar, on the west by Parkfield Drive, on the north by Mearns Meadow Drive and on the south by Peyton Gin Road. The improvements are intended to replace undersized wastewater facilities and to eliminate the wastewater overflows that have occurred in the area. This project is part of the Austin Water Utility's Austin Clean Water Program (ACWP), which was developed to respond to the requirements of the Environmental Protection Agency's Administrative Order regarding Sanitary Sewer Overflows.

The proposed improvements include approximately 6,777 linear feet of new 36-inch and 48-inch wastewater line, in easements generally following the channel of Little Walnut Creek, from Peyton Gin Road to Parkfield Drive.

Due to the potential for unknown subsurface conditions and utility conflicts when working in the right-of-way, a 10% contingency in funding has been included to allow for the expeditious processing of any future change orders. The contract allows 325 working days for substantial completion of this project.

Bid documents were distributed to 8 general contractors. Bids were opened on November 18, 2004. Southland Contracting, Inc. submitted the lower of 2 bids received:

Southland Contracting, Inc, Ft. Worth, TX
BRH-Garver Construction, L.P., Houston, TX

\$5,870,150
Non Responsive



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The contractor's choice of work methodology provides for 14 areas of subcontracting opportunities listed below. Project specific subgoals stated in the solicitation were 12.09% African American; 11.16% Hispanic; .39% Asian American; .02% Native American; 9.35% WBE. Total participation estimated on base bid amount of \$5,870,150:

NON M/WBE TOTAL – PRIME	\$3,914,950.00	66.69%
Southland Contracting, Inc., Ft. Worth, TX	\$3,914,950.00	66.69%
MBE TOTAL – SUBCONTRACTORS	\$695,200.00	11.84%
Hispanic Subtotal	\$670,000.00	11.41%
I.D. Guerra Construction, Austin, TX (Const. Sewer & Storm Drain, Const. Manholes)	\$670,000.00	11.41%
Asian American Subtotal	\$24,000.00	0.41%
Austin Traffic Signal, Austin, TX (Traffic Signal Install)	\$24,000.00	0.41%
Native American Subtotal	\$1,200.00	0.02%
Choctaw Pipe, TX (Pipe, Bends, Elbows, Adapters, Couplings)	\$1,200.00	0.02%
WBE TOTAL – SUBCONTRACTORS	\$1,260,000.00	21.47%
White Photograph, Austin, TX (Photography)	\$2,500.00	0.04%
Roadway Specialties, Austin, TX (Irrigation Sys, Erosion Cntrl)	\$53,302.00	0.91%
Richochet Fuel, TX (Diesel Fuel, Hyd. Fluid, Oils/Lub)	\$20,000.00	0.34%
N-Line Traffic, Austin, TX (Traffic Control)	\$45,636.00	0.78%
Melendez Brothers, Austin, TX (Hauling Services)	\$26,000.00	0.44%
Lone Star Ready Mix, Austin, TX (Ready Mix Concrete)	\$63,628.50	1.08%
Industrial Asphalt, Austin, TX (Paving)	\$60,000.00	1.02%
Landmark, Austin, TX (Surveying)	\$12,000.00	0.20%
Fuquay, Austin, TX (Coatings)	\$53,628.50	0.91%
Peabody General Contractors, TX (Manholes)	\$213,305.00	3.63%
Always Distributing, Austin, TX (Pipe, Fiberglass)	\$710,000.00	12.10%

The Contractor submitted a MBE/WBE Compliance Plan that was deemed non-complaint by the Department of Small & Minority Business Resources. A Waiver memo has been requested and will be submitted. Second low bidder information is provided:

SECOND BIDDER – BRH Garver Construction, L.P., Houston, TX – Non-Responsive



MEMORANDUM

To: Toby Hammett Futrell, City Manager
Joe Canales, Deputy City Manager

From: Sondra Creighton, P.E., Director of Public Works
Chris Lippe, P.E., Director, Austin Water Utility

Date: November 30, 2004

Re: ACWP – Little Walnut Creek at Quail Creek

This construction contract will provide for wastewater improvements within a residential area in north Austin generally bounded on the east by North Lamar, on the west by Parkfield Drive, on the north by Mearns Meadow Drive, and on the south by Peyton Gin Road. The improvements are intended to replace undersized wastewater facilities and to eliminate the wastewater overflows that have occurred in the area. This project is part of the Austin Water Utility's Austin Clean Water Program (ACWP). The proposed improvements include approximately 6,777 linear feet of new 36-inch and 48-inch wastewater line, in easements generally following the channel of Little Walnut Creek, from Peyton Gin Road to Parkfield Drive.

Bids for this project were opened on November 18, 2004. Two (2) bids were received with Southland Contracting, Inc. submitting the low bid. The other bidder, BRH-Garver Construction, L.P., was deemed non-responsive by the Department of Public Works because they did not submit a complete bid package. Bid results were as follows:

<u>Bidder</u>	<u>Bid Amount</u>
Southland Contracting, Inc.	\$5,870,150
BRH-Garver Construction, L.P.	Deemed Non-Responsive

Project Specific sub-goals stated in the solicitation were 12.09% African American; 11.16% Hispanic; .39% Asian American; .02% Native American; 9.35% WBE.

Project participation achieved by Southland Contracting was 0% African American; 11.41% Hispanic; .41% Asian American; .02% Native American; 9.37% WBE.

The original bid package from Southland Contracting, Inc. showed that the contractor thought they had met the project goals as stated in the solicitation. Upon examination, DSMBR determined that the contractor's African American Subcontractor, Always Distributing (intended to receive 12.10%), was not in fact a currently certified MBE, although they were previously certified. Given that fact that Always Distributing is not certified, DSMBR determined that Southland Contracting, Inc.'s bid did not comply with the

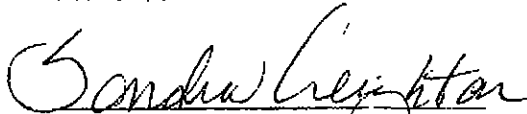
MBE/WBE Ordinance. Southland Contracting, Inc. did not meet the goals of the solicitation and they failed to provide substantial Good Faith Efforts documentation as required by the City Code, Section 2-9-22 (B) and (E) because Southland thought they were in compliance with the M/WBE Ordinance.

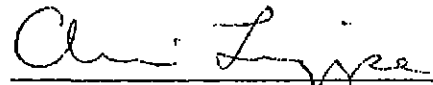
However, the interests of the City of Austin and the M/WBE Program would best be served by awarding the construction contract to the low bidder, Southland Contracting, Inc., for the following reasons:

- The error made by Southland Contracting, Inc. was an oversight; the certification of Always Distributing had lapsed. Always Distributing is currently in the process of getting re-certified and will receive 12.10% of the project as originally intended.
- Southland Contracting, Inc.'s bid was the only responsive bid – there are no other bidders available for consideration.
- The ACWP has identified this project as critical towards maintaining compliance with the Environmental Protection Agency Order regarding sanitary sewer overflows-the overall progress of the ACWP would be negatively impacted by the time required for rebidding the project.

Please sign below to indicate your concurrence or non-concurrence with our recommendation to award the construction contract to Southland Contracting, Inc.

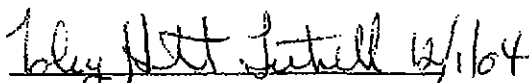
If you have any questions, please contact Sondra Creighton at 974-7175 or Chris Lippe at 972-0108.


Sondra Creighton, P.E.
Director of Public Works


Chris Lippe, P.E., Director
Austin Water Utility

I Concur:

 12-1-04
Joe Canales Date
Deputy City Manager

 12/1/04
Toby Hammett Futrell Date
City Manager

I Do Not Concur:

Joe Canales Date
Deputy City Manager

Toby Hammett Futrell Date
City Manager

CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:
WHERE ON AGENDA:
DEPARTMENT:

12/16/2004
Resolution
Austin Water Utility

DESCRIPTION:

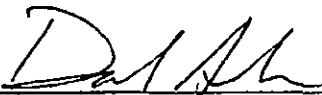
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FINANCIAL INFORMATION:

Parent Project Name:	Wastewater Unfunded Future
Project Authorization:	2004-05 Approved Capital Budget
Funding Source:	Commercial Paper
Number:	4570 237 2017

Current Appropriation	\$ 494,673,293.00
Unencumbered Balance	183,049,222.14 *
Amount of This Action	<u>(6,457,165.00)</u>
Remaining Balance	<u>\$ 176,592,057.14</u>
Current Available Balance	\$ 213,102,084.80
Less Outstanding Commitments	<u>(30,052,862.66)</u>
Estimated Unencumbered Balance	<u>\$ 183,049,222.14 *</u>

Utility Finance:



David Anders, Utilities Finance Manager

Date:

11/29/04

REF. #4570 237 8579

