

Add Info #32

October 25, 2012

AVCOM



FAX TRANSMITTAL

AVCOM COMPANY
P.O. BOX 1849
FRIDAY HARBOR, WA 98250-1849
360-378-7054
360-378-1673 FAX

October 3, 2012

To: Mike Mandt, Acting Supervisor
Purchasing and Materials, Purchasing Division
City of Chandler
Mail Stop 901
P.O. Box 4008
Chandler AZ, 85244-4008

480-782-2406
480-782-2410 FAX

From: William F. Kelsey
AVCOM Company
P.O. Box 1849
Friday Harbor, WA 98250

360-378-7054
360-378-1673 FAX
wfkelsey@avcomco.com

Reference: Chandler City Project No. AI1204-401/ FAA AIP No. 3-04-9-008/
ADOT No. E F

Dear Mr. Mandt:

Please find attached AVCOM Company's written request to the City of Chandler for Project No. AI1204-401, prior to 1700 Hrs. AZ Local Time on Wednesday October 3, 2012. I will also be sending this written request via USPO mail.

Yours truly,

William F. Kelsey

Total Number of pages including cover sheet: 7

AVCOM



AVCOM COMPANY
P.O. BOX 1849
FRIDAY HARBOR, WA 98250-1849
360-378-7054
360-378-1673 FAX

VIA E-MAIL

October 3, 2012

Mike Mandt, Acting Supervisor
Purchasing and Materials, Purchasing Division
City of Chandler, Arizona
175 S. Arizona Ave., Third Floor
Chandler, AZ 85225

Subject: KCHD Airport AWOS Replacement Project
Chandler City Project No. AI1204-401/ FAA AIP No. 3-04-9-008/ ADOT
No. E F

Dear Mr. Mandt:

Pursuant to the Chandler City Project No. AI1204-401 (Chandler AWOS Project) AVCOM Company requests that the City of Chandler split the award of the project between AVCOM Company (lowest bidder) and Sand Dollar Construction Inc. (second lowest bidder) per the respective AZ ROC contractors licenses of the respective Bidders and the "Bid Schedule" elements.

AVCOM Company possess the AE license required for the installation of the AWOS and the Independent Weather Sensor System, and DASI equipment. Sand Dollar Construction possess an A and B1 License that allows them to do the remainder of the items on the Bid Schedule except for the electrical work (under 600 V) which requires an L-11 license, of which they will have to employ a sub-contractor.

Chandlers AWOS Project bid requested that the bid be priced as eighteen different elements, each of which were to be stand alone elements as to completion, equipment, and pricing. Both AVCOM Company and Sand Dollar Construction Inc. have provided the respective standalone element pricing to the City.

Per the Bid Schedule:

AVCOM Company: Items 14, 17, & 18
Sand Dollar Construction Inc.: Items 1 through 13, 15, & 16

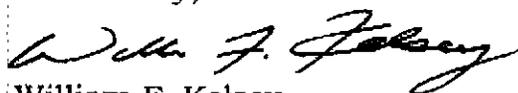
Mr. Mathews, Chief of Licensing for the Arizona Registrar of Contractors attached letter states on page four, paragraph four: "A B1 license along with your present AE license would be suffice".

2

AVCOM feels that this request represents the most cost effective, respective expertise, appropriate experience, and viable solution to replace the AWOS at Chandler Airport.

Please acknowledge receipt of this letter via e-mail (wfkelsey@avcomco.com) on Wednesday, October 3, 2012.

Yours truly,



William F. Kelsey

Owner

WFK:bk

Attachment: Letter to AVCOM Company from AZ ROC, Lawrence R. Matherws,
Dated October 1, 2012

cc: Tony S. Cullum, Attorney at Law



ARIZONA REGISTRAR OF CONTRACTORS



1700 W. Washington St., Suite 105 • Phoenix AZ 85007-2812 • 602-542-1525 • AZ Toll Free 877-692-9762 • Fax 602-542-1599

Janice Brewer, Governor

William A. Mundell, Director

October 1, 2012

Avcom Company
P.O. Box 1849
Friday Harbor, WA 98250-1849
360-378-7054
360-378-1673 (Fax)
Attn: William F. Kelsey

AVCOM

OCT 2 2012

RECEIVED

Subject: Letter from Paul Terek, Assistant Chief of Licensing to:
JR Rodriguez, Sand Dollar Construction Inc., Dated September 18, 2012
Reference ROC242283

Dear Mr. Kelsey,

This letter is a response to your voluminous letter to me dated September 27, 2012. Your letter attempted to provide the main points of the telephone conversation Assistant Chief of Licensing Paul Terek and I had with you on Wednesday September 26, 2012. This was a conversation regarding Mr. Terek's letter of September 18, 2012 to JR Rodriguez of Sand Dollar Construction Inc. You wanted to discuss the scope of the City of Chandler Project No. AI1204-401. As your synopsis of this conversation contains numerous misstatements of the facts and several outright mischaracterizations of what was said, please note our reflection of what occurred during this conversation.

On the first page of your letter you list several main points of the telephone conversation. My response to each will immediately follow each in bold type.

- Avcom's understanding was that its' AE license was correct and adequate for the City of Chandler's Airport Automated Weather Observing System Replacement Project Bid; Chandler Project No. AI1204-401/FAA AIP No. 3-04-9-008/ ADOT No. E F. (AWOS project) **This is obvious as it is doubtful you would have bid on the contract in the first place had your understanding been different. However, based on "your" original request for this AE license and the "plain language" of your license, it is the opinion of the Registrar that there is/was no basis for this understanding.**
- You or the AZ ROC would take no ownership to having any understanding of or about what AVCOM did, nor what it had applied for to do in AZ, only on airport properties, for the AE License granted by the AZ ROC. **Contractors who apply for restricted licenses who are granted such requests are provided a license based upon what they request. If the contractor fails to provide the specificity required for them based upon the type of work they want to perform, that is the sole responsibility of the contractor.**

- **Seventy-eight (78%) percent of the AWOS project was the actual equipment, hardware, and installation of the AWOS and WX components at Chandler Airport (KCHD). This 78% figure is the first time I have ever heard about this percentage amount as this was not mentioned during our telephone conversation. It is disingenuous at best to insert such a figure into your letter to suggest that other parts of the bid are incidental.**
- **The some 100 Ft. of concrete sidewalk which constitutes only some 1.5 % of the entire Chandler AWOS project seemed to be the big issue as to the scope of the Project and constitutes only an ancillary item to the AWOS. This 1.5% figure is another instance in which a number such as this was not mentioned during our telephone conversation. This too, is the first time I have heard about this figure. Contrary to your recollection, this sidewalk issue was not the big one as far as the Registrar is concerned. There are several. Additionally please note that we at no time considered the sidewalk issue to be an ancillary item to the AWOS bid.**
- **You and Mr. Terek indicated that a B1 License along with my AE License would suffice for the Chandler AWOS project. This is correct. If you held a B1 along with your current AE license, you would have the proper licenses to bid and perform the AWOS project for the City of Chandler Airport.**
- **You recommended I partner and/or hire someone with a B1 License to do the Chandler AWOS Project. No we did not. What we did offer as a suggestion was that you seek out a person that you believe qualified for a B1 license, consider hiring them as a qualified party, and then have your company seek licensure for the B1 license. Your mischaracterization of what was said makes it appear as if we were suggesting that you purchase someone else's license which is not what was done.**
- **If I made application today, September 27, 2012 via overnight letter, to the AZ ROC for a B1 license under Avcom Company indicating the use of some individual's AZ ROC B1 license that I had hired and/or partnered with that Mr. Terek would walk the application through. You indicated that once the application was checked and found to be correct and complete that you would write me a letter, prior to Wednesday, October 3, 2012 stating that a B1 license along with my AE license was adequate for the Chandler AWOS project and that I had made application for the B1 license and it would be granted shortly. We indicated that the quickest turn-around time to approve a B1 license application for a company such as yours upon receipt of a completed application was two weeks. I informed you that I would be willing, upon receipt of a completed application, to provide a letter to the City of Chandler informing them that we had received from you such an application and that if approved would qualify you for the AWOS Project. As the determination on whether or not an application submitted is complete cannot be done until it is received, what I indicated was that I would provide such a letter if we received such an application from you in time to allow me to provide it to them before October 3, 2012.**
- **You and Mr. Terek are now indicating I should secure a B1 license and possibly an A**

license to do any such projects in the future. You asked us what type of license you would need to bid on a project similar to the City of Chandler project in the future. We answered that question.

On the second paragraph of page 3 of your letter you state:

"... I am unable to find the reference in the Statutes publication that indicates that a B1 license, in reference to the AWOS installation is adequate for the outside work, but only good for the inside work if the building is air-conditioned."

The license classifications and scopes are listed under the Rules so you will not find information about license scopes in the Statutes. Here are the scopes of the A-General Engineering and B-1 General Commercial Contractor licenses taken from the Arizona Administrative Code Rules Rule R4-9-102.B:

"A- GENERAL ENGINEERING

Construction in connection with fixed works, including streets, roads, power and utilities plants, dams, hydroelectric plants, sewage and waste disposal plants, bridges, tunnels, and overpasses. Also included are the scopes of work allowed by all of the other engineering classifications, A-3 through A-21.

B-1 GENERAL COMMERCIAL CONTRACTOR

Construction, alteration, and repair in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed. This scope includes most of the L scopes except as they relate to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas, and roofing (except shingles and shakes) which must be subcontracted to an appropriately licensed contractor."

The B-1 license scope listed above includes the words "... support, shelter, and enclosure of persons ..." which does refer to an air-conditioned building or room.

The A-General license scope does not provide for "... support, shelter, and enclosure of persons ..." but does include "... streets, roads, power and utilities plants ..."

Based on the above listed scope, work on an airport weather station that consists of a runway and no building that supports shelters and encloses does fall within the scope of the A-General Engineering license.

The rest of your letter presents other mischaracterizations of our telephone conversation that attempt to shift responsibility from having the proper license to bid and qualify on this project from you to the Registrar. Although in your letter you cite the proper Rule for Restricted license holders, Section R4-9-105, your application of it to these facts is incorrect; R4-9-105 states the following:

A. A restricted license is a specialty or general license that **confines** the scope of

allowable contracting work to a specialized area of construction which the Registrar of Contractors grants on a case by case basis. The restricted license classifications are AE, KE, KO, BE, C-5, K-5, L-5, K-29 or L-29. The Registrar assigns a restricted classification based upon the nature and complexity of the work, the degree of unusual expertise involved and the applicability of existing classifications to the specialized area of construction. (Emphasis added)

Please be advised that a restricted license **confines** the scope of allowable work to that which is indicated in the license. As it confines the nature of the work that can be done, no contracting work outside of this scope is allowed to be performed. Please note that this scope is solely provided by the **contractor** at the time of the initial request! This is not something that the Registrar suggests or has any input on. Although the Registrar may be provided with information through conversations leading up to the time of the request from the applicant, this information is not made part of the scope of the license. **Only** that information submitted in the restricted license scope request is considered and if approved is the **only** work that a restricted license contractor can do.

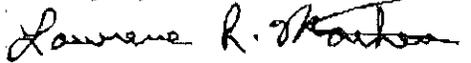
As it relates to the specific bid request and your present AE license scope, it is the opinion of the Registrar that the work provided is not that which your license qualifies you to perform. Although you assert in your letter, that "the concrete sidewalk, the concrete pad, and the embankment in place are supplemental and incidental, and ancillary," this appears to be an attempt to evade the narrow scope of your present AE license. Please note that per the bid documents, the following work is also needed to be performed for this project:

1. Mass excavation work;
2. Modifying and Removal of a 30 foot tower and foundation;
3. Installation of a 150 amp panel; and
4. Installation of 100-foot Sidewalk.

None of this work is the type you are allowed to bid or perform within the narrow **confined** scope of your AE Restricted license.

In sum, the letter from Paul Terek, the Assistant Chief of the Licensing Department to JR Rodriguez of Sand Dollar Construction Inc., dated September 18, 2012 is correct. For you to be able to perform this project, you would need an additional license. A B1 along with your present AE would suffice. If you were to provide a completed application for a B1 license, I would be amenable to writing a letter to the City of Chandler informing them that you had made application for the type of license that would qualify you to do this project.

Thank you,



Lawrence R. Mathews
Arizona Registrar of Contractors
Chief of Licensing

Cc: Jessica Fotinos Chief of the Legal Department

AVCOM



AVCOM COMPANY
P.O. BOX 1849
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360-378-7054
360-378-1673 FAX

VIA E-Mail

October 21, 2012

Mayor Jay Tibshraeny, Vice Mayor Jeff Weninger, Councilmember Trinity Donovan, Councilmember Kevin Hartke, Councilmember Rick Heumann, Councilmember Matt Orlando, and Councilmember Jack Sellers
City of Chandler
P.O. Box 4008
Chandler, AZ 85244-4008

Reference: Airport Automated Weather Observation System Replacement City Project No. AI1204-401 / FAA AIP No. 3-04-008 / ADOT Project No. E_F

Summary: AVCOM respectfully requests that the City award the AWOS Project to a Contractor with AWOS experience and expertise.

Dear Mayor, Vice Mayor, & Councilmembers:

I am William F. Kelsey, the owner of AVCOM Company, who is the current contractor to the City of Chandler for the FAA required inspections and maintenance of the Chandler Airport Automated Weather Observing System (AWOS). I have held this contract since 2000 which also includes the Non-Directional Beacon (air navigational aid) and the Air Traffic Control Tower (ATCT).

AVCOM bid on and was the low bidder on City Project No. AI1204-40 (AWOS Project):

AVCOM Company	\$165,099.00
Sand Dollar Construction	\$186,820.00
Rural Electric	\$192,866.00

You, as a Councilmember, are being asked to approve the award of this project to Sand Dollar Construction (Sand Dollar) on Monday, October 22, 2012.

Sand Dollar was not the low bidder, but via some means, convinced the Arizona Registry of Contractors (AZ ROC) to generate a letter to J R Rodriguez, Sand Dollar Construction Inc., stating "The scope of work of Project No#AI 1204-401 does not **appear** to fall within the scope of license no#242283 AE--Air Traffic Control Equipment." The operative word used was "appear".

After a ninety minute telephone conference call with the Chief, Mr. Mathews and the Assistance Chief, Mr. Terek of Licensing at AZ ROC and several letters, the AZ ROC would not retract the prior letter to Sand Dollar. They have now decided that for the Chandler AWOS Project that AVCOM's existing AE License plus a B1 License was required. I consulted an Arizona attorney about the AZ ROC and that they had now nullified the license they had issued AVCOM in 2007, to install an AWOS. The attorney determined I did have a case that he felt could be won in court as the statues were in my favor. He also stated it would take probably over a year to accomplish and if you take into consideration the court and attorney fees etc. and my time spent, I was probably better served to simply secure a B1 license and move on.

Based on the above, and the fact the bid was broken up into eighteen (18) stand alone elements, I then requested City Purchasing to award the civil element, items 1 through 13, 15, & 16 (23% of the project by cost) to Sand Dollar and the actual AWOS installation and ancillary WX instrumentation items 14, 17, & 18 (77% of the project by cost) to AVCOM. To this request, I was informed on October 2, 2012 that the City will award the project to Sand Dollar.

Pursuant to the Bid Package Item 17.6 it is stated "In evaluating Bids, CITY will consider the qualifications of Bidders;.....in the Bid Form."

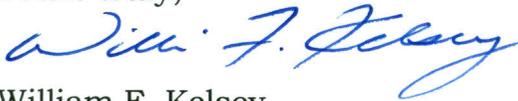
AVCOM and Rural Electric have experience and past history of working on airports, and airport projects. Both of us have installed AWOS's. AVCOM currently maintains AWOS's at over 16 airports in the western USA and has done this since the 1980's. Based on the information available to me I am unable to find any reference to Sand Dollar having performed work on any Airport or for any Airport Project and especially in this case, any experience with an AWOS. The AWOS is the actual project here, not the some ninety-six feet of sidewalk, a concrete pad, and some grading work, all of which are civil work that the City has requested to be done with this project. None of these three portions of the project have any functionality what-so-ever to do with the AWOS and I might add that Chandler is the only airport that I know of with a sidewalk to its' existing AWOS.

Consider for a moment that you are interested in replacing the air conditioning unit in your home with a larger capacity unit, but also want a more energy efficient and environmentally computer controlled unit. You have determined that in order to replace the existing unit it will be necessary to increase the size of the access door and door frame to accommodate the new unit. Would you then hire a carpenter to increase the size of the access door and oh, by-the-way, please supply we with an AC unit. I know that you would seek out a qualified AC firm, what the project is really about, and ask them to secure a carpenter to address the door and door frame issue. Therefore with the AWOS Project, the AWOS is what the project is really about, not the ancillary civil work that is easily subbed out to qualified and experienced firms.

City Purchasing has passed AVCOM over for this project, however the City is fortunate to have one more bidder, Rural Electric that is qualified and experienced with airport projects, airport work, and especially in this case, with AWOS installations. While I understand that cost is very important to the City, with the AWOS you need to additionally consider Contractor experience as the AWOS has a direct influence on the **“safety of flight”** at the Chandler airport, at night, when the Air Traffic Control Tower is closed. When the Air Traffic Control Tower is closed the AWOS is the only source of weather information for the Chandler Airport.

I respectfully request you as a Councilmembers exercise your option and award the AWOS Project to Rural Electric.

Yours truly,



William F. Kelsey

Owner

WFK: bk



**PURCHASING ITEM
FOR
COUNCIL AGENDA
Memo No. CA13-056**

1. Agenda Item Number:

32

2. Council Meeting Date:
October 25, 2012

TO: MAYOR & COUNCIL

3. Date Prepared: October 8, 2012

THROUGH: CITY MANAGER

4. Requesting Department: Airport/Economic Development

5. SUBJECT:

Construction contract to Sand Dollar Construction for a new Airport Automated Weather Observation System (AWOS)

6. RECOMMENDATION: Staff recommends that Council award a construction contract to Sand Dollar Construction for a new Airport Automated Weather Observation System (AWOS), Project No. AI1204-201, in an amount not to exceed \$186,820.00.

7. BACKGROUND/DISCUSSION: Chandler Municipal Airport currently has an aging AWOS III that is no longer supported by the manufacturer. The current system was constructed in 1992 with Federal Aviation Administration Airport Improvement Funds. This project installs a new AWOS III-PT system which includes the following observations: altimeter setting, density altitude, visibility, variable visibility, temperature, dew point, wind speed, wind gust, wind direction, variable wind direction, day/night, cloud height, sky condition, precipitation and thunderstorm / lightning detection.

This project is in the current 5-year Capital Improvement Program (CIP). A Federal grant represents 91.06% of total project costs. An ADOT grant is anticipated for 4.47% of the project costs. Staff has identified the remaining 4.47% local matching share in the Airport Capital Fund.

8. EVALUATION: On August 28, 2012, three (3) bids were received and the bids were opened on August 29, 2012. The bid results were as follows:

<u>Contractor</u>	<u>Bid</u>
1. Sand Dollar Construction	\$186,820.00
2. Rural Electric	\$192,866.00
3. AVCOM Co.	Non-responsive

The engineer's estimate was \$214,088. The construction contract time is 90 days for substantial completion and 120 days for final completion.

9. FINANCIAL IMPLICATIONS:

Cost:	\$186,820.00
Savings:	N/A
Long Term Costs:	N/A

Fund Source:

<u>Acct. No.:</u>	<u>Fund Name:</u>	<u>Program Name:</u>	<u>CIP Funded:</u>	<u>Amount:</u>
417.4110.6910	Airport Improvements #6AI661	AWOS Replacement	Yes	\$8,350.85
	Federal Aviation Admin.	Airport Improvements		\$170,118.29
	AZ Dept. of Transp.			\$8,350.85

10. PROPOSED MOTION: Move that Council award a construction contract to Sand Dollar Construction for a new Airport Automated Weather Observation System (AWOS), Project No. AI1204-201, in an amount not to exceed \$186,820.00, and authorize the Mayor to sign the contract documents.

ATTACHMENTS: Location Map

APPROVALS

11. Requesting Department



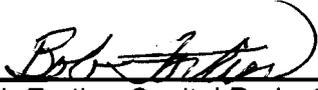
Lori Guan, Economic Development Specialist

13. Department Head

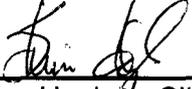


Christine Mackay, Economic Development Director

12. Transportation & Development



Bob Fortier, Capital Projects Manager



Sheina Hughes, City Engineer

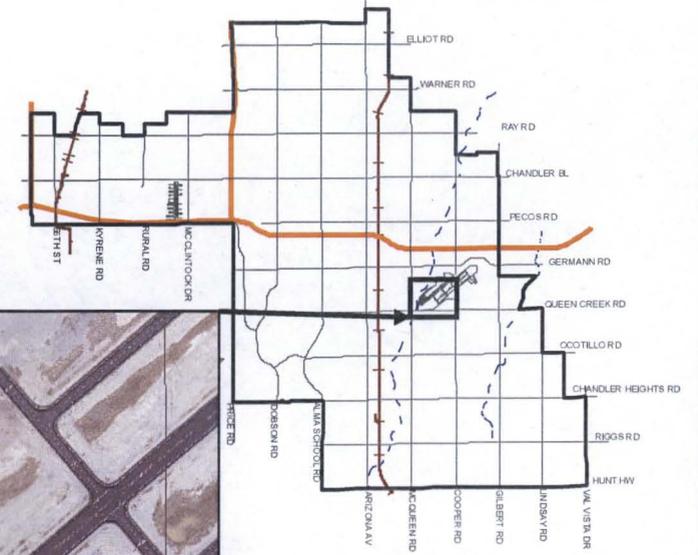
14. City Manager



Rich Dlugas



AIRPORT AUTOMATED WEATHER OBSERVATION SYSTEM PROJECT AI1204-401



MEMO NO. CA13-056

 PROJECT AREA

