



January 23, 2024

Dan Walker  
Town of West Yellowstone  
440 Yellowstone Avenue  
PO Box 1570  
West Yellowstone, MT 59758

RE: Additional Considerations for Received bids for project "1.5 MGD WWTP FACILITY"  
Town of West Yellowstone, Montana  
Project No. 01-20-0046  
WPCSRF Project No. C301313

Mr. Walker,

This letter provides additional information regarding the RSCI bid package for consideration by the Council. In the letter dated January 19, 2024 Forsgren presented information regarding the RSCI bid packaged and concluded that RSCI proposed the lowest price, however, with the omission of the complete equipment list and plumbing subcontractor, RSCI's bid is nonresponsive.

However, INSTRUCTIONS TO BIDDERS article 18.01 reserves the Owners right to waive all minor Bid informalities not involving price, time, or changes in the Work. It is possible that the omissions in the RSCI bid package described in the January 19<sup>th</sup> letter may be deemed minor. On January 17, 2024 the Town Attorney requested Forsgren draft a letter to RSCI requesting additional information regarding the list of Subcontractors' and list of Equipment suppliers'. RSCI responded with updated lists for both Subcontractors and Equipment Suppliers. The response from RSCI provided a complete list of equipment suppliers. The response from RSCI does not provide a plumbing subcontractor but does explain that they believe they are complying with the instructions provided on the BID FORM: PROPOSED SUBCONTRACTOR form. The instruction states:

"Bidder must list all Subcontractors to be used for work identified in the Supplementary Conditions, when the subcontract amount exceeds the threshold amount 0.5% of the total contract amount (minimum \$5,000)"

RSCI has expressed the plumbing subcontractor does not need to be listed, even though the INSTRUCTIONS TO BIDDERS Article 11.02 explicitly states the plumbing subcontractor must be listed, because the amount for the plumbing work is significantly less than 0.5% of the total amount. The time limit for subcontractor and equipment list submittals was amended in Addendum 6 and Addendum 7 to required the submission of both lists not later than 2 hours after bid opening.

Additionally, the response from RSCI regarding updates to Subcontractors' and Equipment Suppliers' lists did not indicate that the updates result in any change to the bid price, contract schedule, or work. Based on this the Council may conclude that the omissions in the bid package are minor and may waive such bidder informality or technicality in accordance with INSTRUCTIONS TO BIDDERS Article 18.01.

If the Council chooses to waive the minor informalities, the RSCI bid package proposed the lowest price and is eligible for consideration of award. If you have any questions, please feel free to contact me at (208) 356-9201.

Sincerely,

Forsgren Associates, Inc.



Dave Noel, P.E.  
Project Manager

Attachments: INSTRUCTIONS TO BIDDERS article 11.02  
INSTRUCTIONS TO BIDDERS article 18.01  
January 17, 2024 Letter RE: 1.5 MGD WWTP FACILITY Additional Information Request  
RSCI Updated Subcontractor list  
RSCI updated Equipment list  
RSCI email response dated 1/17/2024

cc: Steve Lipetzky, DEQ SRF

**SECTION - 00 21 13**  
**INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT**

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1 9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially  
2 completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved,  
3 are set forth in the Agreement.

4 9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial  
5 Completion, or completion of the Work in readiness for final payment, are set forth in the  
6 Agreement.

7 **ARTICLE 10—SUBSTITUTE AND “OR EQUAL” ITEMS**

8 10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment  
9 specified or described in the Bidding Documents, and those “or-equal” or substitute or  
10 materials and equipment subsequently approved by Engineer prior to the submittal of Bids  
11 and identified by Addendum. No item of material or equipment will be considered by  
12 Engineer as an “or-equal” or substitute unless written request for approval has been  
13 submitted by Bidder and has been received by Engineer within 10 days of the issuance of  
14 the Advertisement for Bids or invitation to Bidders. Each such request must comply with the  
15 requirements of Paragraphs 7.05 and 7.06 of the General Conditions, and the review of the  
16 request will be governed by the principles in those paragraphs. The burden of proof of the  
17 merit of the proposed item is upon Bidder. Engineer’s decision of approval or disapproval of  
18 a proposed item will be final. If Engineer approves any such proposed item, such approval  
19 will be set forth in an Addendum issued to all registered Bidders. Bidders cannot rely upon  
20 approvals made in any other manner.

21 10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the  
22 Contractor will furnish the materials and equipment specified or described in the Bidding  
23 Documents, as supplemented by Addenda. Any assumptions regarding the possibility of  
24 post-Bid approvals of “or-equal” or substitution requests are made at Bidder’s sole risk.

25 **ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

26 11.01 A Bidder must be prepared to retain specific Subcontractors and Suppliers for the  
27 performance of the Work if required to do so by the Bidding Documents or in the  
28 Specifications. If a prospective Bidder objects to retaining any such Subcontractor or  
29 Supplier and the concern is not relieved by an Addendum, then the prospective Bidder  
30 should refrain from submitting a Bid.

31 11.02 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a  
32 list of the Subcontractors or Suppliers proposed for the following portions of the Work  
33 within five days after Bid opening:

34 **A. Electrical, HVAC, Plumbing, Concrete**

35 11.03 If requested by Owner, such list must be accompanied by an experience statement with  
36 pertinent information regarding similar projects and other evidence of qualification for each  
37 such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has  
38 reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the

**SECTION - 00 21 13**  
**INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT**

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1 14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at  
2 the correct location or in the designated manner, will not be accepted and will be returned  
3 to the Bidder unopened.

4 **ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID**

5 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same  
6 manner that a Bid must be executed and delivered to the place where Bids are to be  
7 submitted prior to the date and time for the opening of Bids. Upon receipt of such notice,  
8 the unopened Bid will be returned to the Bidder.

9 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid  
10 in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time  
11 for the opening of Bids.

12 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with  
13 Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that  
14 there was a material and substantial mistake in the preparation of its Bid, the Bidder may  
15 withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the  
16 Bidder will be disqualified from further bidding on the Work.

17 **ARTICLE 16—OPENING OF BIDS**

18

19 16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid  
20 and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the  
21 base Bids and major alternates, if any, will be made available to Bidders after the opening of  
22 Bids.

23 **ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

24 17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but  
25 Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end  
26 of this period.

27 **ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT**

28 18.01 Owner reserves the right to reject any or all Bids, including without limitation,  
29 nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the  
30 right to waive all minor Bid informalities not involving price, time, or changes in the Work.

31 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and  
32 evaluation, to not be responsible.

33 18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of  
34 the Bidding Documents, or attempts to alter the contents of the Contract Documents for

# FORSGREN *Associates Inc.*

January 17, 2024

Zeke Johnson  
Record Steel and Construction, Inc.  
333 W Rossi Street, Suite 200  
Boise, ID 83706

RE: 1.5 MGD WWTP FACILITY  
Additional Information Request

Mr. Johnson,

The Town of West Yellowstone is in receipt of RSCI's bid for the West Yellowstone 1.5 MGD WWTP FACILITY project. The Town has tasked Forsgren Associates, Inc. to evaluate the bids and make a recommendation regarding consideration to award.

Forsgren accepted the equipment list from RSCI two hours after the bid opening. In accordance with BID FORM article 2.01 G 2 and as clarified in Addendum 5, the equipment list must include all equipment identified on the equipment schedule. RSCI did provide an equipment list, however, the list does not include all the equipment identified on the equipment schedule. Please provide a completed equipment list in full compliance with BID FORM article 2.01 G 2 and as clarified in Addendum 5. Also, if this completed list impacts the bid amount, please include an explanation.

Additional information regarding proposed subcontractors/suppliers was required within two hours of the bid opening. In accordance with INSTRUCTIONS TO BIDDERS article 11.02 A lists must include subcontractors/suppliers for electrical, HVAC, plumbing, and concrete. RSCI's bid package did not identify subcontractors/suppliers for performance of electrical, plumbing, and concrete work. Please provide a completed Subcontractors/suppliers list in full compliance with INSTRUCTIONS TO BIDDERS article 11.02. Also, if this completed list impacts the bid amount, please include an explanation.

The Town has expressed that it is imperative that Forsgren's receive this information by the end of business today January 17, 2024. If you have any questions, please feel free to contact me at (208) 356-9201.

Sincerely,  
Forsgren Associates, Inc.



Dave Noel, P.E.  
Project Manager

**1 BID FORM ATTACHMENT NO. 01: PROPOSED SUBCONTRACTORS**

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 3 *Professional Engineers, American Society of Civil Engineers, and American Council of Engineering*  
 4 *Companies, or is based in part on excerpts from EJCDC documents. Those portions of the text that*  
 5 *originated in published EJCDC documents remain subject to the copyright.*

6 The Bidder, Record Steel and Construction, Inc dba RSCI, as part of the procedure for the submission  
 7 of Bids on this project known as the **WEST YELLOWSTONE WWTP**, submits the following list of  
 8 Subcontractors to be used in the performance of work to be done on said Project ~~in compliance with~~  
 9 ~~NM Subcontractors Fair Practices Act~~. Bidder must list all Subcontractors to be used for work  
 10 identified in the Supplementary Conditions, when the subcontract amount exceeds the threshold  
 11 amount 0.5% of the total contract amount (minimum \$5,000). Changes to this list after the Bid  
 12 opening shall only be as approved by OWNER upon request by CONTRACTOR or as required by  
 13 OWNER based upon review of CONTRACTOR's submittals:

14 <b>NAME OF SUBCONTRACTOR and</b>	15 <b>CATEGORY OF WORK</b>	16 <b>CONTRACTOR</b>
17 <b>LOCATION OF PLACE OF BUSINESS</b>	18 <b>OF SUBCONTRACTOR</b>	19 <b>PUBLIC WORKS</b>
20 <b>NO.</b>		21 <b>REGISTRATION</b>
22 <b>United Team Mechanical, LLC</b> 23 (Name) 24 <b>Kaysville, UT</b> 25 (Location)	26 <b>HVAC</b> 27 (Category)	28 <b>CR-149327</b> 29 (Number)
30 <b>TBD (no bids received)</b> 31 (Name)	32 <b>Overhead Doors</b> 33 (Category)	34 <b>TBD</b> 35 (Number)
36 <b>TBD (no bids received)</b> 37 (Name)	38 <b>Paint &amp; Coatings</b> 39 (Category)	40 <b>TBD</b> 41 (Number)
42 <b>Rios Erectors, LLC</b> 43 (Name)	44 <b>Metal Building Erection</b> 45 (Category)	46 <b>CR-248786</b> 47 (Number)
48 <b>Lincoln, MT</b> (Location)		
<b>RSCI - Self-Perform</b> (Name)	<b>Concrete Work</b> (Category)	<b>CR-36115</b> (Number)
<b>Boise, ID</b> (Location)		

40 It is understood and agreed that, if awarded a Contract, CONTRACTOR will not make any additions,  
 41 deletions or substitutions to this Certified list without the consent of the OWNER. List only one  
 42 subcontractor for each category of work. **FAILURE TO COMPLY WITH THESE REQUIREMENTS**  
 43 **WILL MAKE THE BID NON-REPONSIVE and the bid will be rejected.**

**CERTIFICATION AFFIDAVIT**

46 THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND  
 47 BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS  
 48 CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

**1 BID FORM ATTACHMENT NO. 01: PROPOSED SUBCONTRACTORS**

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 3 *Professional Engineers, American Society of Civil Engineers, and American Council of Engineering*  
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 5 *originated in published EJCDC documents remain subject to the copyright.*

6 The Bidder, Record Steel and Construction, Inc dba RSCI, as part of the procedure for the submission  
 7 of Bids on this project known as the **WEST YELLOWSTONE WWTP**, submits the following list of  
 8 Subcontractors to be used in the performance of work to be done on said Project in compliance with  
 9 NM Subcontractors Fair Practices Act. Bidder must list all Subcontractors to be used for work  
 10 identified in the Supplementary Conditions, when the subcontract amount exceeds the threshold  
 11 amount 0.5% of the total contract amount (minimum \$5,000). Changes to this list after the Bid  
 12 opening shall only be as approved by OWNER upon request by CONTRACTOR or as required by  
 13 OWNER based upon review of CONTRACTOR's submittals:

14 15 <b>NAME OF SUBCONTRACTOR and</b>	16 <b>CATEGORY OF WORK</b>	17 <b>CONTRACTOR</b>
18 <b>LOCATION OF PLACE OF BUSINESS</b>	19 <b>OF SUBCONTRACTOR</b>	20 <b><del>PUBLIC WORKS</del></b>
21 <b>NO.</b>		22 <b>REGISTRATION</b>
23 24 <u><b>RSCI - Self-Perform</b></u> (Name) 25 <u><b>Boise, ID</b></u> (Location)	<u><b>Electrical Work</b></u> (Category)	<u><b>ELE-UCO-LIC-17237</b></u> (Number)
26 27 <u><b>Square D</b></u> (Name) 28 <u><b>Boise, ID</b></u> (Location)	<u><b>Supply Electrical Gear</b></u> (Category)	<u><b>N/A</b></u> (Number)
29 30 <u><b>Western States CAT</b></u> (Name) 31 <u><b>Boise, ID</b></u> (Location)	<u><b>Supply Generator</b></u> (Category)	<u><b>N/A</b></u> (Number)
32 33 <u><b>TBD (no bids received)</b></u> (Name) 34 _____ (Location)	<u><b>Plumbing</b></u> (Category)	<u><b>TBD</b></u> (Number)
35 36 <u><b>RSCI - Self-Perform</b></u> (Name) 37 <u><b>Boise, ID</b></u> (Location)	<u><b>Concrete Batching</b></u> (Category)	<u><b>CR-36115</b></u> (Number)

38 It is understood and agreed that, if awarded a Contract, CONTRACTOR will not make any additions,  
 39 deletions or substitutions to this Certified list without the consent of the OWNER. List only one  
 40 subcontractor for each category of work. **FAILURE TO COMPLY WITH THESE REQUIREMENTS**  
 41 **WILL MAKE THE BID NON-REPOSNSIVE and the bid will be rejected.**

**CERTIFICATION AFFIDAVIT**

42 THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND  
 43 BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS  
 44 CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

**SECTION - 00 43 01**  
**BID FORM: PROPOSED SUBCONTRACTORS**

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NAME OF SIGNER: \_\_\_\_\_ Zeke Johnson \_\_\_\_\_

(Please Print of Type)

TITLE OF SIGNER: \_\_\_\_\_ President \_\_\_\_\_

(Please Print of Type)

SIGNATURE:  \_\_\_\_\_

DATE: \_\_\_\_\_ 01/09/2024 \_\_\_\_\_

**END OF SECTION**



**BID FORM ATTACHMENT NO. 2: CERTIFIED LIST OF EQUIPMENT**

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The Bidder, Record Steel and Construction, Inc dba RSCI, as part of the procedure for the submission of Bids on this project known as the **West Yellowstone WWTP**, submits the following list of Equipment/Materials Manufacturers to be used in the performance of work to be done on said Project. The list of Manufacturers and all equipment/materials furnished shall be based on requirements of the Contract Documents. Changes to this list after the Bid opening shall only be as approved by OWNER upon request by CONTRACTOR or as required by OWNER based upon review of CONTRACTOR's submittals:

<b>EQUIPMENT/MATERIALS</b>	<b>MANUFACTURER</b>
Automatic Samplers	ISCO
Submersible Non-Clog Pumps	Sulzer
Sump Pumps	Federal Pump
Packaged Wash Water Pumping System	Grundfos
Mechanically Cleaned Bar Screen & Wash Press	Duperon
Grit Removal Systems	Lakeside
Sludge Drying Facilities (Bins, Polymer System & Injection)	Spectrum
UV Disinfection System	Enaqua
Propane Tankless Water Heater	Rheem
Manual Bar Screen	Fabricated by Intermountain Industrial
Electric Monorail Hoist	Yale
Davit Crane	Thern
Polymer Tote Containment Pallet	PIG Poly
Electric Hard Water Softener	Calmat

**SECTION - 00 43 02**  
**BID FORM: CERTIFIED LIST OF EQUIPMENT**

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It is understood and agreed that, if awarded a Contract, CONTRACTOR will not make any additions, deletions or substitutions to this Certified list without the consent of the OWNER.

**CERTIFICATION AFFIDAVIT**

THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED A CONTRACT, THIS CERTIFICATION SHALL BE ATTACHED THERETO AND BECOME A PART THEREOF.

NAME OF SIGNER: Zeke Johnson  
(Please Print of Type)

TITLE OF SIGNER: President  
(Please Print of Type)

SIGNATURE: 

DATE: 01/09/2024

**END OF SECTION**

## Camille Miller

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**From:** Zeke Johnson <zeke@rscigroup.com>  
**Sent:** Wednesday, January 17, 2024 2:52 PM  
**To:** Dave Noel  
**Cc:** Dan Walker; Jane Mersen; Katie Thompson; Lauren Jared; Ginger Henderson  
**Subject:** RE: West Yellowstone 1.5MGD WWTP Facility - Request for additional information - Supplier and Equipment lists  
**Attachments:** RSCI Bid Form Certified List of Equipment FINAL.pdf; RSCI Bid Form Proposed Subcontractors FINAL.pdf

\*\*\*EXTERNAL MESSAGE\*\*\*

Dave,

No problem, thank you for the email and letter.

An updated Certified List of Equipment is attached. Please note that we included pumping equipment specified under DIVISION 44 - EQUIPMENT, although it is not listed in the Process Equipment Schedule. We also added the fabricated bar screen, electric hoists, containment pallet, and other minor items that were listed in the Process Equipment Schedule. As I am sure you expect, our Certified List of Equipment doesn't include anything provided by AeroMod which is the bulk of the equipment listed in the Process Equipment Schedule. Please let me know if you see any issues with this, or believe anything is missing, and our team will correct it immediately.

An updated List of Proposed Subcontractors is also attached. Where RSCI is self-performing work (concrete, electrical, etc.) we have indicated such. We have also listed key suppliers for electrical gear, the back-up generator, and concrete batching. Furthermore, we did not receive any bids for Overhead Doors, Paints & Coatings, and Plumbing, so those subcontractors are all indicated as TBD (to be determined). I would note, Plumbing is limited to a small amount of gas piping and is a very small scope of work on this project, as the balance of all piping work is process mechanical (including drain systems) which is self-performed by RSCI. Please let me know if you see any issues with this, or believe anything is missing, and our team will correct it immediately.

Best Regards,

**Zeke Johnson, P.E.** | President  
RSCI | 333 W. Rossi St, Ste 200 | Boise, ID 83706  
Office: 208.887.1401 | Direct: 208.472.0195 | Mobile: 208.890.4291 | Fax: 208.888.9130  
<http://www.rscigroup.com>

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**From:** Dave Noel <dnoel@forsgren.com>  
**Sent:** Wednesday, January 17, 2024 10:05 AM  
**To:** Zeke Johnson <zeke@rscigroup.com>  
**Cc:** Dan Walker <dwalker@townofwestyellowstone.com>; Jane Mersen <jmersen@kkmlaw.net>; Katie Thompson <kthompson@townofwestyellowstone.com>  
**Subject:** West Yellowstone 1.5MGD WWTP Facility - Request for additional information - Supplier and Equipment lists

Zeke, please provide the requested information by end of business today January 17, 2024.

Thank You

**Dave Noel**  
**Project Manager**  
[1137 Summers Dr.,](#)  
[Rexburg, ID 83440](#)  
208.356.9201 (O)  
208.351.6114 (M)  
208.356.0206 Fax

