



I. 1.

Palmer City Council Meeting

Meeting Date: 04/09/2024
Submitted For: Jude Bilafer, Public Works Director
Department: Public Works
Agenda Category: Action Memorandum
Legislation Number: AM 24-018

Subject

Authorizing the City Manager to Negotiate a Contract with H5 Construction, LLC in the Amount of \$2,014,304.38 for the Bogard Road Booster Station

Summary Statement/Background

In 2016, a project to build a water booster station to extend City of Palmer water lines/service along Bogard Road to supply water to Colony High School and Colony Middle School was undertaken. Design and site preparation commenced and were completed in 2017. However, funding was exhausted, and the actual booster station was not constructed. In 2023, the City of Palmer received a federal grant via the Matanuska-Susitna Borough to complete this water booster station project. The project was advertised on February 16, 2024 and is expected to be completed during the summer of 2024.

Administration's Recommendation:

Approve Action Memorandum No. 24-018.

Fiscal Impact

Total Amount of funds listed in this legislation: \$2,014,304.38
Legislation creates expenditure in the amount of: \$2,014,304.38
Budgeted Y/N?: Y
Line Item(s): 24-01-25-6226 Bogard Booster Station Construction

Attachments

HDL Letter of Recommendation
Notice of Intent to Award
Protest Determination Letter

March 7, 2024

Jude Bilafer
 Director of Public Works
 City of Palmer
 231 West Evergreen Avenue
 Wasilla, AK 99645

Subject: Recommendation of Award
 Construct Bogard Road Booster Station

We have reviewed the bids submitted for the above-referenced project. We have noted no errors in extended prices between bid proposal pages and bid items.

The bid totals for each schedule and the corresponding contractor rankings are summarized below:

Table 1: Contractor Bid Rankings for Base Bid (Schedule A)

Rank	Contractor	Base Bid
1	Orion Construction Inc.	\$1,996,474.00
2	H5 Construction, LLC	\$2,000,804.38
3	Roger Hickel Contracting, Inc.	\$2,885,474.00
4	Wolverine Supply, Inc.	\$3,569,474.00

Table 2: Contractor Bid Rankings Total Bid (Schedule A + Schedule B)

Rank	Contractor	Total Bid
1	Orion Construction Inc.	\$2,006,474.00
2	H5 Construction, LLC	\$2,014,304.38
3	Roger Hickel Contracting, Inc.	\$2,899,474.00
4	Wolverine Supply, Inc.	\$3,592,474.00

- Civil Engineering
- Geotechnical Engineering
- Transportation Engineering
- Aviation Engineering
- W/WW Engineering
- Environmental Services
- Surveying & Mapping
- Construction Administration
- Material Testing

Construct Bogard Road Booster Station

March 7, 2024

Based on our understanding of the intent to award Schedule B, we recommend award of the contract to Orion Construction Inc. for the Total Bid pending approval of funding.

Please contact us if you need anything further.

Sincerely,

HDL Engineering Consultants, LLC



Lyon Kopsack, PE

Civil Engineer

e: lkopsack@HDLalaska.com | o: 907.746.5230

Attach: Bid Tabulation (1 page)

CITY OF PALMER
Construct Bogard Road Booster
BID SUMMARY

SUMMARY

Schedule	Wolverine Supply, Inc.	H5 Construction, LLC	Roger Hickel Contracting, Inc.	Orion Construction Inc.
Calculated Schedule A Total	\$3,569,474.00	\$2,000,804.38	\$2,885,474.00	\$1,996,474.00
As Submitted Schedule A Total	\$3,569,474.00	\$2,000,804.38	\$2,885,474.00	\$1,996,474.00
Difference Schedule A	\$0.00	\$0.00	\$0.00	\$0.00
Calculated Schedule B Total	\$23,000.00	\$13,500.00	\$14,000.00	\$10,000.00
As Submitted Schedule B Total	\$23,000.00	\$13,500.00	\$14,000.00	\$10,000.00
Difference Schedule B	\$0.00	\$0.00	\$0.00	\$0.00
Calculated Total Bid	\$3,592,474.00	\$2,014,304.38	\$2,899,474.00	\$2,006,474.00
As Submitted Total Bid	\$3,592,474.00	\$2,014,304.38	\$2,899,474.00	\$2,006,474.00
Difference Schedule B	\$0.00	\$0.00	\$0.00	\$0.00



DEPARTMENT OF PUBLIC WORKS

Jude Bilafer
Director

Phone: (907) 761-1350
Fax: (907) 745-3203
Email: jbilafer@palmerak.org

Mail: 231 W. Evergreen Ave.
Palmer, Alaska 99645-6952
Location: 1316 South Bonanza Street
www.palmerak.org

March 7, 2024

TO: Orion Construction Inc.
H5 Construction, LLC
Roger Hickel Contracting, Inc.
Wolverine Supply, Inc.

**RE: NOTICE OF INTENT TO AWARD - 2024 Construct Bogard Road
Booster Station Project**

This is the City of Palmer’s Notice of Intent to Award the contract for the 2024 Construct Bogard Road Booster Station Project to Orion Construction Inc. at the Palmer City Council meeting scheduled at 6:00 p.m., April 9th, 2024, in the Council Chambers at Palmer City Hall, 231 W. Evergreen Ave., Palmer, Alaska 99645.

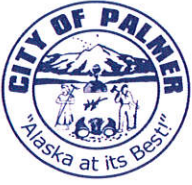
Four bids were received, and upon review, it was determined Orion Construction Inc. had the lowest responsible, responsive bid. The bid tabulations are attached to this NOIA.

In accordance with Palmer Municipal Code 3.21.290 B., a protest based upon alleged improprieties in an intended award of a contract must be filed with the Palmer City Manager (with a copy previously served upon the intended awardees) within two business days after the issuance of this notice of intent to award - in this case, by 5 p.m., Monday, March 11th, 2024. Failure to meet this timeline shall constitute a waiver of the protesting party’s rights and a bar on any further action regarding this matter.

Sincerely,

Jude Bilafer
Director of Public Works, City of Palmer

**Attachment – 2024 Construct Bogard Road Booster Station Project
Recommendation of Award and Bid Summary**



DEPARTMENT OF PUBLIC WORKS

Jude Bilafer
Director

Phone: (907) 761-1350
Fax: (907) 745-3203
Email: jbilafer@palmerak.org

Mail: 231 W. Evergreen Ave.
Palmer, Alaska 99645-6952
Location: 1316 South Bonanza Street
www.palmerak.org

March 13th, 2024

TO: Orion Construction Inc.
H5 Construction, LLC
Roger Hickel Contracting, Inc.
Wolverine Supply, Inc.

RE: City of Palmer's Determination of H5 Construction LLC's, Protest of the City of Palmer's Notice of Intent to Award 2024 Construct Bogard Road Booster Station Project

BACKGROUND

On February 10th, 2024, the City of Palmer (City) issued an Invitation to Bid (ITB) for the 2024 Construct Bogard Road Booster Station Project (Attachment 1). The ITB set forth the description of the work and all associated requirements for the project, established a pre-bid meeting time and date, and established the bid opening time and date. The ITB also stated that the City reserves the right to reject any and all bids, and to waive irregularities and formalities in any of the bids when in the best interest of the City. All bids received were opened on March 6th, 2024, at 2:00pm in the Palmer City Council Chambers.

In response to the ITB, the City received four bids (Attachment 2). Attending the bid opening on March 6th were City employees, representatives from HDL Engineering Consultants, LLC (HDL), and one representative from each bidder. After the four sealed bids were opened, the Public Works Director stated that the apparent low bidder was Orion Construction Inc; however, a final determination would be made once the actual bids were reviewed to ensure they complied with the ITB. Upon review of the four bids, Orion Construction Inc. was determined to be the lowest responsive bid (Attachment 2).

On March 7th, 2024, the City issued a Notice of Intent to Award the 2024 Construct Bogard Road Booster Station Project to Orion Construction Inc., whereupon, in accordance with Palmer Municipal Code (PMC) 3.21.290 B., H5 Construction, LLC, filed a bid protest on March 11th, 2024. (Attachment 3).

H5 Construction, LLC, states in their protest letter –

“We believe that upholding the integrity of the bidding process is paramount and that all participants should be required to adhere strictly to the stipulated bid submission criteria. As such, we respectfully request a re-evaluation of the bids submitted, taking into

account the precedence of the bidder's checklist as the definitive source for required documentation. The ITB clearly delineates the bidder's checklist as the document of precedence in cases of discrepancy or conflict with other bid documents. This prioritization is explicitly stated in the ITB in the first paragraph of the Bidders Checklist "BIDDERS BE ADVISED," ensuring that there is no ambiguity regarding the necessity for bidders to comply fully with the checklist requirements."

FINDINGS

The following evidence is provided to support the City's ultimate conclusions:

- Page 452 of the ITB, BIDDER'S CHECKLIST, Para 1. General states: "Bidders are advised that, notwithstanding any instructions or implications elsewhere in this Invitation to Bid, only the documents shown and detailed on this sheet need be submitted with and made part of their bid. Other documents may be required to be submitted after bid time, but prior to award. Bidders are hereby advised that failure to submit the documents shown and detailed on this sheet shall be justification for rendering the bid nonresponsive. Evaluation of bids for responsiveness shall be accomplished in accordance with Palmer Municipal Code.
- Additionally stated on that same page: "Only the following listed items as marked with an "X" are required to be completely filled out and submitted with the bid."
 - X Bid proposal consisting of four pages, BP-1 through BP-4. BP-1 must be manually signed.
 - X Erasures or other changes made to the Bid Proposal Sheet must be initialed by the person signing the bid.
 - X Bid bond, certified check, cashier's check, money order or cash shall be submitted with the bid in the amount of 10% of the bid.
 - X All Addenda issued shall be acknowledged in the space provided on the Bid Proposal sheet or by manually signing the Addenda sheet and submitting it prior to the bid opening in accordance with Palmer Municipal Code.
 - X Bidder Qualification Form
 - X Subcontractors & Suppliers List
 - MBE/WBE Compliance Statement
- Page 464 of the ITB, SUBCONTRACTORS & SUPPLIERS LIST, states "The Successful Bidder shall submit the data requested below by the end of the second business day following Bid opening. Use additional pages as required."

In accordance with PMC 3.21.170 F, the findings above have been based solely on criteria set forth in the ITB.

CONCLUSIONS

A public procurement authority has broad discretion to reject any and all bids, or to waive irregularities when it determines that such action would be in its best interest. To

determine whether the rejection of a bid is in the best interest of the procurement authority, an analysis of the totality of the circumstances surrounding the transaction must be examined. In this case, Orion Construction Inc. did not timely submit a Subcontractors & Suppliers List as prescribed in the Bidder's Checklist. The Bidder's Checklist form clearly states:

"Bidders are advised that, notwithstanding any instructions or implications elsewhere in this Invitation to Bid, only the documents shown and detailed on this sheet need be submitted with and made part of their bid. Other documents may be required to be submitted after bid time, but prior to award. Bidders are hereby advised that failure to submit the documents shown and detailed on this sheet shall be justification for rendering the bid nonresponsive.

DETERMINATION

After an in-depth review, to include the legal aspects of the directions listed on the Bidder's Checklist and on the Subcontractors & Suppliers List, the determination was made that the Bidder's Checklist form supersedes and takes precedence over every other potentially conflicting guidance. This point is clearly stated on the Bidder's Checklist. Orion Construction failed to include all the documents as specified on the Bidder's Checklist. As a result of this missing required document, the bid packet submitted by Orion Construction Inc is deemed incomplete and therefore nonresponsive.

H5 Construction, LLC's, Bid Protest dated March 11th, 2024, is SUSTAINED. Orion Construction Inc's bid is nonresponsive and as such, will not be considered. An updated Notice of Intent to award will be mailed separately indicating the successful bidder.

This is the final decision of the purchasing officer. This decision may be appealed. If you appeal, you must deliver your appeal, along with \$250, to the City clerk within three business days after service by fax or otherwise of the purchasing officer's decision.

Sincerely,



Jude Bilafer
Director of Public Works, City of Palmer

Attachment 1 – Invitation to Bid
Attachment 2 – Bid Tabulation / Lowest Responsive Bid Determination
Attachment 3 – H5 Construction, LLC Protest Letter

CITY OF PALMER

Invitation to Bid

Construct Bogard Road Booster Station

The City of Palmer is requesting bids from qualified contractors for the construction of the Bogard Road Booster Station as more fully described in the Contract Documents.

Sealed bids, in single copy, for furnishing all labor, equipment and materials and performing all work for the above project are hereby invited and must be received prior to **2:00 pm local time on WEDNESDAY, MARCH 6, 2024**, at Palmer City Hall, 231 W. Evergreen Avenue, Palmer, Alaska, at which time bids will be opened publicly and read aloud. Time of receipt will be as determined by the Customer Service Counter time stamp.

Proposals received after the time specified will be returned to the Contractor unopened. Facsimile or email or any other electronic media submittals will not be accepted.

A non-mandatory pre-bid meeting will be held at the above address on **TUESDAY, FEBRUARY 20, 2024, at 10:00 am**. A site visit will follow. Submit all questions in writing to Crystal Dermer (cdermer@palmerak.org) by **WEDNESDAY, FEBRUARY 21, 2024, by 5:00 pm**.

This is a bonded, public works project. Contractors are required to be licensed by the City and State and shall comply with Title 36 wage rates. A bid guarantee is required with each bid in the amount of 10% of the base bid amount. Successful bidder will be required to provide separate payment and performance bonds and a labor and material payment bond each in the amount equal to 100% of the contract price.

Contract Documents will be available starting FEBRUARY 14, 2024, in electronic format only. Documents may be obtained from the City of Palmer website at <https://www.palmerak.org/bids>.

For additional info, contact the Palmer Public Works office at (907) 745-3400.

The City reserves the right to reject any or all bids and to waive irregularities or informalities in any of the bids.

John Moosey
City Manager



March 7, 2024

Jude Bilafer
 Director of Public Works
 City of Palmer
 231 West Evergreen Avenue
 Wasilla, AK 99645

Civil
 Engineering

Subject: Recommendation of Award
 Construct Bogard Road Booster Station

Geotechnical
 Engineering

We have reviewed the bids submitted for the above-referenced project. We have noted no errors in extended prices between bid proposal pages and bid items.

Transportation
 Engineering

The bid totals for each schedule and the corresponding contractor rankings are summarized below:

Table 1: Contractor Bid Rankings for Base Bid (Schedule A)

Rank	Contractor	Base Bid
1	Orion Construction Inc.	\$1,996,474.00
2	H5 Construction, LLC	\$2,000,804.38
3	Roger Hickel Contracting, Inc.	\$2,885,474.00
4	Wolverine Supply, Inc.	\$3,569,474.00

Aviation
 Engineering

W/WW
 Engineering

Table 2: Contractor Bid Rankings Total Bid (Schedule A + Schedule B)

Rank	Contractor	Total Bid
1	Orion Construction Inc.	\$2,006,474.00
2	H5 Construction, LLC	\$2,014,304.38
3	Roger Hickel Contracting, Inc.	\$2,899,474.00
4	Wolverine Supply, Inc.	\$3,592,474.00

Environmental
 Services

Surveying &
 Mapping

Construction
 Administration

Material
 Testing

3335 Arctic Boulevard, Suite 100, Anchorage, Alaska 99503
 1617 S Industrial Way, Suite 3, Palmer, Alaska 99645
 110 Trading Bay, Unit 120, Kenai, Alaska 99611

907.564.2120
 907.746.5230
 907.564.2120

Construct Bogard Road Booster Station

March 7, 2024

Based on our understanding of the intent to award Schedule B, we recommend award of the contract to Orion Construction Inc. for the Total Bid pending approval of funding.

Please contact us if you need anything further.

Sincerely,

HDL Engineering Consultants, LLC



Lyon Kopsack, PE

Civil Engineer

e: lkopsack@HDLalaska.com | o: 907.746.5230

Attach: Bid Tabulation (1 page)

CITY OF PALMER
Construct Bogard Road Booster
BID SUMMARY

SUMMARY

Schedule	Wolverine Supply, Inc.	H5 Construction, LLC	Roger Hickel Contracting, Inc.	Orion Construction Inc.
Calculated Schedule A Total	\$3,569,474.00	\$2,000,804.38	\$2,885,474.00	\$1,996,474.00
As Submitted Schedule A Total	\$3,569,474.00	\$2,000,804.38	\$2,885,474.00	\$1,996,474.00
Difference Schedule A	\$0.00	\$0.00	\$0.00	\$0.00
Calculated Schedule B Total	\$23,000.00	\$13,500.00	\$14,000.00	\$10,000.00
As Submitted Schedule B Total	\$23,000.00	\$13,500.00	\$14,000.00	\$10,000.00
Difference Schedule B	\$0.00	\$0.00	\$0.00	\$0.00
Calculated Total Bid	\$3,592,474.00	\$2,014,304.38	\$2,899,474.00	\$2,006,474.00
As Submitted Total Bid	\$3,592,474.00	\$2,014,304.38	\$2,899,474.00	\$2,006,474.00
Difference Schedule B	\$0.00	\$0.00	\$0.00	\$0.00



City of Palmer • City Manager's Office
231 W. Evergreen Avenue • Palmer, AK 99645
Phone: 907-761-1317 Fax: 907-745-0930

Bid Protest Form

Please note: a protest based on alleged improprieties or ambiguities in an invitation to bid or a request for proposals must be filed with the purchasing officer at least 10 days before the due date of the bid or proposal. Failure to meet this time line shall constitute a waiver of the protesting party's rights and a bar on any further action regarding this matter. A protest based upon alleged improprieties in an intended award of a contract must be filed with the purchasing officer with a copy previously served upon the intended awardee within two business days after a notice of intent to award the contract is issued. Failure to meet this time line shall constitute a waiver of the protesting party's rights and a bar on any further action regarding this matter. (Palmer Municipal Code 3.21.290 B)

Please provide the following information:

Party filing the appeal Daniel Hacker

Business Name H5 Construction, LLC

Mailing Address 1500 E Bogard Rd

City Wasilla State AK Zip 99654

Business Phone No. 907-357-4711

Business Fax No. --

Business Physical Address 1500 E Bogard Rd

City Wasilla State AK Zip 99654

Contact Name Daniel Hacker Phone No. 907-357-4711

Invitation to Bid Number 24-01

Please provide a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and the form of relief requested:

We believe that upholding the integrity of the bidding process is paramount and that all participants should be required to adhere strictly to the stipulated bid submission criteria. As such, we respectfully request a re-evaluation of the bids submitted, taking into account the precedence of the bidder's checklist as the definitive source for required documentation.

Thank you for your attention to this matter. We trust that the city of Palmer will take the necessary steps to ensure that the procurement process remains fair, transparent, and in accordance with the established guidelines. Should you require any further information or wish to discuss this protest in greater detail, please do not hesitate to contact me.



CERTIFICATE UNDER OATH

I, Daniel Hacker (printed name), do hereby depose and state:

- 1. That I, as protester, am the authorized representative of the firm filing this bid protest;
- 2. That the claim to protest the award of the bid referenced above is made in good faith;
- 3. That the supporting data are accurate and complete to the best of my knowledge and belief.

IN WITNESS, WHEREOF, I have hereunto affixed my signature this 8th day of March, 2024.

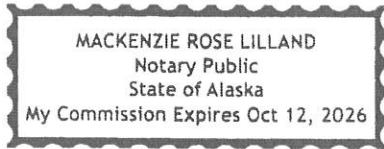
Signed: 

(State of Alaska)
()
(Third Judicial District)

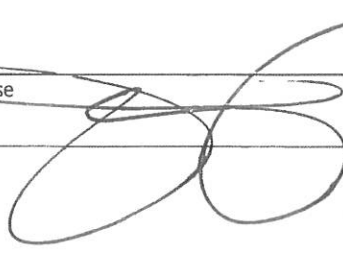
On this 8th day of March, 2024, before me, the undersigned notary public, personally appeared Daniel Hacker known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Signature: Mackenzie Rose Lillard

My Commission Expires: 10/12/2026



Date received: 03-11-2024

For-Office Use
Received by: 
John MOOSEY
CITY MANAGER



1500 Bogard Road
Wasilla, Alaska 99654
Ph. 907-357-4711

March 8, 2024

Dear Jude,

I am writing on behalf of H5 Construction to formally announce we will be protesting the outcome of the bidding process for Palmer Booster Station particularly regarding the selection of the apparent low bidder.

Upon review of the bid documents submitted by the apparent low bidder at time of opening, it was evident that their submission was non-responsive to the requirements explicitly outlined in the ITB. Specifically, **the low bidder failed to provide all necessary documentation as mandated by the bidder's checklist**, a critical component of the bid submission package. They should have been removed immediately and they should be the ones filing a protest not H5.

The ITB **clearly** delineates the bidder's checklist as the document of precedence in cases of discrepancy or conflict with other bid documents. This prioritization is explicitly stated in the ITB in the first paragraph of the Bidders Checklist "BIDDERS BE ADVISED," ensuring that there is no ambiguity regarding the necessity for bidders to comply fully with the checklist requirements. Please note, all bids submitted other than the apparent low followed the guidelines.

The claim of a direct conflict between the bid form and the bidder's checklist does not hold, given **the ITB's clear stipulation that the bidder's checklist takes precedence over all other documents**. This precedence is established to prevent exactly this kind of dispute and to ensure that all bidders are held to a uniform standard of documentation and compliance!

In light of this, we request that City of Palmer review the bid submission against the requirements set forth in the bidder's checklist. Given their failure to meet the clearly defined and prioritized requirements, their bid should be deemed non-responsive, and they should be disqualified from consideration for Palmer Booster Station.

We believe that upholding the integrity of the bidding process is paramount and that all participants should be required to adhere strictly to the stipulated bid submission criteria. As such, we respectfully request a re-evaluation of the bids submitted, taking into account the precedence of the bidder's checklist as the definitive source for required documentation.

Thank you for your attention to this matter. We trust that the city of Palmer will take the necessary steps to ensure that the procurement process remains fair, transparent, and in accordance with the established guidelines. Should you require any further information or wish to discuss this protest in greater detail, please do not hesitate to contact me.

Sincerely,

Daniel Hacker

"Excellence is not an Act it is a HABIT"

BIDDER'S CHECKLIST

INSTRUCTIONS TO BIDDER

I. GENERAL

Bidders are advised that, ^{*} notwithstanding any instructions or implications elsewhere in this Invitation to Bid, only the documents shown and detailed on this sheet need be submitted with and made part of their bid. Other documents may be required to be submitted after bid time, but prior to award. Bidders are hereby advised that failure to submit the documents shown and detailed on this sheet shall be justification for rendering the bid nonresponsive. Evaluation of bids for responsiveness shall be accomplished in accordance with Palmer Municipal Code.

II. REQUIRED DOCUMENTS FOR BID

NOTE: "Only the following listed items as marked with an "X" are required to be completely filled out and submitted with the bid."

- Bid proposal consisting of four pages, BP-1 through BP-4. BP-1 must be manually signed.
- Erasures or other changes made to the Bid Proposal Sheet must be initialed by the person signing the bid.
- Bid bond, certified check, cashiers check, money order or cash shall be submitted with the bid in the amount of 10% of the bid.
- All Addenda issued shall be acknowledged in the space provided on the Bid Proposal sheet or by manually signing the Addenda sheet and submitting it prior to the bid opening in accordance with Palmer Municipal Code.
- Bidder Qualification Form
- Subcontractors & Suppliers List
- MBE/WBE Compliance Statement

H5Construction



From: H5Construction
Sent: Monday, March 11, 2024 11:26 AM
To: jeffw@orionconstructioninc.com
Subject: Bid protest Palmer Booster Station
Attachments: Palmer Booster Station Bid Protest.pdf


I am writing on behalf of H5 Construction to formally announce we will be protesting the outcome of the bidding process for Palmer Booster Station particularly regarding the selection of the apparent low bidder.

Please see attached.

Thank you.



 (907) 357-4711  contact.us@h5construction.com

 1500 E. Bogard Rd. Wasilla, AK 99654

 Integrity • Accountability • Professionalism • Excellence • Safety

