

Garden Grove Sanitary District
INTER-DEPARTMENT MEMORANDUM

To:	Matthew J. Fertal	From:	William E. Murray
Dept.:	General Manager	Dept.:	Public Works
Subject:	AWARD OF CONTRACT TO ATLANTIC MACHINERY INC./CUES FOR THE RETROFIT OF A DISTRICT SEWER CLOSED CIRCUIT TELEVISION TRUCK		
		Date:	February 26, 2013

OBJECTIVE

To recommend that the Garden Grove Sanitary District (District) Board award a contract to Atlantic Machinery Inc./Cues for the retrofit of a District sewer closed circuit television truck.

BACKGROUND

In 2006, the State Water Resources Control Board issued Order No. 2006-0003, General Waste Discharge Requirements (WDR) for sewer collection agencies. The statewide WDR and reporting program provides a consistent statewide approach for reducing Sanitary Sewer Overflows (SSOs). One of the WDR mandates is the development of a Sewer System Management Plan (SSMP). The main goal of a SSMP is to prevent SSOs and to provide a plan and schedule for measures to be implemented to prevent SSOs. As part of the SSMP, the District developed a Preventative Maintenance Program that involves closed circuit television (CCTV) inspections for the purpose of scheduling regular maintenance and cleaning of the sanitary sewer system. In order to continue the Preventative Maintenance Program and comply with WDR mandates retrofitting a District sewer CCTV truck is necessary.

DISCUSSION

The National Joint Powers Alliance (NJPA) nationally solicits, evaluates and awards contracts through a competitive bid process. As a member of NJPA, the City is able to utilize NJPA bid awards for equipment purchases. NJPA has awarded the competitively bid contract to Atlantic Machinery, Inc./Cues for pipeline inspection equipment. As part of this bid award, Atlantic Machinery Inc./Cues provided a quote for the retrofit of a sewer CCTV truck in the amount of \$77,321. Therefore, Staff recommends utilizing the public bid of the NJPA contract #031710-AMI for obtaining services and equipment for the retrofit of a sewer CCTV truck from Atlantic Machinery Inc./Cues.

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FISCAL IMPACT

This project will be financed with Sewer Enterprise Funds and will have no impact on the General Fund.

RECOMMENDATION

It is recommended that the Garden Grove Sanitary District Board:

- Award a Contract to Atlantic Machinery Inc./Cues for an amount not to exceed \$77,321, for the retrofitting of a District sewer closed circuit television truck for the performance of inspections of the sanitary sewer system; and
- Authorize the General Manager to execute the agreement between the District and Atlantic Machinery Inc./Cues, including minor modifications thereto as appropriate, on behalf of the District.



WILLIAM E. MURRAY, P.E.
Director of Public Works/City Engineer



By: Brent Hayes
Public Works Supervisor

Attachment: Contract for Atlantic Machinery Inc./Cues

Recommended for Approval



Matthew Fertal
General Manager

**PURCHASE AGREEMENT
SEWER CCTV INSPECTION TRUCK RETROFIT
(Atlantic Machinery, Inc.)**

THIS AGREEMENT is made this _____ day of _____, 2013, by the GARDEN GROVE SANITARY DISTRICT, a California special district ("District") and ATLANTIC MACHINERY, INC. ("Contractor").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Board authorization, dated _____.
2. District desires to utilize the services of Contractor to retrofit a sewer inspection truck with a Summit power control closed circuit television system (CCTV), in accordance with the specifications outlined in this Agreement.
3. The services, equipment and prices provided by Contractor to District are in accordance with the services, equipment and the prices provided by Contractor in its successful public bid to the National Joint Powers Alliance (NJPA). Contractor agrees to honor the same pricing schedule that was originally submitted to the NJPA, for the services outlined in this Agreement. A copy of the NJPA bid, Contract Number 032710-AMI, is attached as Attachment A and incorporated herein by reference (NJPA Bid).

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** The term of this Agreement shall be until all items required pursuant to this Agreement are completed.
2. **Services to be Provided.** The services to be performed and equipment to be provided by Contractor consist of (i) providing the necessary materials, tools, supply and labor to retrofit/install a Summit CCTV system on District's sewer inspection truck to replace the existing Pearpoint system, including power control and remote control operations of all cameras, and other related services outlined in the proposal and quote attached as Attachment B and incorporated herein by reference ("Quote") and (ii) performing services that are in accordance with the services set forth in the NJPA Bid and the Quote. The services include, but is not limited to, the following:
 - 2.1 **Delivery of Equipment.** Contractor shall arrange for delivery of the Equipment, free on board, within 45 days from the date of the District's order for the equipment retrofit.

2.2 Warranty. Contractor warrants that all Equipment shall be merchantable, fit for their intended purposes, and free from defects in material and workmanship.

2.3 Training. Contractor shall, after delivery of the Equipment, schedule and perform at the District three days of training related to the use of the Equipment to the District's satisfaction.

3. **Compensation**. Total compensation for the Term of this Agreement shall not exceed Seventy-Seven Thousand Three Hundred Twenty-One Dollars (\$77,321.00).

3.1 Invoices. Contractor shall submit quarterly invoices to the District, as outlined in the Quote. District shall pay properly submitted, undisputed invoices not more than thirty (30) days after the receipt of a properly submitted and undisputed invoice.

4. **Insurance Requirements**.

4.1 COMMENCEMENT OF WORK. CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the DISTRICT. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the DISTRICT of any material change, cancellation, or termination at least thirty (30) days in advance.

4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.

4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:

- (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to DISTRICT and have a Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.
- (b) Automobile liability in an amount of \$1,000,000.00 combined single limit **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to DISTRICT and have a Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate DISTRICT, it's officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to DISTRICT proof of insurance and endorsement forms that conform to DISTRICT's requirements, as approved by the DISTRICT.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate DISTRICT, it's officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to DISTRICT proof of insurance and endorsement forms that conform to DISTRICT's requirements, as approved by the DISTRICT.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects DISTRICT, it's officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the DISTRICT, it's officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

4.4 Deductibles. All deductibles on any policy shall be responsibility of the Contractor.

4.5 Primary and Non-contributor Coverage. The policy or policies must be endorsed to provide that the insurance afforded by the commercial general liability policy or policies is primary to any insurance or self-insurance of the District and its officials, officers, employees, agents and representatives.

4.6 Waiver of Subrogation. All insurance policies must be endorsed to provide that the insurer will waive all rights of subrogation against the District, its officials, officers, employees, agents and representatives for losses paid under the terms of the policies required under this Section 4.

5. **Non-Liability of Officials and Employees of the District.** No official or employee of District shall be personally liable to Contractor in the event of any default or breach by District, or for any amount, which may become due to Contractor.
6. **Non-Discrimination.** Contractor covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any activity pursuant to this Agreement.

7. **Independent Contractor.** The parties agree that Contractor shall act and be an independent Contractor and not an agent or employee of District, and shall obtain no rights to any benefits which accrue to District's employees.
8. **Compliance With Law.** Contractor shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.
9. **Disclosure of Documents.** All documents or other information developed or received by Contractor are confidential and shall not be disclosed without authorization by District, unless disclosure is required by law.
10. **Product Affiliation or Endorsement.** Contractor is expressly prohibited from producing any advertisement or endorsement that refers to the District as a user of a product, material or service of the Contractor or any subcontractor, material supplier, vendor or manufacturer, without a written agreement from the Board or its designee. However, this rule does not preclude a Contractor from identifying the District as a reference or as a former client in proposals for work submitted to other corporate, government or other legal entities.
11. **Ownership of Work Product.** All documents, data, or other information developed or received by Contractor shall be the property of District. Contractor shall provide District with copies of these items upon demand or upon termination of this Agreement.
12. **Conflict of Interest and Reporting.** Contractor shall at all times avoid conflict of interest or appearance of conflict of interest in the performance of this Agreement.
13. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

(a) Address of Contractor is as follows:

Atlantic Machinery, Inc.
2328 Garfield Ave.
Silver Spring, MD 20910

(b) Address of District is as follows (with a copy to):

Secretary
Garden Grove Sanitary District
11122 Acacia Parkway
Garden Grove, CA 92840

General Counsel
Garden Grove Sanitary District
11122 Acacia Parkway
Garden Grove, CA 92840

14. **Contractor's Proposal.** Contractor shall be bound by all the terms, conditions and specifications set forth in Contractor's submittal in the NJPA Bid and Quote. In the event of any inconsistency between the documents, this Agreement shall govern, then the NJPA Bid, then the Quote.
15. **Licenses, Permits and Fees.** At its sole expense, Contractor shall obtain a **Garden Grove Business License**, all permits and licenses as may be required by this Agreement.
16. **Time of Essence.** Time is of the essence in the performance of this Agreement.
17. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for District to enter into this Agreement. Contractor shall not contract with any other entity to perform the services required without written approval of the District. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of District. If Contractor is permitted to subcontract any part of this Agreement, Contractor shall be responsible to District for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and District. All persons engaged in the work will be considered employees of Contractor. District will deal directly with and will make all payments to Contractor.
18. **Authority to Execute and Terminate.** The persons executing this Agreement on behalf of the Contractor warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the Contractor is formally bound. This Agreement may be terminated as set forth herein, and District may terminate this Agreement without cause by providing Contractor thirty (30) days written notice of termination, provided that termination without cause shall not take effect unless and until the termination is approved by the Board or its designee.
19. **Indemnification.** Contractor agrees to protect, defend and hold harmless District and its elective or appointive boards, officers, agents and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by Contractor, Contractor's agents, officers, employees, subcontractors or independent contractor(s) hired by Contractor. The only exception to Contractor's responsibility to protect, defend and hold harmless District is due to the sole negligence of District, or any of its elective or appointive boards, officers, agents or employees. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor.

20. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by District and Contractor.
21. **Scope of Agreement.** During the term of this Agreement, Contractor will provide to the District the products and services described in Attachments A and B in accordance with the terms and conditions set forth herein, and the terms and conditions of any other documents referenced in or incorporated into these terms and conditions.
22. **Change Orders.** District may request changes to the work required to be performed or the addition of products by Contractor by providing Contractor written notice of such changes ("Change Order") or constructive changes may require the initiation of the change order process by Contractor. In either event, Contractor shall implement the required changes immediately following negotiations on Change Order pricing and terms.
23. **Rules and Regulations.** The employees of District and Contractor shall obey all pertinent rules and regulations of the other party while on the premises of the other party, including those relating to the safeguarding of confidential or proprietary information.
24. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the District and Contractor.
25. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any legal action commenced concerning this Agreement shall be filed and maintained in the Orange County Superior Court.
26. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
27. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

"District"
GARDEN GROVE SANITARY DISTRICT

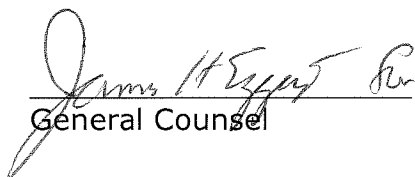
By: _____
General Manager

Dated: _____, 2013

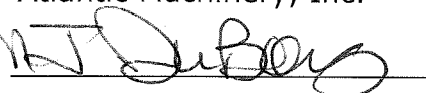
ATTEST

Secretary

APPROVED AS TO FORM:


General Counsel

"Contractor"
Atlantic Machinery, Inc.

By:  _____

Title: MANAGER

Dated: 2/12, 2013

Tax ID No.: 52-1190648

If Contractor is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to District.