



# Harter Tanks Painting Improvement Project August 18, 2020



**Presentation By:**  
**Diana Langley, Interim City Manager/Public Works Director**

# Harter Tanks Painting and Improvement Project - Background



- City's water distribution system is interconnected with five reservoir booster stations holding a total of 13 million gallons, 4 million of which are stored at the Harter tank facility.
- Harter tank facility includes two, 2 million gallon water storage tanks.
- Report by CSI Services and Potable Divers, Inc. identified tank blistering, delamination, rust and peeling.
  - The severity and variety of repairs needed on tanks warrants professional repairs.
- Jacobs Engineering was contracted to prepare plans and specifications for the interior and exterior rehabilitation of the tanks.



Rusted Influent Line



Rusted Effluent Line

# Harter Tanks Painting Improvement Project – Location



HARTER TANK PAINTING IMPROVEMENT  
PROJECT LOCATION MAP



# Harter Tanks Painting Improvement Project – Bid Results



The Harter Tanks Painting Improvement Project was advertised for bids beginning May 22, 2020. On July 14, 2020, eleven (11) bids were received and opened by the City Clerk.

<u>Company</u>	<u>Total Bid</u>
<b>Farr Construction Corp dba Resource Development</b>	<b>\$1,259,900.00</b>
Advanced Industrial Services, Inc	\$1,850,869.00
Simpson Sandblasting & Special Coating	\$1,850,000.00
JEFFCO Painting & Coating, Inc.	\$1,916,042.00
Capital Industrial Coatings	\$1,730,000.00
Certified Coatings	\$1,601,771.00
Crosno Construction, Inc.	\$1,666,120.00
Euro Style Management, Inc.	\$1,427,000.00
Unified Field Services	\$1,474,514.00
Superior Tank Solutions	\$1,553,664.00
<u>CalSierra Construction, Inc.</u>	<u>\$1,258,860.00</u>
 <i>Engineer's Estimate</i>	 <i>\$1,700,000.00</i>

# Harter Tanks Painting Improvement Project – Analysis



- This award bid is contested.
- The apparent second-lowest bidder, Farr Construction Corporation, submitted an objection to the City that the apparent low bid from Cal Sierra Construction, Inc., was not responsive due to an unregistered subcontractor and defective bid bond.
- Staff also reviewed the bids in coordination with the City Attorney and found that the apparent low bid from Cal Sierra Construction, Inc. is not responsive due to several reasons:
  1. Subcontractor was listed in the bid that was not registered with the Department of Industrial Relations at the time the bid was submitted.
  2. Bid bond submitted with the bid was marked “sample” and a separate bid bond was also submitted that was not conforming with the proposal forms.
  3. “No bid” response to “Metals” bid item instead of providing a total figure or price.



# Harter Tanks Painting Improvement Project – Analysis (cont.)



- Staff notified Cal Sierra Construction, Inc. of the findings and recommendations to be presented to Council on July 23rd.
- Cal Sierra Construction, Inc. responded in writing on August 14th asserting the subcontractor was “registered” with DIR at the time the Notice to Contractors was issued, but due to COVID restrictions was unable to reach DIR staff to pay the necessary fees, and was assured by the DIR that a 30-day grace period would be in effect.

## Staff Response:

- There was nothing located that would legally mandate an extension or provide a grace period for renewal of registration due to COVID on either the DIR website or the Executive Orders issued by the Governor.
- The DIR has an online renewal and registrations system that would allow registration renewal electronically.
- No special exceptions to the registration requirement apply as this project is not federally funded.

# Harter Tanks Painting Improvement Project – Analysis (cont.)



## Staff Response (Cont.):

- The DIR's website shows that the subcontractor was not ever registered as of July 14<sup>th</sup> as required by the bid package.



### Contractor Information

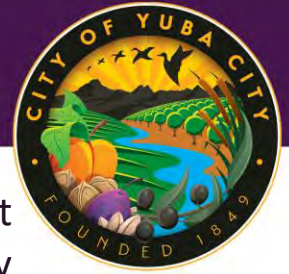
Legal Entity Name  
garrett painting & sandblasting inc.  
Legal Entity Type  
Corporation  
Status  
Active  
Registration Number  
PW-LR-1000576659  
Registration effective date  
07/29/20  
Registration expiration date  
06/30/21  
Mailing Address  
7780 E. Dream Catcher Dr. Prescott Valley 86315 AZ United States of America  
Physical Address  
7780 E. Dream Catcher Dr. Prescott Valley 86315 AZ United States of America  
Email Address  
garrettpps@hotmail.com  
Trade Name/DBA  
garrett painting & sandblasting inc.  
License Number (s)  
CSLB:504079

### Registration History

Effective Date	Expiration Date
03/17/20	06/30/20
07/29/20	06/30/21



## Harter Tanks Painting Improvement Project – Analysis (cont.)



- Cal Sierra Construction, Inc. also asserts the “sample” marking on the bid bond it provided was first noticed when the bid response was being packaged, and they decided to include both the signed “sample” bond (which was in the City’s format) and another bond from the surety company, both of which they assert are legally valid.

### Staff Response:

- The bid packet required that the City’s bond template be used.
- As the only bond based on the City’s template was marked “sample,” it is an irregularity indicating the bond is not valid or enforceable.
- The second bid bond was non-conforming with the bid packet requirements, and removed material provisions, including those related to the City’s ability to recover attorney’s fees and costs.

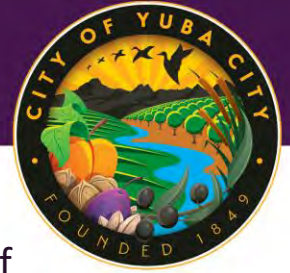


# Harter Tanks Painting Improvement Project – Analysis (cont.)



- Staff recommends that Council reject the apparent low bid by Cal Sierra.
  - The irregularities in the bid response constitute a substantial and consequential discrepancy from the City’s call for bids because it affects the amount of the bid, gives a bidder an unfair advantage, and affects the ability to make bid comparisons.
  - Even if these irregularities were inconsequential, the Council is not required to waive them. This will help ensure fairness for all bidders to the process as it promotes complete responses and sets a universal standard for all bidders.
- Although staff is unable to recommend award of the bid to Cal Sierra due to the facts in this case, staff would both encourage and welcome Cal Sierra’s participation in future bid opportunities.

## Harter Tanks Painting Improvement Project – Analysis (cont.)



- Staff has also reviewed the bid response provided by Farr Construction, Inc. of Sparks, NV:
  - The bid was responsive to the requirements of the City’s bid requirements (no irregularities were noted); and
  - Farr Construction is a responsible company capable of completing the work.
- Staff recommends that Council award a construction contract to Farr Construction in the amount of their total bid of \$1,259,900.

# Harter Tanks Painting Improvement Project – Fiscal Impact



The estimated total construction cost for the project is approximately \$1,661,890.00, which consists of the following components:

\$ 1,259,900 – Contract Award Amount

\$ 125,990 – Construction Contingency (10%)

\$ 60,000 – Engineering Services During Construction

\$ 106,000 – Special Coating Inspections and Testing

\$ 50,000 – Contract Administration

\$ 60,000 – Consultant Contingency

\$ 1,661,890.00 – Total Project Cost (Account No. 971096 Recoating Water Storage Reservoirs)

The project will be funded through Capital Improvement Program Account No. 971096 (Recoating Water Storage Reservoirs), which has a current balance of approximately \$2,328,000.

# Harter Tanks Painting Improvement Project – Contingency, Project Management and Inspection Justification



- Staff is requesting a construction contingency of \$125,990 (10%) and a consultant contingency of \$60,000 to cover unpredictable variables associated with the project.
  - Possible metal repairs to tank elements resulting from years of excessive corrosion.
  - Potential metal repairs that can not be quantified until tanks are drained and condition is assessed by professional inspectors.
- Staff is requesting authorization to enter into Professional Services Agreements for work staff does not have the capacity or certifications to perform.
  - Jacobs Engineering, Inc. for engineering services during construction.
  - West Coast Coatings, Inc. for special coatings inspections and testing.

# Harter Tanks Painting Improvement Project - Recommendation



- A. Adopt a resolution approving the plans and specifications for the Harter Tanks Painting Improvement Project.
- B. Adopt a resolution adopting a finding of Class 1 Categorical Exemption for the project per CEQA Guidelines Section 15301 (Existing Facilities); rejecting the apparent low bid as unresponsive; awarding a construction contract to Farr Construction, Inc. of Sparks, NV in the amount of their total bid \$1,259,900.00; and authorizing the City Manager to execute the contract on behalf of the City, subject to review and approval as to legal form by the City Attorney.
- C. Adopt a resolution authorizing the City Manager to enter into a Professional Services Agreement with Jacobs Engineering, Inc. of Sacramento, CA in the amount of \$60,000 for engineering services during construction, with the finding that it is in the best interest of the City, and subject to approval as to legal form by the City Attorney.
- D. Adopt a resolution authorizing the City Manager to enter into a Professional Services Agreement with West Coast Coatings, Inc. of Albany, CA in the amount of \$106,000 to provide inspection and testing services during construction, with the finding that it is in the best interest of the City, and subject to approval as to the legal form by the City Attorney.

# Harter Tanks Painting Improvement Project – Bid Requirements



By way of information, here are excerpts from the City's actual RFP regarding subcontractor registration, bid bonds, and bid responses:

- Authority to reject any bid:

In its discretion, the City Council of Yuba City or its designee may reject any and all bids presented, may accept an item or group of items of any bid, may modify or cancel in whole or in part the notice inviting bids, and may determine to re-advertise for bids. Similarly, the City Council or its designee reserves the right to waive informalities and minor irregularities in any bids received.

- Requirement to use City's proposal forms.

Plans, specifications, and proposal forms for bidding this project can be obtained at the office of the Public Works Director, City of Yuba City, 1201 Civic Center Boulevard, Yuba City, California, 95993, for a non-refundable deposit of \$75.00 per set. **If a contractor elects to submit a bid, the proposal form must be obtained from the City.** An additional non-refundable deposit of \$5.00 for shipping and handling is required for those requesting delivery by U.S. mail. Deposit shall be in the form of a cashier's check, personal check, or business check.



# Harter Tanks Painting Improvement Project – Bid Requirements



By way of information, here are excerpts from the City's RFP regarding subcontractor registration, bid bonds, and bid responses:

-Requirement to show unit prices:

Unit prices shall be shown on bids submitted as well as a total price for each item bid upon.

- Requirement for subcontractor to be registered with the DIR:

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 with limited exceptions from this requirement for bid purposes only under Labor Code Section 1771.1(a).|

# Harter Tanks Painting Improvement Project – Bid Requirements



- Requirement to use City’s proposal forms, to provide prices, and that subcontractors be registered with the DIR:

2.2 Proposal Form – All proposal forms shall be directly purchased from the City of Yuba City and shall be made upon the proposal forms included in these Special Provisions. All proposals must give the prices proposed, with unit prices prevailing, and must be signed by the

bidder with his address. Copies of proposal forms obtained from a source other than the City will not be allowed.

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 with limited exceptions from this requirement for bid purposes only under Labor Code Section 1771.1(a).

# Harter Tanks Painting Improvement Project – Bid Requirements



- Authority to reject proposal for “any” alterations or irregularities of any kind:

2.6 Rejection of Proposals – Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind.

The City reserves the right to waive any informality or irregularity in any bid or bidding. The right is reserved to reject any and all proposals.

# Harter Tanks Painting Improvement Project – Bid Response



Bid response identifying “Garrett Painting & Sandblasting, Inc.” as a subcontractor:

Following is the name and location of the mill, shop, or office of each subcontractor who will perform work or labor or render services to the above-signed bidder. Failure of the bidder to specify a subcontractor for any portion of the work to be performed under the contract constitutes an agreement by the bidder to perform that portion of the work himself.

NAME AND ADDRESS OF SUBCONTRACTOR	LABOR OR SERVICES TO BE PERFORMED AND VALUE THEREOF	SUBCONTRACTOR LICENSE # CLASS
(1) <u>Garrett Painting &amp; Sandblasting, Inc.</u> <u>7780 E DREAM CATCHER DR</u> <u>SCOTT VALLEY, AZ 85215</u>	<u>R&amp;R Coatings</u>	<u>CSLB 504079 C-33</u> <u>DIR 1000576659</u>

# Harter Tanks Painting Improvement Project – Bid Response



Bid response providing a “SAMPLE” bond and another non-conforming bond without required language (next slides)

CITY OF YUBA CITY  
DEPARTMENT OF PUBLIC WORKS

BIDDER'S BOND

HARTER TANK PAINTING IMPROVEMENTS  
CONTRACT NO. 20-06



We, Cal Sierra Construction, Inc., as Principal, and United States Fire Insurance Company as Surety, are bound unto the City of Yuba City, Department of Public Works, hereafter referred to as "Obligee," in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a bid to the Obligee for **HARTER TANK PAINTING IMPROVEMENTS** for which bids are to be opened at Yuba City, California, on July 8, 2020

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the Notice to Contractors, Special Provisions, Proposals, and Contract for this work, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: July 7, 2020

Cal Sierra Construction, Inc.

By: 

United States Fire Insurance Company

By: 

Lawrence F. McMahon, Attorney-in-Fact





# THE AMERICAN INSTITUTE OF ARCHITECTS

## AIA Document A310 Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Cal Sierra Construction, Inc.  
5804 Van Alstine Avenue, Carmichael, CA 95606

as Principal, hereinafter called the Principal, and United States Fire Insurance Company  
9000 E. Nichols, Suite 220, Centennial, CO 80112

a corporation duly organized under the laws of the State of DE

as Surety, hereinafter called the Surety, are held and firmly bound unto City of Yuba City - Department of Public Works  
1201 Civic Center Boulevard, Yuba City, CA 95993

as Obligee, hereinafter called the Obligee, in the sum of Ten Percent of Amount Bid  
Dollars (\$ \_\_\_\_\_ 10% \_\_\_\_\_ ),  
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs,  
executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Yuba City Harter Tanks Painting Improvement Project, Contract No.  
20-06

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with  
the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or  
Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt  
payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter  
such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the  
penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith  
contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise  
to remain in full force and effect.

Signed and sealed this 7th day of July, 2020

Cal Sierra Construction, Inc. (Seal)

(Witness)

B

(Title)

United States Fire Insurance Company (Seal)

Mana Gulsa (Witness)

B

Attorney-in-Fact Lawrence F. McMahon (Title)



# Harter Tanks Painting Improvement Project – Bid Response



- Bid response not providing a unit amount:

## HARTER TANKS COATING PROJECT CONTRACT NO. 20-06

Bid Item	Item Description	Unit of Measure	Estimated Quantity	Total Amount
1	Mobilization	LS	1	\$ [REDACTED]
2	Temporary Containment	LS	1	\$ [REDACTED]
3	Coatings	LS	1	\$ [REDACTED]
4	Mctals	LS	1	\$ NO BID
5	Insurance & Bonds	LS	1	\$ [REDACTED]
	<b>Total Bid:</b>			\$ 1,258,860.00