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# M E M O R A N D U M

NO. CC080403-01

**DATE:** April 1, 2003  
**TO:** Mayor Munson, Council Members  
**FROM:** Rich Wells, PE-LS  
**RE:** Public Works Agenda Item, Item: Knollwood Detention Pond DR00-902, Bid recommendation  
**CC:** Dan Bjerke, Ted Vore, Randy Nelson

Black Hills Excavating (BHE) is the apparent low bidder for the above noted project. Staff recommends award to the next lowest bidder, RCS Construction. Staff feels that Black Hills Excavating has demonstrated through their previous actions that they are a non-responsible bidder.

- As mentioned above, BHE is the apparent low bidder, however there are some irregularities in the bid presented. First the total shown on the bid is wrong due to math errors. Secondly the unit cost of some of the items is totally out of line for the expected work involved. Lastly, one of the items is priced at approximately ten times that presented by the other bidders.
- Due to past record (see below) the ability to provide Bonding is in question.
- Per Section 2.6 of the Bid Documents, BHE was requested on 3/19/03 to provide documentation of "Financial Responsibility". This request was received via certified mail by BHE on 3/27/03. The Contractor is given 5 days to provide this documentation, the time has expired for receiving documentation and this information has not been provided.
- Per the Bid given, the calculated percent of Storm Sewer related work on this project is 58%. BHE does not have a licensed Sewer & water contractor, thus it is expected this would be subcontracted work. This is in violation of Section 7.4 of the General Conditions of the Standard Specification. As part of the information requested in Section 2.6 noted above, BHE was requested to provide documentation of Subcontractors proposed for the project. As mentioned above, this documentation has not been provided.

**Previous performance:** Reference DR00-966 Skyview South Detention Pond Project.

To date, BHE still has not closed out project. Due to lack of response from BHE the Engineering Division has not been able to process final pay requests. Incomplete work, requests from subcontractors/ material suppliers for payment have also hindered the process.

Prior to work on project BHE had to prove status as a qualified bidder (see Section 2.6 Information and instruction to bidders); however throughout the course of the project BHE showed to the contrary, primarily in the financial area.

BHE was charged 12 days liquidated damages up till the day count was suspended (10/16/01) but work was still being performed in September of 2002.

Due to request to the City from Subcontractors and materials suppliers to help them get paid by the BH E, Lien releases had to be obtained from all parties prior to the final payment consideration.

Mr. Dennis Gulliani w/ Flynn Insurance Company (Bonding Company) used by BHE has been in recent contact with staff and has requested "Hold" be put on the final payment.

BHE has missed scheduled project meetings throughout the project without notification.