



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement & Compliance

ACM: David Gaines

DATE: June 22, 2021

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager, or their designee, to execute a Tender Agreement with Travelers Casualty and Surety Company and Mountain Cascade of Texas, LLC for completion of the construction of the North/South Water Main Phase III Project for the City of Denton, with geographical limits from I-35E Service Road North along Bonnie Brae To Panhandle, for completion of the previous construction contract for said project with S & J Construction Co., Inc. approved by City Council on February 18, 2020, and replacing S & J Construction Co., Inc. with Mountain Cascade of Texas, LLC as completion contractor as set forth in said Tender Agreement; providing for the receipt and expenditure of funds therefor; and providing an effective date (File 7200-1 – Tender Agreement to accept receipt of contract shortfall in the amount of \$1,907,041.84 from Travelers Casualty and Surety Company, and expenditure to Mountain Cascade of Texas, LLC in the not-to-exceed amount of \$3,963,902.04).

INFORMATION/BACKGROUND

The North/South Water Main Phase 3 Project consists of 4,300 feet of 42-inch poly-coated steel transmission main on Bonnie Brae between Interstate 35 and Panhandle Street. This portion of the water transmission main connects Phases 1 & 2 to provide a continuous water main segment from the Lake Ray Roberts Water Treatment Plant to Roselawn Drive on the southern end of Denton. The function of this transmission main is to provide additional capacity and service to the southwest portion of Denton.

In October of 2019, the City of Denton Procurement issued an Invitation For Bids in which the City received eight responses. Of the eight, S & J Construction Co., Inc. (“S&J” or “S & J Construction”) was deemed the lowest responsive bidder and awarded the contract on February 18, 2020, by City Council. Due to COVID-19, the notice to proceed with construction was delayed from March 2020 and issued on May 25, 2020.

Over the next few months, it became apparent to City staff that S & J Construction was having serious performance issues administering the contract. A cross-disciplinary team documented their respective concerns and issued a formal letter that was delivered to S & J Construction on October 16, 2020, along with a stop-work order. Over the next 6-8 weeks, S & J experienced staff turnover and was unable to remedy the concerns of the City to lift the stop-work order despite the City participating in several meetings and site visits to determine the next steps.

On December 21, 2020, City staff issued a Letter of Termination to S & J Construction as well as a subsequent letter to the Travelers Casualty and Surety Company (“Travelers”) as a notice of claim on S & J’s performance bond, asking them to perform the remaining contract. Over the next few months, City staff compiled documentation that was requested by Travelers.

On February 5, 2020, Travelers issued a Solicitation for Offers to find a completion contractor. Travelers received four responses with the lowest qualified bidder being Mountain Cascade of Texas, LLC. City staff participated in multiple site walks including a pre-solicitation meeting with the prospective contractors. A site walk was also conducted with Mountain Cascade and American Pipe Co. to discuss any potential issues with the special ordered pipe material for the project.

In order to finalize the award of the completion contractor, the City, Travelers, and Mountain Cascade of Texas, LLC have negotiated the attached Tender Agreement. This Tender Agreement serves to formally appoint Mountain Cascade of Texas, LLC as the Completion Contractor and amend our original construction contract to reflect such change. The Tender Agreement also sets forth the compensation the City will receive from Travelers in a resolution of the claim with respect to S & J’s termination.

Below is the breakdown of funds associated with the Tender Agreement, as well as the associated damages paid by the Surety to the City of Denton.

Original Contract Price	\$ 4,000,551.18
Total Available Contract Balance (including retainage)	\$ 2,750,860.20
Completion Contractor Price	<u>\$ 3,963,902.04</u>
Contract Shortfall Paid By Surety	\$ 1,213,041.84
Additional Damages Paid to City of Denton	<u><u>\$ 694,000.00</u></u>

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On February 18, 2020, City Council approved a contract with S & J Construction Co., Inc., in the not-to-exceed amount of \$4,000,551.18 (Ordinance 20-361).

RECOMMENDATION

Approval of the Tender Agreement and an amended not-to-exceed amount of \$3,963,902.04.

PRINCIPAL PLACE OF BUSINESS

Mountain Cascade of Texas, LLC
Alvarado, TX

Travelers Casualty and Surety Company
Hunt Valley, MD

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval with a completion date within 265 calendar days.

FISCAL INFORMATION

These services will be funded through the remaining project and Surety Funds.

EXHIBITS

Exhibit 1: Agenda Information Sheet.

Exhibit 2: Presentation

Exhibit 3: LLC Members

Exhibit 4: Ordinance and Tender Agreement

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Seth Garcia, 940-349-8938.

Legal point of contact: Marcella Lunn at 940-349-8333.