

RESOLUTION 8-2011

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AN AGREEMENT WITH BESTWAY ELECTRIC FOR BENSON PRODUCTION WATER WELL VFD UPGRADES, AZBS-EECBG #RO16-10-12

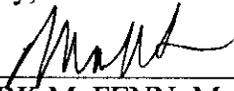
WHEREAS, the City of Benson was previously awarded a grant by the Energy Efficiency and Conservation Block Grant (EECBG) under the American Recovery and Reinvestment Act, funded directly thru the Arizona Department of Commerce Energy Office, supporting projects to improve energy efficiency and reduce energy use in Arizona cities, towns and counties; and

WHEREAS, the Public Works Department has published a request for sealed bids for the well upgrades and the proposal received from Bestway Electric, in the amount of \$39,725.48 is recommended for selection as the lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, as follows:

The construction contract with Bestway Electric attached hereto as Exhibit "A" and incorporated herein by this reference, in the amount of \$39,725.48 is hereby approved and the Mayor is authorized to execute said agreement on behalf of the City; Brad Hamilton, City Engineer and Public Works Director, is hereby designated as Project Manager of the above-described project on behalf of the City.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 24th day of January, 2011.



MARK M. FENN, Mayor

ATTEST:



VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:



MICHAEL J. MASSEE, City Attorney

CONSTRUCTION AGREEMENT
City of Benson
PRODUCTION WATER WELL VFD UPGRADES,
AZBS-EECBG #RO16-10-02

THIS AGREEMENT, made and entered into as of the date last signed, by and between the City of Benson, Arizona, organized and existing under the laws of the State of Arizona, hereinafter designated as the "Owner" and BESTWAY ELECTRIC, hereinafter designated the "Contractor".

WITNESSETH: That the Contractor and the City of Benson, in consideration of the mutual covenants herein contained, agree as follows:

ARTICLE I
SCOPE OF WORK

To upgrade 3 city wells from Soft Start controls to Variable Frequency Drives following locations:

1. The Ball Park well and tank site at Lions Park. The Contractor will remove the Soft Start control box and install a Rainproof Fused 100A 600V 60Hz EATON / Cutler-Hammer Disconnect and a Rainproof Danfoss VLT AQUA Drive FC-202 75HP 460V 60Hz (no external manual by pass or reactor needed) on the currently used electric panel. No like, equivalent, "or-equal" will be accepted.
2. The 291 well site on west side of AZ highway 90. The Contractor will remove the Soft Start control box and install a Rainproof Fuse 200A 600V 60Hz EATON / Cutler-Hammer Disconnect and a Rainproof Danfoss VLT AQUA Drive FC-202 200HP 460V 60Hz (no external manual by pass or reactor needed) on the currently used electric panel. No like, equivalent, "or-equal" will be accepted.
3. The 302 well site on west side of AZ highway 90 and I-10. The Contractor will remove the Soft Start control box and install a Rainproof Fuse 100A 600V 60Hz EATON / Cutler-Hammer Disconnect and a Rainproof Danfoss VLT AQUA Drive FC-202 75HP 460V 60Hz on the currently used electric panel. Contractor shall relocate (no external manual by pass or reactor needed) or replace the current electric meter base. No like, equivalent, "or-equal" will be accepted.

The Contractor shall provide all wire, fuses, conduit, boxes and other parts or hardware for the installation. The installation shall be in compliance with the 2005 National Electric Code. The equipment shall be rated for outdoor use. The Owner will install shade structures for the equipment after the contractor has completed his work to protect LCD Display from direct sunlight. The Variable Frequency Drive will start/stop ramp up ramp down by a level switch located at the tank. The Contract will be required to submit a "Made in America" certificate of origin for the drive and disconnect prior to bid award. The contractor will provide Waste Stream Management Plan and data for the disposal of soft start and any other materials before the award of bid and

final results after disposal.

The Contractor shall coordinate the installation with the owner and the Local Power Company (Sulphur Springs Valley Electric Cooperative).

Only one well site will be taken off line at a time. The Contractor shall program the drive and provide training to the owner on its operation. The Owner will provide production demand. The Contractor shall warranty the installation for 18 months from date of sale.

The City of Benson retains the right to increase, reduce or eliminate portions of the work to coincide with the availability of Project funds. The Contractor shall furnish all materials, labor, equipment, services and transportation, and perform all of the work on this project.

1.2 This project is wholly or in part federally funded and the Contractor, accordingly will be required to comply with all applicable federal laws, including but not limited to the Federal Labor Standards Provisions, Davis-Bacon Act (29 CFR Parts 1, 3, 5, 6, and 7), Contract Work Hours and Safety Standards Act, Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by the Department of Labor regulations (29 CFR Part 3), and the Fair Labor Standards Act.

1.3 The Contractor agrees to comply with the Federal Labor Standards Provisions (HUD 4010 (2-83)), which is incorporated by reference herein. The Contractor shall supply information to the Owner as necessary for monitoring of compliance to include, but not limited to, submission of Labor Standard Forms included in the bid package, on-site inspections, investigations and/or enforcement by the Owner. The Contractor agrees to comply with the current **Wage Rate Determination General Decision Numbers: AZ 100001 3/12/2010 AZ1**, which are included in the bid package and incorporated by reference.

ARTICLE II CONTRACT PRICE

Basic Price. The City of Benson shall pay the Contractor the base bid sum of Thirty Nine Thousand, Seven Hundred and Twenty Dollars and Forty Eight Cents (\$ 39,725.48), subject to adjustment as actual units are determined.

ARTICLE III CONTRACT DOCUMENTS

The following listed documents constitute the Contract Documents and they are all as fully a part of the Contract as if herein repeated.

1. Invitation to Bid
2. Information for Bidders
3. Bid Proposal
4. Non-Collusion Affidavit
5. List of Subcontractors
6. 10% Bid Bond

7. 100% Statutory Labor and Materials Payment Bond
8. 100% Statutory Performance Bond
12. Construction Agreement
17. Labor Standards Certification
18. Checklist for Sub-Grantees
19. Request for Additional Classification & Rate
20. Deduction Authorization Example
21. Fringe Benefits
22. Davis – Bacon Poster
22. Project Wage Sheet
23. Davis Bacon Payroll Sheet (WH-37)
24. Record of Employee Interview
25. Confirmation of Restitution Paid
26. SF 1413 Statement of Prime Contractor
27. Energy Efficiency and Conservation Block Grant (EECBG) Guidelines

ARTICLE IV BONDS

Performance Bond and Labor And Material Payment Bond. The Contractor shall furnish performance and labor and material payment bonds covering the faithful performance of the Contract and the payment of all obligations arising, thereunder, in such form and amount as the Owner may prescribe and with such sureties as may be agreeable to the Owner. The premiums shall be paid by the Contractor. The Contractor shall, prior to commencement of the Work, submit such bonds to the Owner.

ARTICLE V TIMETABLE

4.1 Starting Time. Notice to Proceed shall be issued not later than 30 days after the contractor receives materials.

4.2 Completion Time:

4.2.1 The work shall be completed within 60 consecutive calendar days for construction after receiving the materials. The Contractor agrees that said work shall be prosecuted promptly, regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified.

4.2.2 It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the area.

ARTICLE VI PROGRESS PAYMENT

After the Owner has approved an Application for Payment, the Owner shall make a payment to the Contractor as soon as grant funds become available from the State to the Owner, or sooner, at the OWNER'S discretion, and subject to compliance with labor standard requirements. Payment will be based on

ninety percent (90%) of the value of the Work actually performed during the preceding calendar month. Any amounts retained by Owner shall be paid to the Contractor, as previously specified, after the Final Completion Date, provided the Contractor has by that time duly furnished the Owner consent of surety, lien waivers, any other documents of any nature called for in the Contract Documents or required for the proper functioning of the Work as a whole and has otherwise performed all of Contractors' obligations under the Contract Documents.

ARTICLE VII LIQUIDATED DAMAGES

Liquidated Damages. If the work is not completed when agreed, the Contractor shall pay to the City of Benson \$300.00/day as liquidated damages for each consecutive calendar day the work remains incomplete after the scheduled completion date for construction.

ARTICLE VIII INSURANCE

- 8.1 The CONTRACTOR shall procure and shall maintain during the life of this Contract: Statutory Workmen's Compensation Insurance, Contractor's Public Liability Insurance, Contractor's Property Damage in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and Vehicular Liability of \$1,000,000 for any one person or \$2,000,000 for each occurrence. The OWNER/GRANTEE shall be named as co-issued on the policy.
- 8.2 The CONTRACTOR shall either (1) require each of his/her subcontractors to procure and to maintain during the life of his/her subcontract, Subcontractor's Public Liability and Property Damage Insurance of the type and in the amounts specified above; or (2) insure the activities of his/her subcontractor's in his/her policy specified above.
- 8.3 "All Risk" type Builder's Risk Insurance will not be required for this Project.
- 8.4 Property Insurance. The OWNER/GRANTEE shall not be required to maintain a property insurance policy upon the work.

ARTICLE IX SUSPENSION OF WORK AND TERMINATION

9.1 Termination of Contract for Cause:

- 9.1.1 If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of the Contract, the OWNER/GRANTEE shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination.

In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the CONTRACTOR under this Contract shall, at the option of the OWNER/GRANTEE, become its property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

9.1.2 Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the OWNER/GRANTEE for damages sustained by the OWNER/GRANTEE by virtue of any breach of the Contract by the CONTRACTOR, and the OWNER/GRANTEE may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the OWNER/GRANTEE from the CONTRACTOR is determined.

9.2 Termination for Convenience of the OWNER/GRANTEE. The OWNER/GRANTEE may terminate this Contract at any time by giving at least (10) days notice in writing to the CONTRACTOR. If the Contract is terminated by the OWNER/GRANTEE as provided herein, the CONTRACTOR will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the CONTRACTOR, the aforementioned clause relative to termination shall apply.

ARTICLE X RECORDS DOCUMENTATION

10.1 Records Retention. The CONTRACTOR shall maintain accounts and records including personnel, property and financial records adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the OWNER/GRANTEE to assure proper accounting for all project funds both Federal and non-Federal shares. These records will be retained for five (5) years after the expiration of this Contract unless permission to destroy them is granted in writing by the OWNER/GRANTEE.

10.2 Access to Records. Legible copies of all records maintained by the CONTRACTOR shall be made available, upon request, to the OWNER/GRANTEE, the Arizona Department of Commerce and any other body authorized by the OWNER/GRANTEE.

ARTICLE XI MISCELLANEOUS

11.1 Guarantee. The Contractor shall guarantee all work under this Contract against defects of material and workmanship for a period of one (1) year from the completion date. Material and workmanship made good through compliance with such guarantee shall be subject to the same guarantee for a period of one (1) year from the date on which the material and/or workmanship was made good.

11.2 Assignment. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor

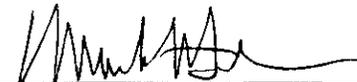
assign any monies due or to become due to him hereunder without the previous written consent of the City of Benson.

SIGNED this 26th day of January, 2011.



Bradley Hamilton, City Engineer, City of Benson

COUNTERSIGNED this 26th day of January, 2011.



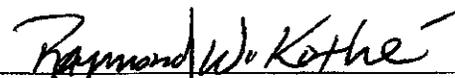
Mark M. Fenn, Mayor

APPROVED AS TO FORM this 24th day of January, 2011.



Michael J. Masee, City Attorney

SIGNED this 21st day of January, 2011.



Signature of Contractor, President

Raymond W. Kothé, President
Printed name of Contractor, President

BESTWAY ELECTRIC
MOTOR SERVICE INC.
728 S. CAMPBELL AVE.
TUCSON, AZ 85719

LIC.# ROC180818 L-29