

CITY OF BATAVIA

DATE: April 12, 2013
TO: Public Utilities Committee
FROM: Byron Ritchason
SUBJECT: Resolution 13-62-R Awarding Contract for Diffuser Membrane Replacement to Hayes Mechanical for an amount not to exceed \$60,733.14.

Summary: Resolution 13-62-R will award a contract for Diffuser Membrane Replacement to Hayes Mechanical for an amount not to exceed \$60,733.14.

Background: It was determined by Trotter and Associates, Inc. (TAI) during the “evaluation of existing plant deficiencies” section of Task Order #3 of our Master Service Agreement that the existing aeration diffusers had been operating past their useful life. These diffusers are located at the base of the aeration basins and are used to introduce oxygen into the aerobic bio-mass as well as to provide proper mixing within the basin by means of centrifugal blowers. The FlexAir membranes are constructed of EPDM rubber and have rows of very small openings to allow air to escape. Over time, the openings become blocked and the rubber deteriorates making the diffusers inefficient. The replacement of the diffusers will not only provide a healthier environment for the bio-mass, but by Engineer’s estimate will also have an approximate 7-month return of investment in electrical savings.

There were 4 Bids received:

Hayes Mechanical	\$60,733.14
Kresmery Contruction	\$69,046.00
Dahme Mechanical	\$98,989.00
R.J. O’Neil	\$117,442.00

This, along with the Wastewater Treatment Facility Improvements (Res#13-61-R) was budgeted in 31-81-6355 in the amount of \$860,000. The resulting bids for both of these projects will come to a total of \$891,501.14.

Staff recommendations:

- Recommend Public Utilities Committee and City Council approve Resolution 13-62-R Awarding Contract for Diffuser Membrane Replacement to Hayes Mechanical for an amount not to exceed \$60,733.14.

C: Bill McGrath
Gary Holm
Peggy Colby

**CITY OF BATAVIA, ILLINOIS
RESOLUTION 13-62-R**

AWARDING CONTRACT FOR DIFFUSER MEMBRANE REPLACEMENT TO HAYES MECHANICAL FOR AN AMOUNT NOT TO EXCEED \$60,733.14

WHEREAS, the City of Batavia owns and operates a Wastewater Treatment Facility; and

WHEREAS, the Wastewater Treatment Facility is required by the IEPA to meet certain water quality standards before discharging its effluent into the Fox River; and

WHEREAS, it has been determined that the Aeration Diffuser Membranes are in need of replacing; and

WHEREAS, the City publically advertised bids for this project; and

WHEREAS, Hayes Mechanical provided the lowest bid.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: That the Mayor and City Council hereby authorize the execution of contract documents, attached hereto as Exhibit 1, awarding the contract to Hayes Mechanical of 5959 South Harlem Ave. Chicago, Illinois 60638-3131 for an amount not to exceed \$60,733.14.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, on the ___ day of _____, 2013.

APPROVED by me as Mayor of said City of Batavia, Illinois, on the ___ day of _____, 2013.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Sparks				
2	Dietz					Wolff				
3	Jungles					Chanzit				
4	Volk					Stark				
5	Frydendall					Theelin Atac				
6	Liva					Clark				
7	Tenuta					Brown				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstentions					
Total holding office: Mayor and 14 aldermen										

ATTEST:

Heidi Wetzell, City Clerk

SECTION 00510

NOTICE OF AWARD

Date: April 10, 2013

To: Jack AnCel, Assistant Manager
Hayes Mechanical
5959 South Harlem Ave.
Chicago, Illinois 60638-3131

Project: **City of Batavia – 2013 Diffuser Membrane Replacement**

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids and Information for Bidders.

You are hereby notified that your bid has been accepted for items in the amount of **Sixty Thousand seven hundred and thirty-three dollars and fourteen cents (\$60,733.14)**

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S PERFORMANCE BOND, PAYMENT BOND and CERTIFICATES OF INSURANCE within ten (10) calendar days from the date of this Notice of Award.

If you fail to execute said agreement and to furnish said BONDS within ten (10) days from the date of this Notice, OWNER will be entitled to consider all of your rights arising out of the OWNER'S acceptance of your BID as abandoned, and as a forfeiture of your BID BOND. The OWNER will be entitled to any other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this ____ day of _____, **2013**.

Honorable Jeffery Schielke, Mayor
City of Batavia, Illinois

ACCEPTANCE OF NOTICE

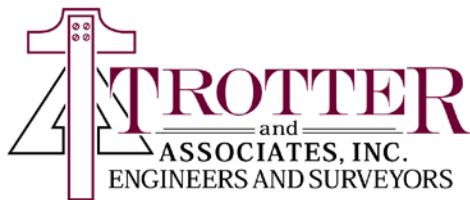
Receipt of the above NOTICE OF AWARD is hereby acknowledged by _____ this the ____ day of _____, **2013**.

END 00510

04/10/13 3:35 PM

00510-1

Trotter and Associates, Inc.
BAT-023B



April 10, 2013

Mr. Gary Holm, P.E.
Director of Public Works
City of Batavia
200 North Raddant Road
Batavia, Illinois 60510

**Re: City of Batavia – 2013 Diffuser Membrane Replacement
Bid Opening – Recommendation to Award**

Dear Mr. Holm:

The City of Batavia advertised for bids the above referenced project on Friday, March 8, 2013. The City received bids until 2:00 P.M. on Tuesday, April 9, 2013, in accordance with the advertisement. Five bids were received for the project. Four bids were opened and read aloud with the following tabulation of the bids received:

<u>Company</u>	<u>Bid Amount</u>
Hayes Mechanical	\$60,733.14
Marc Kresmery Construction	\$69,046.00
Dahme Mechanical	\$98,989.00
R.J. O'Neil	\$117,442.00

An expected bid that had been sent by UPS could not be located at the opening. This bid package was later discovered within the City internal mail system. Trotter and Associates notified the bidder that the bid had been misplaced and not opened. The bidder produced documentation that the bid had been delivered to the proper address and on time. The bidder was then notified of the apparent low bid amount, and the unopened bid was voluntarily withdrawn.

Hayes Mechanical of Chicago, Illinois was the low responsive bidder with a bid amount of \$60,733.14. We have confirmed the bid amount with Hayes Mechanical and reviewed the bidding documents and required certifications and confirmed that Hayes Mechanical has provided a complete bid package.

Trotter and Associates has not worked with Hayes Mechanical, so we verified their capabilities and reputation, and received satisfactory responses. We therefore have no reservations about recommending that the City of Batavia award the 2013 Diffuser Membrane Replacement project to Hayes Mechanical in the amount of \$60,733.14.

Exhibit 1

AGREEMENT

THIS AGREEMENT is dated as the 10th day of April in the year **2013** by and between the **City of Batavia, Illinois** (hereinafter called OWNER) and **Hayes Mechanical** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

CONTRACTOR shall complete all WORK as specified or indicated in the Contract Documents. WORK is generally described as follows:

1. Replacement of aeration diffuser membranes on multiple treatment tanks at the City of Batavia Main Wastewater Treatment Plant. Contractor shall furnish all materials, equipment and labor.

Article 2. ENGINEER

Trotter and Associates, Inc. of St. Charles, Illinois (hereinafter called ENGINEER) will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the WORK in accordance with the Contract Documents.

Article 3. CONTRACT TIME

All WORK involved with the project shall be substantially complete within one hundred and eighty (180) calendar days of the date when Contract Time commences to run as indicated in the Notice to Proceed and provided for in Paragraph 2.03 of the General Conditions. All work shall be at Final Completion and ready for Final Payment in accordance with Paragraph 14.07 of the General Conditions two hundred and ten (210) calendar days of the date when Contract Time commences to run.

- 3.1 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the WORK is not completed within the time specified in Article 3 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the WORK is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER **seven hundred and fifty dollars and zero cents (\$750.00) for each day that expires after the time specified in Article 3 for**

Substantial Completion until the WORK is fully operational and tested. The CONTRACTOR shall pay the OWNER an additional seven hundred and fifty dollars and zero cents (\$750.00) for each day after the time specified in Article 3 for Final Completion until the WORK is accepted by the OWNER. Aggregate damages for time expired, past the time of final completion shall then be one thousand five hundred dollars and zero cents (\$1500.00). At the option of the ENGINEER and OWNER damage amounts may be deducted, on a monthly basis, from the contract balance.

- 3.2 The contract time may be changed only by a change order. For each change order, CONTRACTOR shall submit to the Engineer for review, sufficient reason for delay to enable the Engineer to ascertain the necessity and reasonableness of the delay, and the allowability and eligibility of delay proposed.

Article 4. CONTRACT PRICE

OWNER shall pay CONTRACTOR for performance of the WORK in accordance with the Contract Documents in current funds as follows:

- 4.1 Payment shall be made on the basis of the monthly estimates of partial completion, approved by the ENGINEER, except as otherwise provided in the detailed specifications for each class of WORK.
- 4.2 The contract price may be changed only by a change order. For each change order, CONTRACTOR shall submit to the Engineer for review, sufficient cost and pricing data to enable the Engineer to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be process by ENGINEER as provided in the General Conditions.

- 5.1 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the second Wednesday of each month during construction as provided below. All progress payments will be on the basis of the progress of the WORK estimated by the ENGINEER.
- 5.1.1 Prior to Substantial Completion progress payments will be in an amount equal to 90% of the WORK completed, and 90% of materials and equipment not incorporated in the WORK but delivered and suitably stored, less in each case the aggregate of payments previously made.
- 5.1.2 Upon Substantial Completion and thereafter, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the

Contract Price, less such amounts as ENGINEER shall determine in accordance with Paragraph 14.07 of the General Conditions.

5.2 Final Payment. Upon final completion and acceptance of the WORK in accordance with Paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said Paragraph 14.07.

Article 6. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representation:

6.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, WORK, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the WORK.

6.2 CONTRACTOR has studied carefully all available reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the WORK which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.

6.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in Paragraph 6.2 as he deems necessary for the performance of the WORK at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

6.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

6.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

6.6 CONTRACTOR warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the OWNER shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

6.7 CONTRACTOR shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. CONTRACTOR shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR are attached to this Agreement, made a part hereof and consist of the following:

- 7.1 This Agreement (Pages 1 to 6, inclusive).
- 7.2 Exhibits to this Agreement
- 7.3 Payment and Performance Bonds
- 7.4 Notice of Award.
- 7.5 Notice to Proceed.
- 7.6 General Conditions.
- 7.7 Supplementary Conditions.
- 7.8 Specifications bearing the title "City of Batavia – 2013 Diffuser Membrane Replacement".**
- 7.9 Drawings, consisting of a cover sheet and all sheets designated in Section 00850 with each sheet bearing the title " **City of Batavia – 2013 Diffuser Membrane Replacement**" as prepared by Trotter and Associates, Inc.
- 7.10 Addenda No's 0 to 0, inclusive.
- 7.11 CONTRACTOR's Proposal (Pages 1 to 10, inclusive).
- 7.12 Documentation submitted by CONTRACTOR prior to Notice of Award.
- 7.13 Any modification, including Change Orders, duly delivered after execution of Agreement.

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in Section 3.04 of the General Conditions).

Article 8. MISCELLANEOUS

8.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless

specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4 All claims, counter-claims, disputes and other matters in question between the OWNER and the CONTRACTOR arising out of, or relating to this subagreement or the breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Illinois.

Article 9. OTHER PROVISIONS

IN WITNESS WHEREOF, the parties hereto have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement shall become effective on **May7, 2013**.

OWNER
City of Batavia, Illinois

CONTRACTOR
Hayes Mechanical

by _____
Hon. Jeffery Schielke, Mayor

by _____

(Corporate Seal)

(Corporate Seal)

Attested

Attested

by _____
Ms. Heidi Wetzel, Clerk

by _____

(Notary Seal)

(Notary Seal)

Address for Giving Notices

Address for Giving Notices

City of Batavia
100 North Island Avenue
Batavia, Illinois 60510

Hayes Mechanical
5959 South Harlem Ave.
Chicago, Illinois 60638-3131

END 00500

We sincerely look forward to assisting the City with the construction phase of this project. Please feel free to contact myself or Scott Trotter if you have any questions or require any additional information.

Sincerely,

TROTTER AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Mark R. Sikora". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Sikora, P.E.
Vice President

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