

**2008 KEY LARGO WASTEWATER TREATMENT DISTRICT
BOARD OF COMMISSIONERS**

AGENDA



Friday September 19, 2008 12:00 PM NOON
98880 Overseas Hwy
Key Largo, FL 33037

The September 16, 2008 Regular Board Meeting is continued
until Friday September 19, 2008 at 12 Noon.

Gary Bauman
Andrew Tobin
Claude Bullock
Susan Hammaker
Norman Higgins

Chairman
Vice Chairman
Secretary-Treasurer
Commissioner
Commissioner

.....
Charles F. Fishburn
Thomas Dillon
Carol Walker

General Manager
District Counsel
District Clerk

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the KLWTD Board, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate in the meeting should contact the District Clerk at 305-4453-5804 at least 48 hours in advance to request accommodations.

- J. General Manager Items
12. Injection Well Bid Award

TAB 12

TAB 12

**KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form**

Meeting Date: Sept. 16, 2008

Agenda Item No.

PUBLIC HEARING

RESOLUTION

DISCUSSION

BID/RFP AWARD

GENERAL APPROVAL OF ITEM

CONSENT AGENDA

Other:

SUBJECT: Injection Well Bid

RECOMMENDED MOTION/ACTION:

Approved by General Manager

Date: 9-18-08

Originating Department: General Manager	Costs: Approximately \$5,478,973.00 Funding Source: Acct.	Attachments:
Department Review: <input checked="" type="checkbox"/> District Counsel <i>[Signature]</i> <input checked="" type="checkbox"/> General Manager <i>[Signature]</i> <input type="checkbox"/> Finance	<input checked="" type="checkbox"/> Engineering <i>[Signature]</i> <input type="checkbox"/> Clerk	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required
	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case _____: Please initial one.

Summary Explanation/Background: Staff has reviewed the two bids for the KLWTD Injection Well System, and recommends awarding Youngquist the contract for the KLWTD Injection Well.

The low bidder, All Webb's Enterprises was not responsible.

Resulting Board Action:

Approved

Tabled

Disapproved

Recommendation Revised



Charles F. Fishburn
 General Manager
 Key Largo Wastewater Treatment District
 98880 Overseas Highway
 Key Largo, Florida 33037

ARCADIS U.S., Inc.
 2081 Vista Parkway
 West Palm Beach
 Florida 33411
 Tel 561.697.7000
 Fax 561.697.7751
 www.arcadis-us.com

Subject:
 Key Largo Wastewater Treatment District
 KLWTD Injection Well System

WATER RESOURCES

Dear Mr. Fishburn:

Date:
 September 18, 2008

On August 14, 2008 two (2) bids were received and opened on the referenced project. A summary of the bid results is as follows:

Contact:
 David K. Smith

<u>Bidder</u>	<u>Bid Amount</u>
All Webb Enterprises Inc.	\$5,321,211.00
Youngquist Brothers Inc.	\$5,478,973.00

Phone:
 561.697.7053

Email:
 Davidk.smith@arcadis-us.com

It is our understanding that the budget amount for this project is \$6,000,000. Our estimate was given as \$4,800,000 with the verbal proviso that drilling construction contracts are difficult to estimate and therefore a price up to \$6,000,000 could be expected.

Our ref:
 PF001359.0001

Both bidders are over our original estimate, but are under the District's budget. As summarized below, the difference in cost between the two bidders is \$247,762, with the majority of the difference due to mobilization/demobilization costs.

Florida License Numbers

Engineering
 EB00007917

Geology
 GB564

Landscape Architecture
 LC26000269

Surveying
 LB7062

	Description	All Webbs	Youngquist
1	Mobilization/Demobilization	\$ 636,191.00	\$ 850,000.00
2	Class I Injection Well (IW1) Construction	\$ 3,379,003.00	\$ 3,543,973.00
3	Deep Monitor Well (MW1) Construction	\$ 1,216,017.00	\$ 1,085,000.00
Total:		\$ 5,231,211.00	\$ 5,478,973.00

Imagine the result

At your request, we have reviewed the qualifications of each bidder based on qualification statements submitted with the bids, and further information that the District requested from the bidders in order to assist you with determining which bidder should be awarded the contract. Both All Webb and Youngquist submitted responsive bids.

All Webb is the apparent low bidder, however All Webb could not be determined to be responsible based on the information provided in its original bid submittal. Therefore, on August 22, 2008 the District issued a notice seeking further information relevant to responsibility. The notice requested a response from each bidder within 7 calendar days. A request for additional time was made by All Webb for a further 7 days to respond. An extension of time to respond was given to both bidders and final responses were received by September 3, 2008.

A summary of the responses to the additional questions is given below:

1. *Provide specific experience of at least three (3) projects of similar type and size as the proposed contract work. This contract is for the construction and testing of:*
 - *One Class I Underground Injection Control (UIC) regulated deep injection well with a 14.48 inch inside diameter cemented final casing string installed to approximately 2,700 feet below land surface (bls) and drilled to a total depth of approximately 3,300 feet bls.*
 - *One Dual Zone monitor well regulated under a UIC permit, with monitor zones completed from approximately 1,400 to 1,450 feet bls and from approximately 1,590 to 1,650 feet bls.*

Please provide specific details of well cementing, core sampling, packer testing, casing pressure tests, injection testing and surface and piping facilities completed for these projects. Include details of the driller and superintendent used for construction of each of these wells. Provide the original CPM schedule and actual construction schedule as completed for each project. Provide details pertaining to any delays in the construction schedule. General lists of projects completed will be deemed insufficient.

PROJECT EXPERIENCE PROVIDED BY ALL WEBBS

Project Name	(1) Okeechobee Landfill
Project Description	One 3,100' deep injection well with 10 3/8" FRP tubing, one monitor well to 1,850' total depth with surface facilities
Construction Period	12/07 to 01/09, 382 days allowed
Reference Comments	<p>"Learning a lot"</p> <p>"Taking longer to complete, but improving"</p> <p>"Staff are good guns and there are no issues with installation"</p> <p>"Intermediate casing set at 1,994 feet was set straight, (good verticality)"</p> <p>"Estimate a further 6 weeks to complete injection well, total construction period for DIW estimated to be 7.5 months"</p>
Final Review Comments	<p>Project when complete, is considered to be similar type and size to KLWTD DIW project, however Injection well construction not yet complete. Intermediate casing is set, coring and packer testing complete, pilot hole drilling and geophysics completed to 3506'. Monitor well construction has not yet commenced. Reaming through Boulder Zone, setting final casing, cement bond logging, wellhead completion and conducting final injection test are key construction activities not yet undertaken. This project therefore does not fully demonstrate ability to complete a project of similar type and size as it is only partially complete.</p> <p>The extended construction period allowed for under this contract means All Webbs has not demonstrated the ability to construct within the 270 days allowed for under the KLWTD proposed contract.</p>

Project Name	(2) Palm Beach County Water Utilities
Project Description	One 1,300' deep production well with 16" PVC casing, one monitor well to 1,500' total depth with surface facilities
Construction Period	12/97 to 12/00, construction period 1,001 days
Reference Comments	<p>"Highly capable and competent"</p> <p>"Comes up with solutions"</p> <p>"Dealt with site location issues satisfactorily"</p> <p>"Surface facilities were subcontracted, but completed appropriately"</p> <p>"Construction of a UIC permitted ASR well and monitor well"</p> <p>"Extended construction period was not due to contractor"</p>
Final Review Comments	<p>Project is comprised of construction components of similar type to the KLWTD DIW project, but cannot be considered to be of similar size, because the well was only 1,300' deep – about half the depth of the KLWTD DIW project. Therefore this project does not fully demonstrate ability to complete a project of similar type and size comparable to the KLWTD DIW.</p> <p>The time allotted for this work, 1,001 days, is much longer than the 270 days allowed for the KLWTD DIW project. CPM schedules, details of testing undertaken, and details of the driller and superintendent were not provided. Therefore, we are unable to conclude from this well that All Webbs is able to construct a deep injection well (DIW) within the 270 days allowed for under the KLWTD proposed contract. Reference comments support that All Webbs is a competent drilling contractor.</p>

Project Name	(3) Coral Springs Improvement District
Project Description	Construction of two deep monitor wells, and testing
Construction Period	12/97 to 11/98, Contract Time not provided
Reference Comments	"Deepening of monitor well 2 with a 2 3/8 inch casing and drilling a third monitor well. An injection test was performed" "Completed appropriately, but this project alone cannot be considered similar to the KLWTD DIW project"
Final Review Comments	Project comprises some construction elements similar to the KLWTD DIW project, but, because it is a monitor well project, it does not include significant construction elements required to complete the KLWTD DIW project. It does not include, for example, construction of a deep injection well. Therefore this project does not fully demonstrate ability to complete a project of similar type and size to the KLWTD DIW. CPM schedules, details of testing undertaken, and details of the driller and superintendent were not provided, therefore unable to fully assess All Webbs ability to construct a DIW within the 270 days allowed for under the KLWTD proposed contract.

PROJECT EXPERIENCE PROVIDED BY YOUNGQUIST BROTHERS INC.

Project Name	(1) Concentrate Injection Well, City of Deerfield Beach
Project Description	One 3,510' deep injection well with 11.75" FRP injection tubing inside 18" steel injection casing, one dual zone monitor well to 1,670' total depth and surface facilities
Construction Period	06/06 to 05/07, 330 days allowed, Change Order 3 extended contract by a further 87 days
Reference Comments	"Only issue related to Change Order request for additional time and compensation when anomalous water quality was intercepted in the monitor well and we had to drill deeper" "Technically did a good job" "Staffed appropriately" "Materials delivered on time, and other than WQ issue, no delays were due to contractor"
Final Review Comments	Project is considered to be similar type and size to KLWTD DIW project, and therefore demonstrates YBI's ability to complete a deep injection well project. The 'extended' construction period allowed for under this contract means we are unable to fully assess YBI's ability to construct within the 270 days allowed for under the KLWTD proposed contract, although construction was completed 3 months ahead of the extended schedule, despite unforeseen ground conditions.

Project Name	(2) Disposal Injection Well, City of Clewiston
Project Description	One 3,500' deep injection well with 11.70" FRP injection tubing inside 16" steel injection casing, one dual zone monitor well to 2,250' total depth and surface facilities
Construction Period	2/06 to 12/06, Contract period 313 days
Reference Comments	"On schedule, on budget, no change orders" "Did a very good job and worked well with the Engineer" "Pleased with their performance"
Final Review Comments	Project is considered to be similar type and size to KLWTD DIW project, and therefore demonstrates YBI's ability to complete a deep injection well. In addition, project included construction of all well head works, piping, instrumentation, electrical, and surge control systems which were completed within the time allowed for under the contract. Actual completion period was 277 days, i.e. comparable to the KLWTD contract duration, with construction also including 'well appurtenances'. This project therefore clearly demonstrates YBI's ability to complete within the required time.

Project Name	(3) City of Hallandale Beach Concentrate Disposal Well
Project Description	One 3,500' deep injection well with 11.75" FRP injection tubing inside 18" steel injection casing, one dual zone monitor well to 1,680' total depth and surface facilities
Construction Period	10/05 to 9/06, contract period 395 days
Reference Comments	"This project was completed on time and within budget on a very low price" "No problems occurred and we have not had problems in

	the past on other injection well projects by Youngquist and supervised by us"
Final Review Comments	<p>Project is considered to be similar type and size to KLWTD DIW project, and therefore demonstrates YBI's ability to complete a deep injection well.</p> <p>The 'extended' construction period allowed for under this contract means we are unable to fully assess YBI's ability to construct within the 270 days allowed for under the KLWTD proposed contract, although construction was completed 2 months ahead of schedule.</p>

2. Provide full contact details and phone numbers for three of the projects provided for under Question 1 above.

ALL WEBB	YOUNGQUIST
Contact details provided, references were contacted. See summary of comments made under Q.1	Contact details provided, references were contacted. See summary of comments made under Q.1

3. The resumes of the proposed driller and superintendent, highlighting those projects which are UIC regulated wells.

ALL WEBB	YOUNGQUIST
<p>Resumes of two drillers provided.</p> <p>Dana Webb is known by ARCADIS and is known to be a competent well driller; however no UIC regulated wells or deep injection wells are identified to demonstrate his relevant experience necessary for the construction of the KLWTD DIW.</p> <p>Kenneth Pondler's resume lists relevant experience gained from the construction of DIW's while employed with a former employer.</p> <p>The resume for proposed superintendent, David Webb Jr. lists UIC permitted projects,</p>	<p>Proposed drillers and superintendent have required experience, which includes additional experience drilling on the Keys gained from the construction of the Key West Injection Well.</p>

<p>but experience relates principally to Mechanical Integrity Testing. Supervision of the partially complete OLI deep injection well is listed. However, as noted above, we are unable to conclude that this project is a completed project of similar type and size to the KLWTD DIW project.</p>	
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4. *The availability of the proposed drilling rig, support equipment, driller and superintendent, for completion of the KLWTD Injection Well project with a proposed completion date prior to August 2009.*

<p>ALL WEBB</p>	<p>YOUNGQUIST</p>
<p>Unable to reliably determine availability of drilling crew as projects with overlapping schedules are listed. Proposed construction schedule provided does meet required dates.</p>	<p>Proposed construction schedule meets required dates. Proposed drilling crew and equipment is stated as available</p>

5. *Details of the proposed drill rig(s). The owner must be satisfied the proposed drill rig is fully capable of completing the proposed wells. Documentation certifying the static hook load must be submitted.*

<p>ALL WEBB</p>	<p>YOUNGQUIST</p>
<p>Proposed drilling rig SK-775 meets requirements. Assessment made based on information previously provided, as there was insufficient information provided with this bid to fully assess. Hook Load calculations were not included, although Engineers letter to the manufacturer states a Hook Load of 350,000lbs is within tolerance for Derrick SK-112-350</p>	<p>Proposed drilling rig E-1 meets requirements.</p>

6. *Provide a list of equipment and quantities currently owned or under lease to the Bidder and available for the work. Proof of ownership, lease, or other firm contractual commitment to obtain the proposed drilling rig, which must have a static hook load capacity rated at least 1.5 times the maximum anticipated casing string weight, is required. You may black out price information from this documentation.*

ALL WEBB	YOUNGQUIST
Proof of ownership or other firm contractual commitment to obtain proposed drilling rig not provided. Quotation for a rig is deemed insufficient proof.	Proposed rig custom fabricated and owned by YBI.

7. *Provide financial information in accordance with a current Percentage of Completion Review of the Bidder, prepared by a CPA. The financial information shall reflect the most current fiscal year, and in no case more than 16 months old.*

ALL WEBB	YOUNGQUIST
Information provided appears to meet requirements	Information provided appears to meet requirements

8. *Provide any other documentation that you believe tends to indicate that you are capable of performing the work in a satisfactory manner.*

ALL WEBB	YOUNGQUIST
No additional information provided	No additional information provided

9. *Provide a list of all deep well projects in excess of 1500 feet performed by your company during the last five years that were not completed as permitted or that have had failures or significant performance problems during construction or after completion of construction.*

ALL WEBB	YOUNGQUIST
None stated	None stated

Evaluation of the further responses received by both bidders has determined that the apparent low bidder, All Webb, does not fully meet the requirements outlined for this project. The second lowest bidder, Youngquist, however does meet the requirements. The following summarizes our final evaluation of bidder responsibility for both Contractors based on the criteria stated in Section 00200, Paragraph 1.16.B of the Invitation to Bid:

1. The Bidder shall be properly licensed and shall have a satisfactory record of integrity, judgment, and performance as a corporation (including its shareholders and officers), partnership, or as a sole proprietorship, including in particular, any prior performance upon contracts from the State and the Owner.

We are satisfied that both Contractors, All Webb and Youngquist, have provided sufficient documentation indicating that they have satisfactorily drilled numerous wells for owners in South Florida during the last five years. They have both performed these works using their own forces. We have checked references provided, and we are of the opinion that both bidders meet this criterion.

2. The Bidder shall have at least three (3) years of experience as a prime contractor.

Information reviewed by us indicates that both bidders All Webb and Youngquist meet this criterion.

3. The Bidder shall have performed as a prime contractor on at least three (3) projects of similar type and size as the proposed contract work.

All Webb Enterprises has not constructed any projects of similar type and size as the proposed contract work. All Webb is clearly developing experience testing deep UIC permitted wells and is a "seasoned" water well drilling contractor. All Webbs have also performed packer testing and coring in Floridan Aquifer wells below 1,500 feet. They have not however, based on the information provided, completed a single injection well into the Boulder Zone. It is our opinion therefore that their experience does not fully meet the stated standard.

Youngquist have the appropriate experience, having completed the majority of all deep Class I UIC permitted injection wells in the State of Florida. Specific project examples provided in their bid documents include all of the construction and testing components relevant to the construction of the KLWTD deep well.

4. The Bidder shall be able to comply with the required completion schedule for the project.

Both bidders have submitted proposed construction schedules that meet the required construction dates.

We are satisfied, based on the information provided and from past performance that Youngquist shall be able to comply with the required construction schedule.

We do however have reservations with All Webbs' ability to comply with the construction dates for the following reasons:-

- The proposed drilling rig, SK 775 is currently not owned by All Webb's and therefore there will be a delay mobilizing this rig, as acknowledged in All Webb's proposed CPM schedule. There is no indication as to whether the rig is even fully assembled; therefore without further investigation and or proof of agreement with guaranteed delivery, we cannot be certain that further delay will not occur beyond shown. Finally, All Webb's has not demonstrated the existence of a firm contract to purchase or lease the rig.
- The potential conflict with the proposed drilling crew, whom are assigned to other existing contracts, has not been clarified – despite the request for this information. Therefore the availability of competent drilling crew is in question.
- The project with construction and testing tasks closest to the KLWTD project, i.e. the Okeechobee Landfill deep injection well, has experienced construction delay. We understand construction and testing being performed meets required specifications under the contract, therefore we are not commenting on the quality of the work. However we understand one of the reasons All Webbs is taking an anticipated 7.5 months to complete the injection well is because he is taking is time to ensuring construction is completed to specification. Because this project is incomplete, we cannot fully assess the total duration required to complete a project of similar type and size to the KLWTD project. The construction schedule shown on the CPM schedule also greatly exceeds the completion time required for the KLWTD DIW project. Therefore, given that there are no other deep injection well projects provided by All Webbs with comparable construction schedules

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to the KLWTD project, we are unable to reliably determine that ALL Webbs will complete on time.

In light of the foregoing, we conclude there is a risk that All Webb will not meet the required completion schedule.

5. The Bidder shall have adequate financial resources to perform the work, and shall have an adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds, and assets. The Bidder shall be able to demonstrate this in accordance with the requirements of paragraph 1.17.A.3 below.

Both bidders have submitted financial information as required in the Invitation to Bid. We consider that although the financial resources of All Webbs are significantly less than Youngquist, provided either bidder is able to provide the required performance and payment bonding, we believe that the interests of the owner will be protected.

6. The Bidder shall conform with the civil rights, equal employment opportunity and labor law requirements of the Bid Documents. See also Sections 01410, Regulatory Requirements and SRF FDEP Supplementary Conditions.

Both bidders have accepted these requirements.

7. The Bidder may demonstrate the availability of necessary financing, equipment, facilities, expertise and personnel by submitting the following upon request: (1) evidence that the bidder possesses the necessary items; (2) acceptable plans to subcontract for the necessary items; or (3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items. Ref. District Procurement Policy Section 2-213.04.

We are satisfied that Youngquist has the necessary items to perform the works.

We are not satisfied that All Webb's has the necessary items. We come to this conclusion principally because no documented commitment from, or explicit arrangement with, a satisfactory source to provide the required drilling rig has been provided. The availability of a drilling rig with the required minimum static hook load is considered to be the single most important equipment requirement.

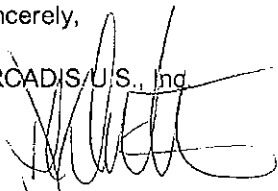
In summary, we conclude that All Webbs, the apparent low bidder, does not meet the requirements stated in Section 00200 1.16 Responsibility Requirements. We believe that All Webbs is not a responsible bidder and that the All Webbs bid should be rejected.

On this basis we recommend award to the second lowest bidder, Youngquist, who have clearly demonstrated experience drilling deep UIC permitted injection wells in the State of Florida with all the necessary resources and backup equipment including drilling rigs with static hook loads of sufficient capacity. In short, Youngquist has demonstrated that it is a responsible bidder.

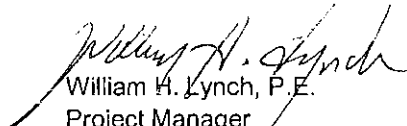
Should you have any questions or wish to discuss further, please call.

Sincerely,

ARCADIS/U.S., Inc



David K. Smith
Principal Hydrogeologist



William H. Lynch, P.E.
Project Manager

Copies:
File



QUOTATION

15551 Pine Ridge Rd. • Fort Myers, FL 33908
 Phone: (239) 433-3400 Mobile: (239) 910-6977
 Fax: (239) 489-3877 Email: Paul@ozonepipe.com
 www.OzonePipe.com

17
 10/23/2008 11/6/2008
 Net 30 Paul McCullers
 PM

Key Largo Wastewater Treatment District
 PO BOX 491 98880 Overseas Hwy
 Key Largo FL 33037
 Phone:
 Fax:

Key Largo, FL Injection and Monitor well

1	SPIRAL OD 52"/WT.375"	ASTM A-139	220	FT	85.82	18,880.40
2	SPIRAL OD 36"/WT.375"	ASTM A-139	1100	FT	79.21	87,131.00
3	SPIRAL OD 28"/WT.375"	ASTM A-139	1700	FT	60.62	103,054.00
4	FRP 16" RB1500 ROUGH COAT	FUTURE PIPE 16" RED BOX 1500 WITH ROUGH COAT	2750	FT	248.33	682,907.50
5	SPIRAL OD 34"/WT.375"	ASTM A-139	220	FT	64.82	14,260.40
6	SPIRAL OD 24"/WT.375"	ASTM A-139	1100	FT	52.10	57,310.00
7	SPIRAL OD 16"/WT.5"	ASTM A-139	1400	FT	47.08	65,912.00
8	FRP 6-5/8" RB1750	FUTURE PIPE 6-5/8" RED BOX 1750	1510	FT	37.33	56,368.30
9	FRP 6-5/8" RB1750 ROUGH COAT	FUTURE PIPE 6-5/8" RED BOX 1750 WITH ROUGH COAT	140	FT	42.33	5,926.20

Memo:

Sub-Total:	1,091,749.80
Freight	0
Total	1,091,749.80

- Notes:**
 1.) Sales Tax is not included in this quotation. 2.) This quotation is contingent upon an approved credit application.
 3.) Terms & Conditions of sale are as outlined in this quotation. 4.) Footage quoted to nearest applicable Joints.

Terms & Conditions

1. Payment terms are Net 30 days.
 2. Prices contained in this proposal may be influenced by changes in fuel and steel surcharges. Therefore invoicing will be based upon the sum of the mill price and surcharges in effect at the time of shipment.
 3. Ozone Industries Corporation is not responsible for delays in delivery due to mill delays, availability of trucks, railcars, vessels, or weather.
 MERGER: The Seller's personnel agents may have made oral statements about the merchandise described in this contract. Such statements do not constitute warranties, shall not be relied on by the Buyer, and are not part of the contract for sale. Rather, the entire agreement is embodied within this agreement and it constitutes the final expression of the parties' agreement, and as such, is a complete and exclusive statement of the terms of that agreement.
 EXCLUSION OF WARRANTIES: The parties agree that the implied warranties of MERCHANTABILITY and the Fitness for a Particular Purpose and all other warranties, Express or Implies, are EXCLUDED from this transaction and shall not apply to the goods sold. Buyer further represents and warrants to Seller that there is no course of dealings, course of performance or usage of trade and/or industry that modifies or otherwise alters the disclaimers of Express and Implied warranties set forth herein.
 INSPECTION AND WAIVER OF DEFECTS: Prior to entering into this agreement, Buyer acknowledges it had the reasonable opportunity to examine the goods or samples or model as fully and completely as desires and there for accepts the risk of defects which such examination revealed, or should have revealed.
 EXCLUSIVE AND LIMITED REMEDY: The parties agree that the Buyer's sole and exclusive remedy against the Seller shall be limited to the replacement of the claimed defective unacceptable good, but only to the extent, if at all, that such is also authorized by the Manufacturer and the Manufacturer provides replacement good (s) to the Seller and/or Buyer at no cost to the Seller. The Buyer agrees that no other remedy (including, but not limited to, incidental or consequential damages for lost profits, lost sales, additional labor and repair/replacements costs or other financial costs/damages, injury to person or property, any and all remedial actions, or any other incidental or consequential loss) shall be available to Buyer. Moreover, as an inducement for the Seller to enter into this contemplated transaction, Buyer represents and warrants that the forgoing limitation of remedy provides at least a minimum adequate remedy, a fair quantum of remedy for any alleged breach, and does not cause the contract for the sale of these goods to fail of its essential purpose.
 RELEASE: As a material term of this agreement for sale, and as affirmative representation of and from the Buyer to the Seller so to induce Seller to enter into this transaction, which the parties agree Seller would not have done but for the instant representation, Buyer irrevocably represents, warrants and covenants that: 1) Seller is hereby released from any liability arising from, or relating to the transaction more fully described in this contract for the sale of goods, no matter how proximate or remote, including without limitation, all demands, claims, actions, accounts, losses injury, costs and damages of every kind and nature, regardless of whether based upon contract, tort, statute, constitution and/or applicable common law, and regardless of whether the same is objectively or subjectively determined to be ripe or inchoate, known or unknown as the date first set forth herein above and therein after, forever, from the beginning of the world until the end of time. 2) Buyer shall not file any action, lawsuit, cross-claim, counter-claim, defense, implead, interplead, or motion against the Seller, or adverse to Seller's interests, in any court or dispute resolution forum, whether judicial, administrative, civil, private, arbitration, mediation, or otherwise, as relating to, or arising from this agreement, and/or the rights and duties created herein under, and/or arising here from, regardless of how proximate or remote.
 VENUE: The sole and exclusive venue for any action, litigation or other proceedings relating to Seller, Buyer, and/or this transaction, shall only be within the 20th Judicial Circuit in and for Lee County, Florida.
 CONTROLLING LAW: The Parties to this agreement stipulate and agree that the parties rights and duties created here under shall only be governed by, and in accordance with the laws of the State of Florida, excluding any choice of law principle or rule to the extent that it would defer to, or otherwise apply and/or find the law of another jurisdiction controlling.
 ATTORNEY FEES: To the extent that any litigation arises as relating to, or otherwise involving this contract, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorney fees and costs, including expert and consulting fees.
 Your decision to purchase material from Ozone Industries Corporation shall be conclusive evidence of your acceptance of our charges, terms, and conditions exclusively.

TAB 12

**KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form**

Meeting Date: Nov. 4, 2008 Agenda Item No. 12

- | | |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> DISCUSSION | <input type="checkbox"/> BID/RFP AWARD |
| <input checked="" type="checkbox"/> GENERAL APPROVAL OF ITEM | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: | |

SUBJECT: Basin B-2 Change Order

RECOMMENDED MOTION/ACTION: Approval

Approved by General Manager C. J. Z.
Date: 10-31-08

Originating Department: General Manager	Costs: Approximately \$ <u>1,150,900</u> Funding Source: Acct.	Attachments: Change Order
Department Review: <input type="checkbox"/> District Counsel _____ <input checked="" type="checkbox"/> General Manager <u>CJZ</u> <input checked="" type="checkbox"/> Finance <u>MW</u>	<input checked="" type="checkbox"/> Engineering <u>EG, MB,</u> <input type="checkbox"/> Clerk _____	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required
	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case _____: Please initial one.

Summary Explanation/Background: Staff is in uniform agreement that Ric-Man International has performed good work on Basin B-1, as is the District's past practice, Staff has attempted to negotiate with Ric-Man International to accept a change order for Basin B-2 based on previous publicly bid prices.

Staff is not in full agreement with whether to award B-2 at their latest proposal. However, the General Manager and most of the staff, because it is in the best interest of the District, recommend awarding this change order at latest proposed price with includes \$45,000 mobilization.

Resulting Board Action:

- Approved Tabled Disapproved Recommendation Revised

Service Area 'B' - Pase II

Item No.	Description	QTY	Unit	Unit Price	Extended Price
1	Mobilization	1	LS	\$ 90,000.00	\$ 90,000.00 45,000
2	Indemnification	1	LS	\$ 100.00	\$ 100.00
3	Preconstruction Video	1	LS	\$ 4,500.00	\$ 4,500.00
4	Maintenance of Traffic	1	LS	\$ 17,000.00	\$ 17,000.00
5	Erosion and Sedimentation Contol, Silt Fence	1	LS	\$ 9,000.00	\$ 9,000.00
7	Furnish and Install SDR21 PVC Vacuum Sewer			\$ -	\$ -
a	4-inch	7,500	LF	\$ 44.00	\$ 330,000.00
b	6-inch	650	LF	\$ 49.00	\$ 31,850.00
c	8-inch	-	LF	\$ -	\$ -
d	10-inch	-	LF	\$ -	\$ -
8	Furnish and Install resilient wedge gate (V-3) division valves and boxes			\$ -	\$ -
a	4-inch	6	EA	\$ 930.00	\$ 5,580.00
b	6-inch	-	EA	\$ -	\$ -
c	8-inch	-	EA	\$ -	\$ -
9	Install Owner-furnished AirVac vacuum collection pit assemblies, complete			\$ -	\$ -
a	Type A - 5 foot deep pit	1	EA	\$ 2,000.00	\$ 2,000.00
b	Type B - 6.5 foot deep pit	51	EA	\$ 2,700.00	\$ 137,700.00
c	Type C - 7.5 foot deep pit	14	EA	\$ 2,800.00	\$ 39,200.00
10	Furnish and install 3-inch Vacuum connection	1,000	LF	\$ 36.00	\$ 36,000.00
11	Install Owner-furnished AirVac dedicated air intake/vertical	66	EA	\$ 330.00	\$ 21,780.00
12	Furnish and install dedicated air intake/horizontal	350	LF	\$ 45.00	\$ 15,750.00
13	Furnish and install 6-inch PVC clean-out	219	EA	\$ 380.00	\$ 83,220.00
14	Furnish and install 6-inch gravity laterals	4,200	LF	\$ 59.00	\$ 247,800.00
15	Asphalt roadway/driveway restoration	1,500	LF	\$ 44.00	\$ 66,000.00
16	Asphalt overlay	4,500	SY	\$ 13.00	\$ 58,500.00

TOTALS:

\$ ~~1,195,980.00~~

RIC-MAN PROPOSAL \$1,150,980