

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: November 21, 2006

Consent [X]
Public Hearing []

Regular []

Submitted By: Water Utilities Department
Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: **A)** Contract with The Dow Chemical Company/Filtec Corporation (Dow Chemical) for the Lake Region Water Treatment Plant (LRWTP) Reverse Osmosis Membrane Elements in the amount of \$1,398,400; and **B)** Amendment No. 1 reducing the contract amount to \$786,600 by accepting Dow Chemical's standard terms and warranty provisions.

Summary: On June 14, 2006, one (1) bid was received for the supply of reverse osmosis membrane elements for the LRWTP with Dow Chemical being the sole bidder in the amount of \$1,398,400. The Water Utilities Department recommends approval of Amendment No. 1 to accept an unsolicited bid alternate in the amount of \$786,600 by accepting Dow Chemical's standard terms and warranty provisions modifying the general conditions and deleting the Public Construction Bond, resulting in a savings of \$611,800. The Dow Chemical membrane elements have undergone a rigorous proof test using the Floridan test wells for the LRWTP. The Small Business Enterprise (SBE) participation goal established by the SBE Ordinance is 15.0% overall. Due to the specialized nature of the work, this contract with Dow provides for zero SBE participation.

(WUD Project No. 03-169)

Districts 6

(JM)

Background and Justification: The cities of Belle Glade, Pahokee and South Bay, as well as the unincorporated areas of the Lake Region, are facing many challenges regarding public water supply. These challenges include difficulty to treat Lake Okeechobee water, outmoded treatment plants, a rapidly changing regulatory environment and funding shortages. In order to help resolve this situation, the Board approved Bulk Water Service Agreements on February 3, 2004 with the cities of Belle Glade (R-2004-0245), Pahokee (R-2004-0246) and South Bay (R-2004-0247) for the construction of a new Lake Region Water Treatment Plant. The membrane pilot testing has been completed and three membrane manufacturers' elements were successfully proof tested. Only two of the three manufacturers purchased bid specifications (Dow Chemical and Koch Fluid System). On June 14, 2006, one (1) bid was received with the Dow Chemical as the sole bidder in the amount of \$1,398,400 which exceeds the Engineer's estimate of \$1,000,000. An unsolicited bid alternate was also submitted by Dow which offered the same membranes for the amount of \$786,600, conditioned upon use of Dow Chemical's standard terms and conditions instead of the County's. WUD approached Koch Fluid Systems and asked if they would bid the project if it were re-advertised utilizing terms and conditions similar to those proposed by Dow. Koch, which did not bid the project, stated by email that they would not submit a bid even if the project were re-advertised using the County's technical criteria (which are unchanged by Dow's alternate proposal) and terms and conditions similar to those proposed in the alternate submitted by Dow Chemical. Staff and consultants have reviewed the bids and recommend award to Dow Chemical as the lowest bidder with approval of Amendment No. 1 to accept the bid alternate in the amount of \$786,600.

Attachments:

1. Three (3) Original Contracts
2. Three (3) Original Amendment No.1
3. Location Map
4. Engineer's Recommendation & Bid Tabulation Sheet

Recommended By:


Department Director

10/27/06
Date

Approved By:


Assistant County Administrator

11-8-06
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>\$ 786,600.00</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>\$ 786,600.00</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund 4011 Dept 721 Unit W026 Object 6541

Is Item Included in Current Budget? Yes X No

Reporting Category **N/A**


B. Recommended Sources of Funds/Summary of Fiscal Impact:

One time capital expenditure from user fees with balances brought forward. The complete cost of this project is expected to be reimbursed by various federal, state, and local grants.

C. Department Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 11-2-02
 OFMB
 11-1-02
 (11-1-02)
 10-1
 Legal Sufficiency:

[Signature]
Contract Development and Control

B. ~~Legal Sufficiency:~~

Legal Sufficiency:

[Signature] 11/6/06

Assistant County Attorney

11/3/06 This Contract, and
Amendment, do not
contain the standard
Austy Terms & Conditions
as negotiated by W&S.

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Attachment No. 4

Inter-Office Memorandum

Palm Beach County



Water Utilities Department

TO: Bevin A. Beaudet, P.E., Director
Water Utilities Department

DATE: September 29, 2006

FROM: Brian Shields, P.E., Director of Engineering *BJS*
Water Utilities Department

RE: Notice of Award Recommendation
Lake Region Water Treatment Plant Membrane Elements
Project No. WUD 03-169

The bid opening for the above referenced project was held on Wednesday, June 13, 2006. Proposals were received from one (1) contractor. The Dow Chemical Co./Filmtec Corp. submitted a bid in the amount of \$1,398,400.00 and a bid alternate for the same identical membranes with Dow's standard terms and warranty in the amount of \$786,600.00. The recommendation for award is on the bid alternate (see attached). The bidder was non-responsive to the SBE goal. An evaluation of the Poole & Kent Co. of Florida's bid is as follows:

1. Bid security equal to 5% of the total base bid was enclosed with the bid.
2. SBE-M/WBE Schedules #1 and 2 were provided with 0.0% participation. Therefore the contractor did not meet 15% SBE goals established under the SBE Ordinance.
3. There are no sub-contractors.

The overall experience, qualifications, resources and references of the low bidder were carefully considered when evaluating the bids. Contract award is recommended to the lowest responsive bidder, The Dow Chemical Co./Filmtec Corp. in the bid alternate amount not to exceed \$786,600.00 subject to formal approval by the Board of County Commissioners. A copy of this notice has been posted at the bid opening location and will be left there for a minimum of five (5) business days.

c. Mark Fallon



Alternate Proposal for 1748 FILMTEC™ LE-400 Membrane Elements

The Dow Chemical Company

Palm Beach County Project No: WUD 03-169

To: Palm Beach County Board of County Commissioners
Water Utilities Department
8100 Forest Hill Boulevard
West Palm Beach, Florida 33413

From: The Dow Chemical Company / FilmTec Corporation

FilmTec Corporation would like to propose an alternate bid for the 1748 FILMTEC LE-400 membrane elements at a delivered price of \$ 450.00 each. This proposal consists of the following:

1. Bid proposal for \$ 786,600.00
2. Bid Bond submitted under the bid terms
3. No Public Construction Bond would be provided since this contract is for delivery of membrane elements
4. Payment to be 100% within 30 days of invoice date, no retainage
5. Dow Chemical Standard contract (attached)
6. will be used in lieu of the General Conditions and Supplemental Conditions FilmTec Standard Three year limited Warranty (attached)
7. SBE requirement does not pertain to manufacture and delivery of the membrane elements
8. Liquidated Damages will not be accepted
9. Guarantee will be limited to the cost of the FILMTEC membranes
10. Submittals: Item 7 One set of projections applying a fouling factor will be supplied. The set without a fouling factor will not be supplied.
11. Page 11277-3 Section 1.06 B will be deleted.
12. On site services :
 - A. Inspection of elements upon delivery provided there is one shipment
 - B. Attendance at Pre-installation meeting
 - C. Present at first day of installation of elements.
 - D. Agreement with page 11277-9 3.08 B.
 - E. Send a qualified technical representative once a quarter during the first year and then annually for years two and three.
 - F. Training to be limited to two days on site. Teleconferencing may be used for additional training
 - G. Agreement with 11277-11 3.09 B
13. Page 11277-8 3.04 A – Email and telephone will be used to notify Installing Contractor and Engineer of element delivery.
14. Warranty to be FILMTEC FT Reverse Osmosis Element Three-Year Limited Warranty

Bid Tabulation
Lake Region Water Teratment Plant
Reverse Osmosis Membrane Elements
Project No. WUD 03-169

				Dow Chemical Co./Filmtec Division	
<u>Bid Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
1	Furnish 8" dia x 40" long spiral wound reverse osmosis membrane elements	1,748	Each	\$800.00	\$1,398,400.00
				Total	\$1,398,400.00
				Dow Chemical Co./Filmtec Division	
<u>Bid Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
1	Furnish 8" dia x 40" long spiral wound reverse osmosis membrane elements	1,748	Each	\$450.00	\$786,600.00
Alternate				Total	\$786,600.00