

AI-26604
CC REGULAR

19. B. 2.

Meeting Date: 05/17/2011

Submitted For: Marty Salazar

Submitted By: Marty Salazar, PURCHASING DEPT.

Department: PURCHASING DEPT.

CAPTION

- a. Requesting exemption from competitive bidding requirements pursuant to Texas Local Government Code, Chapter 262, Section .024 (a) (7) (C), '...an item that can be obtained from only one source, including, ... other utility services...';
- b. Approval of the Sole Source Declaration for Texas Eastern, a wholly owned subsidiary of Spectra Energy Transmission, LLC including the purchase of goods and/or services related to the modification of the pipeline crossing for the El Gato Road Improvement Project;

BACKGROUND

| | |
|---------------------------------------|--|
| <u>FISCAL YEAR:</u> 2011 | <u>Fiscal Impact</u> |
| <u>FUNDS AVAILABLE Y/N?:</u> Y | <u>ACCT. #:</u> 1-1200-431-00-122-051-0-731 |
| <u>BUDGETARY IMPACT:</u> | <u>MATCHING FUNDS Y/N?:</u> N |

Refer to AI-26604 on 5/17/11 consent will transfer \$85,000.00 to object 731.

Attachments

spectra energy & TLG Code
sole source

Form Review

| <u>Inbox</u> | <u>Reviewed By</u> | <u>Date</u> |
|------------------------------------|---------------------------------|---------------------------------|
| Purchasing Department (Originator) | Marty Salazar | 05/11/2011 01:47 PM |
| Budget & Management | Erika Zamora | 05/11/2011 02:29 PM |
| Roland Garcia | Rolando Garcia | 05/12/2011 09:45 AM |
| Auditor's Office | | 05/12/2011 05:18 PM |
| Form Started By: Marty Salazar | | Started On: 05/11/2011 10:24 AM |
| | Final Approval Date: 05/12/2011 | |



SpectraEnergyTransmission, LLC
5400 Westheimer Court
Houston, TX 77056
P.O. Box 1642
Houston, TX 77251-1642

May 10, 2011

Commissioner Hector "Tito" Palacios
Hidalgo County Precinct #2
301 E. State Street
Pharr, TX 78577

Re: A Revised Estimate of Costs to Extend Existing Casing Ends on Texas Eastern's
30-in Natural Gas Pipeline for the Road Improvements to El Gato Rd., Hidalgo
Co., TX, TR-50 & -51

Dear Mr. Palacios:

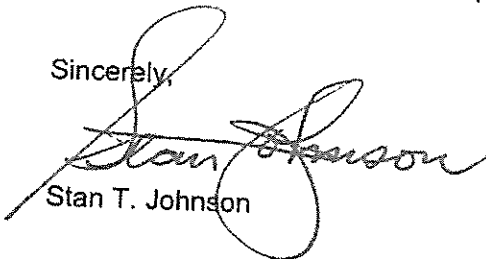
Back in July of 2010 we were asked by R. Gutierrez Engineering Corp. to provide a cost estimate to modify our pipeline crossing for the proposed El Gato Road Improvement Project. We furnished that information and now we have been asked to update the original estimate. Texas Eastern is a wholly owned subsidiary of Spectra Energy.

As before, we anticipate that additional casing pipe will have to be installed to the existing cased crossing to accommodate the widening of the road Rights of Way. Since that time however several utility lines have been placed along El Gato Rd. that will require additional construction efforts to insure they are not left in an unsupported condition that might harm them, and the costs of materials have increased nearly 14% since then.

The estimated cost of this construction is approximately \$85,000. Should you wish for us to continue with the process please contact me and I will initiate the necessary paperwork, or please provide the proper forms that you require. The amount indicated above is not a precise estimate so the amount could vary. The actual reimbursement will be based on the final costs required to perform the modifications.

Please let me know if you wish to proceed.

Sincerely,



Stan T. Johnson

XC:
R. L. Acorn – Manager, Right-of-Way
M. Edwards – Supervisor, Right-of-Way
L Trcka – Right-of-Way
G. Reyes – Area Manager

File: 30" LN No. 16, Hidalgo Co., TR-50 and TR-51

Martha Salazar

From: Raul Lozano [raul.lozano@co.hidalgo.tx.us]
Sent: Tuesday, May 10, 2011 4:43 PM
To: martha.salazar@co.hidalgo.tx.us
Cc: darlene.betancourt@co.hidalgo.tx.us
Subject: FW: Spectra Energy Revised Estimate
Attachments: Estimate for Extending Casing by Spectra Energy - Revised.pdf
Marty, revised letter

From: Ramiro Gutierrez [mailto:rgutierrez@rgutierrezengineering.com]
Sent: Tuesday, May 10, 2011 4:24 PM
To: 'Raul Lozano'
Subject: Spectra Energy Revised Estimate

Raul,

Attached is the revised estimate to extend the gas line casing on El Gato Road from Spectra Energy. The estimated cost has increased from \$65,000 to \$85,000. This is an estimate but the reimbursable cost will be the actual cost. In the letter, they explain that Texas Eastern is a wholly owned subsidiary of Spectra Energy. Let me know if you need anything else at this time.

Regards,

Ramiro Gutierrez, P.E.
President
R. Gutierrez Engineering Corporation
Tel: 956 782 2557 (Office)
Tel: 956 227 2154 (Cell)
email: rgutierrez@rgutierrezengineering.com

This email and any files transmitted with it contain(s) information belonging to the office of R. Gutierrez Engineering Corporation which is confidential and/or legally privileged. This information is intended only for the individual or entity to whom this email is addressed. If you are not the named recipient(s), you are hereby notified that any disclosure, copying, distributing or taking of this information for any use whatsoever is strictly prohibited. If you receive this message in error, please notify the sender at (956) 782-2557 or by email at office@rgutierrezengineering.com and delete this message immediately from your computer. Thank You...

5/11/2011

(c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A county shall accept any bids or proposals submitted in hard-copy format.

Added by Acts 2001, 77th Leg., ch. 1063, § 1, eff. Sept. 1, 2001

§ 262.023. Competitive Requirements for Certain Purchases

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000, the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Subchapter H, Chapter 271.

(b) The requirements established by Subsection (a) apply to contracts for which payment will be made from current funds or bond funds or through anticipation notes authorized by Chapter 1431, Government Code, or time warrants. Contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).¹

(b-1) A county that complies with a method described by Subchapter H, Chapter 271, as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

(1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or

(2) \$10 million.

(c) In applying the requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual

department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the requirements of this subchapter is not present.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 57(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, § 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, § 13.02(b), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 757, §§ 13, 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 442, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 505, § 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 436, § 4, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1063, § 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1409, § 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, § 12.004, eff. Sept. 1, 2003; Acts 2007, 80th Leg., ch. 689, § 1, eff. Sept. 1, 2007; Acts 2009, 81st Leg., ch. 1266, § 4, eff. June 19, 2009.

¹V.T.C.A., Local Government Code § 271.041 et seq.

Section 2 of Acts 2007, 80th Leg., ch. 689 provides:

"The changes in law made by this Act apply only to a contract entered into on or after the effective date [Sept. 1, 2007] of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose."

Section 17 of Acts 2009, 81st Leg., ch. 1266 provides:

"The change in law made by this Act applies only to a claim that arises under a contract executed on or after the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

§ 262.0235. Procedures Adopted by County Purchasing Agents for Electronic Bids or Proposals

The county purchasing agent, before receiving electronic bids or proposals, shall adopt rules in conformance with Section 262.011(o) to ensure the identification, security, and confidentiality of electronic bids or proposals.

Added by Acts 2001, 77th Leg., ch. 1063, § 3, eff. Sept. 1, 2001.

§ 262.024. Discretionary Exemptions

(a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

PROPERTY ACQUISITION OR SALE

§ 262.0241

(3) an item necessary because of unforeseen damage to public property;

(4) a personal or professional service;

(5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6) any land or right-of-way;

(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

(C) electric power, gas, water, and other utility services; and

(D) captive replacement parts or components for equipment;

(8) an item of food;

(9) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; ¹ or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10) any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11) vehicle and equipment repairs.

(b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption and if:

(1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;

(2) the renewal or extension does not exceed one year; and

(3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only

one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 39(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 962, § 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1001, § 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1060, § 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, § 13.03, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 442, § 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1065, § 1, eff. June 15, 2001; Acts 2007, 80th Leg., ch. 1272, § 3, eff. Sept. 1, 2007.

¹V.T.C.A., Bus. & Com. Code § 17.81 et seq.

§ 262.0241. Mandatory Exemptions: Certain Recreational Services

(a) This section applies only to a county that:

(1) has a population of 20,000 or less; and

(2) owns not more than one golf course open for public use.

(b) The competitive bidding and competitive proposal procedures prescribed by this subchapter do not apply to the purchase of:

(1) management services for:

(A) a county-owned golf course; or

(B) a retail facility owned by the county and located on the premises of the golf course; and

(2) landscape maintenance services for a county-owned golf course.

Added by Acts 2001, 77th Leg., ch. 1065, § 2, eff. June 15, 2001.