

**RESOLUTION NO. 59  
DATED FEBRUARY 28, 1992**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT AWARDING CONSTRUCTION CONTRACT FOR WATER TANK NO. 5, PROJECT NO. 51-1359-1 (WATER STORAGE FACILITIES).

WHEREAS, Resolution No. 51 of the Board of Directors of the Vandenberg Village Community Services District approved plans and specifications and contract documents for Water Storage Facility (Water Tank No. 5) project and authorized advertising for bids, and

WHEREAS, bids were publicly opened and read by the General Manager and the Secretary of the Vandenberg Village Community Services District for said project at 2:00 p.m., on February 6, 1992, with bids received from eight bidders, and

WHEREAS, the low bidder is Spiess Construction Co., Inc., of Santa Maria, California for Alternative Bid Schedules A, B, C or D, and

WHEREAS, questions have been raised concerning irregularities, informalities, or non-responsiveness of Spiess's bid, particularly concerning listing of sub-contractors Two separate sub-contractors were listed for painting and coating. No percentages (%) of contract total price were shown on the bid document provided for listing sub-contractors, and

WHEREAS, Spiess has provided a letter to this District explaining: (1) that one painting sub-contractor (Royal Coatings) is proposed for Alternative Bid Schedule A (reconstructed tanks, with hazardous waste removal) and the other painting sub-contractor (Travis Construction) is proposed for Alternative Bid Schedule B (two new tanks), C (two new tanks) or D (one new tank); and (2) percentages were not filled in for each sub-contractor on the single listing sheet provided in the bid documents, whereas four Alternative Bid Schedules were required (each causing a different percentage breakdown of sub-contractors).

WHEREAS, the District's Consulting Engineer for said project (Lawrence, Fisk, and McFarland) has indicated that although this can be considered to constitute non-responsiveness, it is not necessarily grounds for rejection of the Spiess bids, and that this informality could be waived by the District, and

WHEREAS, Leslie Johnson, the District's General Counsel has reviewed the Spiess bid, Spiess's letter, the Consulting Engineer's memo and the bidding documents and advises:

"Clearly the statutory obligation is for the District to award the contract to the lowest bidder after competitive bidding.

If Spiess Construction Co., Inc., was the lowest bidder, that company should be awarded the contract provided that the terms and conditions of the Notice Inviting Bids were complied with, or in the event of the presence of any informality, or non-responsiveness in its bid, that the District exercised its rights to waive any informality ... as it may best serve the interest of the District.

It appears that the Spiess bid is in substantial compliance with the Notice Inviting Bids. The District reserves the right to waive any non-responsiveness, Spiess Construction Co., Inc., has clarified its intentions with respect to its List of Subcontractors." and

WHEREAS, General Counsel also advises:

"The District has three options:

- (1) Reject all bids;
- (2) Award to the lowest bidder, waiving any informality or non-responsiveness;  
or,
- (3) Reject the lowest bid and award to the second lowest bidder, provided the bid of the second lowest bidder is in compliance with the Notice Inviting Bids."

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Vandenberg Village Community Services District as follows:

1. Irregularities, informalities, or non-responsiveness of the bids of Spiess Construction Co., Inc., concerning the sub-contractors listing requirements of Water Tank No. 5, Project No. 51-1359-1, for Alternative Bid Schedules A, B, C or D, have been reviewed by this District Board of Directors, and it is hereby determined and approved that such irregularities, informalities, or non-responsiveness are waived.
2. It is hereby determined that it is in the best interest of the District to award the construction contract for Water Tank No. 5, Project No. 51-1359-1, to Spiess Construction Co., Inc., of Santa Maria, California, as the lowest bidder for said project.
3. The contract for construction of Water Tank No. 5, Project No. 51-1359-1, is hereby awarded to Spiess Construction Co., Inc., of Santa Maria, California for Alternative Bid Schedule \_\_\_\_\_, for the total lump sum bid price of \$\_\_\_\_\_, and the President is hereby authorized and directed to sign said contract.
4. The bids of all other bidders for subject project are hereby rejected, and the General Manager is directed to return their bid bonds to said bidders upon the execution of the construction contract with Spiess Construction Co., Inc.

On the motion of Director \_\_\_\_\_  
Second Director \_\_\_\_\_

Roll call to vote, to wit:

AYES:  
NOES:  
ABSENT:

Resolution No. 59 is hereby adopted.

\_\_\_\_\_  
Phyllis C. White  
President  
Board of Directors

ATTEST:

\_\_\_\_\_  
Joyce E. Lawver  
Secretary, Board of Directors

## SECRETARY'S CERTIFICATE

I, Joyce E. Lawver, Secretary of the Board of Directors of the Vandenberg Village Community Services District, hereby certify that the foregoing is a true and correct copy of Resolution No. 59 passed and adopted by the Board of Directors of the Vandenberg Village Community Services District at an adjourned regular meeting held on the 28th day of February, 1992.

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Joyce E. Lawver  
Secretary,  
Vandenberg Village  
Community Services District