CONSENT AGENDA

AGENDA ITEM 12.07
TO: Mayor and City Council

FROM: C. Mel Lytle, Ph.D., Director of Municipal Utilities

SUBJECT: EXECUTION OF CONTRACT WITH RICHARD’S PUMPING AND EXCAVATING, INC. FOR PICKUP AND DISPOSAL OF CITRIC ACID WASTE FROM DELTA WATER TREATMENT PLANT (PUR 12-094)

RECOMMENDATION

It is recommended that the City Council approve a motion approving the specifications and authorizing the City Manager to execute a contract with Richard’s Pumping and Excavating, Inc. of Stockton for the pickup and disposal of citric acid waste from the Delta Water Treatment Plant for $0.13 per gallon.

It is further recommended that the City Manager be authorized to take appropriate actions to carry out the purpose and intent of this motion.

Summary

If approved, this item will authorize the City Manager to execute a contract for the pickup and disposal of citric acid waste with Richard’s Pumping and Excavating, Inc., a local Stockton company. While 10 firms were notified of the bid opportunity, only Richard’s Pumping and Excavating, Inc. attended the mandatory job walk and submitted a bid. If approved, this contract will result in a per gallon cost of $0.13, including all delivery and disposal fees. The Delta Water Treatment Plant is currently paying approximately $0.135 for this service. Citric acid waste is a non-hazardous waste product resulting from the cleaning of membrane filters used in the water treatment process. The contract is for a period of two years, with the option of extending the agreement for up to three additional one-year terms at the same price of $0.13 per gallon.

DISCUSSION

Background

The Delta Water Treatment Plant currently uses membrane filtration as part of its water treatment process. Citric acid is an effective cleaning aid to remove inorganic compounds that can foul the membrane filters. The citric acid waste is neutralized with caustic soda to increase the pH level, thereby rendering it a non-hazardous waste which could then be disposed of at the City’s wastewater treatment plant if the Delta Water Treatment Plant were connected to the City’s sanitary sewer system. Since it is not connected, we must pump, haul, and dispose of the waste.
EXECUTION OF CONTRACT WITH RICHARD’S PUMPING AND EXCAVATING, INC. FOR PICKUP AND DISPOSAL OF CITRIC ACID WASTE FROM DELTA WATER TREATMENT PLANT (PUR 12-094)

Since the Delta Water Treatment Plant commenced operation in May 2012, the Municipal Utilities Department (MUD) has been utilizing the services of D.A. Parrish & Sons, Inc., a local Stockton firm, for the pumping, hauling and disposal of the citric waste at a per gallon rate of approximately $.0135. D.A. Parrish & Sons, Inc. was contacted regarding the bid opportunity but was neither present at the mandatory job walk nor did they submit a bid.

Public requests soliciting competitive bids from vendors for the required pick up and disposal of citric acid waste were issued as follows:

On December 17, 2012, MUD posted an invitation to bid in the Stockton Record for the pickup and disposal of citric acid waste from the Delta Water Treatment Plant (PUR 12-094).

In addition, the invitation to bid was posted on the City’s Bid Flash page at www.stocktongov.com and 10 firms permitted by MUD to dispose of waste at the City’s wastewater treatment plant were contacted.

A mandatory job walk was conducted on January 7, 2013. Richard’s Pumping and Excavating, Inc. was the only vendor in attendance.

Present Situation

On January 31, 2013, the City Clerk of the City of Stockton, opened, examined, and publicly declared the one sealed bid received for the pickup and disposal of citric acid waste from the Delta Water Treatment Plant (PUR 12-094).

Bid results were as follows:

<table>
<thead>
<tr>
<th>VENDOR (LOCATION)</th>
<th>UNIT COST/GALLON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Richard’s Pumping and Excavating, Inc.</td>
<td>$0.13</td>
</tr>
<tr>
<td>(Stockton, CA)</td>
<td></td>
</tr>
</tbody>
</table>

It is estimated that approximately 480,000 gallons of citric acid waste will need to be picked up and disposed each year. The cost per gallon, $0.13, results in an estimated annual cost of $62,400. MUD is currently paying approximately $0.135 per gallon for these services.

The contract is for the pickup and disposal of citric acid waste from the Delta Water Treatment Plant and is for a period of two years from the date of signature. The City
may elect to extend the agreement up to three additional one-year terms at the same price of $0.13 per gallon.

The bid submitted by Richard's Pumping and Excavating, Inc. (Stockton, CA) for the pickup and disposal of citric acid waste is regular in all respects and meets the City's specifications. They have the proper license for this work. The proposed contract (Attachment A) consists of the pickup and disposal of approximately 480,000 gallons of citric acid waste per year. The City will pay only for the actual quantity of citric acid waste picked up and disposed.

FINANCIAL SUMMARY

Funds are available in account number 421-4234-571.20-66 (Delta Water Production/Other Services) to cover the first year's contract cost, which is estimated at $62,400.

Contract costs for future years will be budgeted in the same account subject to City Council approval through the annual budgeting process.

There is no impact to the General Fund or any other unrestricted funds from this action.

Respectfully submitted,

C. MEL LYTLE, PH.D.
DIRECTOR OF MUNICIPAL UTILITIES

CML:MP:mp

APPROVED

KURT O. WILSON
DEPUTY CITY MANAGER

Attachment A – CONTRACT – Richard’s Pumping and Excavating, Inc. (Stockton, CA)
AGREEMENT FOR THE PURCHASE OF GOODS AND SERVICES

THIS AGREEMENT FOR THE PURCHASE OF GOODS AND SERVICES ("Agreement") is made , 2013, between Richard’s Pumping and Excavating, Inc. ("Contractor"), whose address is 10227 E. Highway 26, Stockton, CA 95215 and telephone number is (209) 931-1844 and the City of Stockton, a municipal corporation ("City").

In consideration of the mutual promises set forth in this Agreement, the parties agree as follows:

1. Goods to be provided and services to be performed. Contractor shall perform the services as set forth on the attached Exhibit A incorporated herein by reference. Contractor shall begin performing the services on and the term of this Agreement shall be for two years, provided, however, City, at its sole discretion, may extend this Agreement for three additional one year terms.

2. Compensation. For the services under this Agreement, City shall pay Contractor as set forth in Exhibit B incorporated herein by reference.

3. Method of Payment. City shall pay Contractor within 30 days from the date Contractor’s invoices are approved by the City Manager. Contractor shall submit monthly invoices and must include the purchase order number. All invoices without a purchase order number will be returned to the Contractor without payment.

4. Indemnification. Contractor shall indemnify, save and hold harmless from and defend the City, members of the City Council and employees, agents and volunteers, against any and all claims, costs, demands, causes of action, suits, losses, and expense, including attorneys fees, arising from or out of acts or omissions of Contractor, its officials, employees, agents or subcontractors, in connection with the services that the Contractor is to perform under this Agreement, except where caused by the active or sole negligence of City, or City’s willful misconduct.

5. Insurance and Bonds. During the term of this Agreement, Contractor shall maintain in full force and effect at its own cost and expense the insurance coverage set forth on the attached Exhibit C and shall otherwise comply with the provisions of Exhibit C. The requirements set forth for a Bid Security and Performance Bond as referenced in the bid specifications are hereby waived by the City.

6. Business License. Prior to its execution of this Agreement, Contractor shall obtain a City business license.

7. Audit. City reserves the right to periodically audit all charges for good and services provided by Contractor.

8. Ownership of Goods. All goods accepted by the City shall be the property of the City.

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Purchase Contract
City of Stockton & Richard’s Excavating & Pumping, Inc.

ATTY REVIEW
DATE APR 10 2013
9. **Changes to the Agreement.** This Agreement may not be modified except in writing by both parties.

10. **Applicable Law.** This Agreement shall be governed by the laws of the State of California and venue for any action brought in state court shall be in the Superior Court, County of San Joaquin, Stockton Branch or, for actions brought in federal court, the United States District Court for the Eastern District of California, Sacramento Division.

11. **Non-Assignability.** Contractor shall not assign or transfer this Agreement or any interest or obligation in this Agreement without the prior written consent of the City and then only upon such terms and conditions as City may set forth in writing.

12. **Notices.** All notices herein required shall be in writing and shall be sent certified or registered mail, postage prepaid, addressed as follows:

   To Contractor: Richard's Pumping & Excavating, Inc.  
   10227 E. Highway 26  
   Stockton, CA 95215

   To City: City Manager  
   City of Stockton  
   425 N. El Dorado St.  
   Stockton, CA 95202

13. **Conformance to Applicable Laws.** Contractor shall comply with all applicable Federal, State and Municipal laws, rules and ordinances. Contractor shall not discriminate in the employment of persons or in providing services under this Agreement on the basis of any legally protected classification including race, color, national origin, sex or religion of such person.

14. **Miscellaneous Provisions.**

   a. City may terminate this Agreement at any time, including because City has not appropriated funds for the services, with 30 days written notice by mailing such notice to Contractor at the address first stated above. Contractor shall be paid for that portion of services provided through the date of the termination.

   b. Contractor shall not assign or transfer this Agreement.

   c. In the performance of this Agreement, Contractor, its employees and agents shall have the status of an independent contractor and not as an employee of the City for any purpose.

   d. If either City or Contractor waives a breach of this Agreement, such waiver shall not constitute a waiver of other or succeeding breaches of this Agreement.

   e. Any professional certifications or licenses that may be required by federal, state or local law, regulations or ordinances will be at the sole cost and responsibility of Contractor and during the term of this Agreement Contractor must hold and be in good standing with all such licensing requirements.

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*Purchase Contract*

City of Stockton & Richard's Excavating & Pumping, Inc.
f. City shall place orders with Contractor for all of its requirements under this Agreement except for quantities of goods under emergency conditions if Contractor is unable to provide the goods and/or where federal funds are involved and federal regulatory requirements prohibit the City's placement of such orders.

g. Contractor shall not subcontract any of the work to be performed under the terms of this contract.

h. The physical dimensions and/or performance characteristics of the subject merchandise as set forth in the Bid Specifications previously provided to Contractor are incorporated herein only to the extent they relate to the physical dimensions and/or performance characteristics of the merchandise.

i. Time is of the essence of this Agreement.

j. This Agreement constitutes the entire understanding of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

CITY OF STOCKTON

____________________________
Bob Deis
City Manager

ATTEST:

____________________________
Bonnie Paige
City Clerk

APPROVED AS TO FORM:

____________________________
John Luebberke
City Attorney

CONTRACTOR

By: _____________________________
Signature

____________________________
Jorge Cabrera
Print name

Title: President

[If Contractor is a corporation, signatures must comply with Corporations Code §313]

By: _____________________________
Signature

____________________________
Print name

Title: _____________________________

Purchase Contract
City of Stockton & Richard's Excavating & Pumping, Inc.
EXHIBIT A
GOODS TO BE PROVIDED AND SERVICES TO BE PERFORMED

1. CONTRACTOR shall provide pickup and disposal services of citric acid waste (PUR 12-094) at the prices, terms and conditions hereinafter specified:

   a. Provide pickup and disposal services of citric acid waste for City of Stockton in the amount of $0.13 per gallon including shipment as to the bid specifications.

   A quantity of 480,000 gallons per annum is approximate; City guarantees no minimum. City reserves the right to increase and decrease the quantities.

2. Delivery of services under this contract shall be made as follow:

   Receiving location:
   Delta Water Supply Project Water Treatment Plant
   11373 N. Lower Sacramento Road
   Lodi, CA 95242

   Disposal location:
   Regional Wastewater Control Facility
   2500 Navy Drive
   Stockton, CA 95206

   City reserves the right to conduct all inspections as it deems appropriate.
EXHIBIT B
COMPENSATION

Contractor will provide pickup and disposal services of citric acid waste for the City of Stockton for the amount of $0.13 per gallon including shipment as to the bid specifications.

For out of state contractors, City will pay all applicable sales/use tax directly to the State of California for this purchase under permit number SR KHE 28-051174DP. Please do not include sales/use tax on the invoice that you submit to the City of Stockton.

There is no price increase for the first two years of the contract, nor is there a price increase should the City opt to extend this contract each additional year, up to three years.
EXHIBIT C
INSURANCE REQUIREMENTS
TRUCKING VENDOR
PUR 12-094

VENDOR shall procure and maintain for the duration of the Agreement, insurance against all claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the VENDOR, its agents, representatives, volunteers, or employees.

1. INSURANCE  Throughout the life of this Contract, the Vendor shall pay for and maintain in full force and effect with an insurance company admitted by the California Insurance Commissioner to do business in the State of California and rated not less than “A: VII” in Best Insurance Key Rating Guide, the following policies of insurance:

A. COMMERCIAL (BUSINESS) AUTOMOBILE LIABILITY insurance, endorsed for "any auto" with combined single limits of liability of not less than $1,000,000 each occurrence, including MCS90 endorsement form.

B. WORKERS’ COMPENSATION insurance as required under the California Labor Code and Employers Liability Insurance with limits not less than $1,000,000 per accident/injury/disease.

C. COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY AND MISCELLANEOUS SUPPLEMENTARY INSURANCE;

FOR ADDITIONAL REQUIREMENT(S):

(i) COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY insurance which shall include Contractual Liability, Products and Completed Operations coverage’s, Bodily Injury and Property Damage Liability insurance with combined single limits of not less than $1,000,000 per occurrence, and if written on an Aggregate basis, $2,000,000 Aggregate limit.

(ii) ENVIRONMENTAL IMPAIRMENT/POLLUTION LIABILITY insurance with minimum limits of $1,000,000 combined single limit, to include liability for Groundwater contamination, Explosion, Sudden and Accidental and Environmental cleanup, etc.

Deductibles and Self-Insured Retentions must be declared and are subject to approval by the CITY.

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Purchase Contract
City of Stockton & Richard's Excavating & Pumping, Inc.
The Policy(s) shall also provide the following:

1. The Commercial General Liability insurance shall be written on ISO approved occurrence form with additional insured endorsement naming: City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are additional insureds.

2. All insurance required by this Agreement shall be with a company acceptable to the CITY and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date VENDOR completes its performance of services under this Agreement.

3. For any claims related to services or products provided under this contract, the Vendor’s insurance coverage shall be primary insurance as respects the City of Stockton its officers, agents, and employees. Any coverage maintained by the CITY shall be excess of the Vendor’s insurance and shall not contribute with it. Policy shall waive right of recovery (waiver of subrogation) against the CITY.

4. Each insurance policy required by this clause shall have a provision that coverage shall not be cancelled by either party, except after thirty (30) days’ prior to written notice by certified mail, return receipt requested, has been given to the CITY. Further, the thirty (30) day notice shall be unrestricted, except for workers’ compensation, or non-payment of premium, which shall permit ten (10) days advance notice. The insurer and/or the contractor and/or the contractor’s insurance agent shall provide the CITY with notification of any cancellation, major change, modification or reduction in coverage.

5. Regardless of these contract minimum insurance requirements, the Vendor and its insurer shall agree to commit the Vendor’s full policy limits and these minimum requirements shall not restrict the Vendor’s liability or coverage limit obligations.

6. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.

7. The Company shall furnish the City of Stockton with the Certificates and Endorsement for all required insurance, prior to the CITY’s execution of the Agreement and start of work.

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Purchase Contract
City of Stockton & Richard’s Excavating & Pumping, Inc.
8. Proper address for mailing certificates, endorsements and notices shall be:

   City of Stockton
   Attention: Risk Services
   425 N. El Dorado Street
   Stockton, CA 95202

9. Upon notification of receipt by the CITY of a Notice of Cancellation, major change, modification, or reduction in coverage, the Vendor shall immediately file with the CITY a certified copy of the required new or renewal policy and certificates for such policy.

Any variation from the above contract requirements shall only be considered by and be subject to approval by the CITY's Risk Manager (209) 937-8617. Our fax is (209) 937-8833.

If at any time during the life of the Contract or any extension, the Vendor fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately. Any failure to maintain the required insurance shall be sufficient cause for the CITY to terminate this Contract.

If the Vendor should subcontract all or any portion of the work to be performed in this contract, the Vendor shall cover the sub-contractor, and/or require each sub-contractor to adhere to all subparagraphs of these Insurance Requirements section. Similarly, any cancellation, lapse, reduction or change of sub-contractor's insurance shall have the same impact as described above.